

UA 14/07

Death penalty / Legal concernUSA (North Carolina) **Marcus Reymond Robinson (m), black, aged 33**

Marcus Robinson is scheduled to be executed in North Carolina on 26 January. He was sentenced to death in 1994 for a murder committed when he had just turned 18 years old.

A 17-year-old white youth, Erik Tornblom, was robbed and shot dead on 21 June 1991. Marcus Robinson and another African-American teenager, Roderick Williams (17), were arrested and charged with capital murder. It remains unclear who shot the victim. Marcus Robinson told police that it was Williams (who was later sentenced to life imprisonment with the possibility of parole). At Robinson's trial, the prosecutor argued that Marcus Robinson had been the gunman.

In arguing for a death sentence before a jury made up of 11 whites and one non-white, the prosecutor pointed to statements attributed to Robinson before the murder that he was going to rob or kill a white person. His appeal lawyers have pointed to cases of white defendants who have been sentenced to prison terms in North Carolina for the racially motivated murder of black victims. They have raised the case of a 27-year-old white man who was convicted of the 1992 stabbing to death and castrating of a black man, whom he referred to as a "nigger". He received a life sentence. In another case, two white racists, aged 20 and 21, were sentenced in 1997 to life imprisonment for shooting two randomly chosen African-American victims.

The use of the death penalty in North Carolina, as in the USA as a whole, is marked by discrimination. In 2001, a comprehensive study found that "racial factors – specifically the race of the homicide victim – played a real, substantial, and statistically significant role in determining who received death sentences in North Carolina during the 1993-1997 period. The odds of receiving a death sentence rose by 3.5 times among those defendants (of whatever race) who murdered white persons." Forty percent of murder victims in North Carolina are white, but 77 per cent of those executed since the state resumed judicial killing in 1984 have been of people convicted of killing whites. Research with capital jurors in the USA indicates that white jurors are more likely to vote for death than black jurors, and that majority white juries make a death sentence more likely. Research has also revealed a lower receptivity to mitigating evidence among white jurors when the defendant is black.

At the time of the crime, Marcus Robinson was emerging from a childhood of severe abuse at the hands of his father. At the age of three and a half, for example, he was admitted to hospital, unconscious, having seizures and with blood streaming from his mouth and nose. An examination revealed burns, scratches, bruising and swelling. During his childhood, he also witnessed his mother being assaulted by his father. In the early 1990s, he was diagnosed with brain dysfunction, attributed to the abuse he had suffered, that impaired his ability to plan and control his impulses. Since then, medical science has established that, even without abuse, the adolescent brain is not fully developed at the age of 18 and continues its development into a person's 20s. In 2005, when the US Supreme Court prohibited the execution of people who were under 18 at the time of the crime, it noted that "as any parent knows and as the scientific and sociological studies . . . tend to confirm, a lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults and are more understandable among the young. These qualities often result in impetuous and ill-considered actions and decisions." Also unknown to the jury was the fact that, not long before the murder, Marcus Robinson had been prescribed Prozac after he reported mental and emotional problems. The side-effects of this drug can include mood changes, hyperactivity and aggressiveness.

The jury concluded that there were mitigating factors in Marcus Robinson's case, including his youth, his background of childhood abuse, and behavioural or mental problems. However, they also found that the mitigating factors were not enough to outweigh the seriousness of the crime, and sentenced him to death.

Interviews with jurors after the trial revealed that during the sentencing deliberations, a juror had asked a court bailiff to bring in a Bible. Without either notifying or obtaining the approval of the judge, the bailiff did so. The juror then proceeded to read to other jurors a passage concerning the retributive notion of "an eye for an eye" in an effort to persuade them to vote for a death sentence. The claim on appeal that this introduced an external influence jeopardizing the impartiality of the jury has been rejected and a hearing in federal court on the issue has been denied. In a 2-1 decision of the US Court of Appeals for the Fourth Circuit in 2006, the dissenting judge protested that "the majority ignores the fact that the Bible is an authoritative code of morality – and even law – to a sizable segment of our population." He argued that it would be "blinking (ignoring) reality not to recognize the profound influence that quotations from the Bible could carry in the jury room. Moreover, the specific passage read aloud . . . bears directly on the severity of punishment to be imposed for a criminal act and expressly requires the death penalty as a punishment for murder."

Marcus Robinson's mother has appealed for clemency. Nine months ago, her son Curtis was murdered. "There are few words to describe the pain I feel from losing my son, Curtis, to murder," she said recently. "There are no words to describe the additional pain I will feel if my son, Marcus, is executed next week. I have been on both sides now. I felt the horror, the anger and the desire for vengeance after Curtis's murder. But an eye for an eye would not bring back my beloved son." She learned on 15 January that her third son, who is in the Navy, will be deployed to Iraq at the end of the month.

There have been 1,060 executions in the USA since judicial killing resumed there in 1977, 43 of them in North Carolina. There are signs that the USA is slowly turning against capital punishment (see *USA : The experiment that failed: A reflection on 30 years of judicial killing*, 16 January 2007, <http://web.amnesty.org/library/Index/ENGAMR510112007>). There is strong public support for a moratorium on executions in North Carolina. Approximately 1,000 faith group congregations, businesses and community groups have passed resolutions calling for a moratorium, including almost 40 local governments in the state. In addition, more than 40,000 people in North Carolina have signed the moratorium petition.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in your own words, in English if possible:

- expressing sympathy for the family and friends of Erik Tornblom, and explaining that you are not seeking to excuse the manner of his death or to downplay the suffering caused;
- opposing the execution of Marcus Robinson, noting that doubts persist as to whether he was the person who actually shot Erik Tornblom;
- noting that while the prosecutor's arguments for a death sentence in front of an almost all-white jury included evidence that Robinson had acted with racist motivation, research indicates that North Carolina's capital justice system is itself tainted by racial discrimination;
- noting that Marcus Robinson's involvement in this crime came when he had just turned 18 years old and when he was emerging from a childhood of severe abuse, abuse which led to severe injuries and brain damage that impaired his planning ability and impulse control;
- noting that the death penalty extends the suffering of the murder victim's family to that of the condemned inmate, and expressing sympathy for Marcus Robinson's mother, who has lost one son to murder and is facing the prospect of losing another to execution, as well as facing another son being deployed to Iraq;
- calling on the governor to grant clemency to Marcus Robinson in the name of compassion and justice;
- calling on the governor to support a moratorium on executions in North Carolina, noting the large public support for such a measure based on concerns about the reliability and fairness of the capital justice system.

APPEALS TO:

Governor Michael F. Easley, Governor's Office, 20301 Mail Services Center, Raleigh, NC 27699-0301, USA

Email: governor.office@ncmail.net
(via website) <http://www.governor.state.nc.us/email.asp?to=1>.
Fax: +1 919 733-2120
+1 919 715-3175
Salutation: Dear Governor

COPIES TO: diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 26 January 2007.*****