

PUBLIC

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Further information on UA 320/03 (AMR 51/137/2003, 7 November 2003) and follow-ups (AMR 51/152/2003, 10 December 2003; AMR 51/163/2003, 22 December 2003; AMR 51/021/2004, 4 February 2004, AMR 51/026/2004, 9 February 2004; AMR 51/043/2004, 27 February 2004)
Death penalty / Legal concern

USA (Oklahoma)

Hung Thanh Le (m), Vietnamese national, aged 36

Hung Thanh Le was executed in Oklahoma on 23 March 2004 after a last-minute appeal for an emergency stay of execution was rejected by the state Court of Criminal Appeals.

Hung Thanh Le was sentenced to death in 1995 for the murder of fellow Vietnamese refugee Hai Hong Nguyen in Oklahoma City in 1992. Hung Le's post-arrest interrogation was marked by questionable police conduct against this foreign national who did not have access to consular or other assistance to help him overcome language and cultural barriers. Moreover his subsequent trial was marked by inadequate legal representation and prosecutorial misconduct.

Following a clemency hearing on 9 December 2003, the Oklahoma Pardon and Parole Board recommended by four votes to nil that the governor should commute Hung Thanh Le's death sentence to life imprisonment. Governor Brad Henry rejected their recommendation.

On 26 February 2004, about seven minutes before he was to be put to death, Hung Thanh Le received a temporary reprieve from Governor Henry after the Vietnamese embassy in Washington DC requested a delay in order to be able to review the case.

The Vietnamese authorities subsequently stated that they would not file a claim in court, but indicated to Hung Thanh Le's lawyer that they would request clemency from the governor instead. On 19 March, the Embassy of Vietnam faxed a letter to Governor Henry expressing appreciation for the reprieve of 26 February. The letter stated that the embassy had received information on such issues as "Mr Le's inadequate command of the English language for legal and procedural purposes; the prosecutorial misconduct; the Court's refusal to allow a jury instruction on a lesser degree of murder at trial; the absence of prior-to-trial psychological evaluations; and Mr Le's Post-Traumatic Stress Disorder." The letter also noted the unanimous vote for clemency by the Oklahoma Pardon and Parole Board.

However, the letter did not expressly ask for clemency. A spokesperson at the Embassy of Vietnam refused to comment on the case or the letter to Amnesty International, or on whether a second letter would be sent asking for clemency. Governor Henry's legal counsel told Amnesty International that in a telephone call to the governor's office from the embassy on 22 March, clemency had not been requested.

On 23 March, Nobel Peace laureate Archbishop Desmond Tutu telephoned Governor Henry's office to seek clemency, but was told that the governor was in meetings. Amnesty International does not know if the governor called the Archbishop back as requested. In any event, Governor Henry did not intervene in the case, and Hung Thanh Le, failed by two governments, was executed at 6pm local time on 23 March. In his final statement he said: "I can't take back what happened. I hope my death will replace the hatred ... with love for each other." He also apologized to Hai Hong Nguyen's wife, saying: "I hope she can put this behind her and that she is doing better in her life and can put hate from her vocabulary."

Hung Thanh Le becomes the 19th person to be put to death in the USA this year and the 904th since judicial killing resumed in the USA in 1977. Oklahoma accounts for 73 of these executions and currently has the highest rate of execution per capita of its population of any of the 38 US death penalty states.

Hung Thanh Le becomes the fifth person to be put to death in Oklahoma after the state Pardon and Parole Board recommended clemency. There have been seven such recommendations in capital cases since 1966, all of them since 2001. In only one case was the recommendation accepted by the governor, in a case involving serious doubts about the prisoner's guilt. In one other case, an appeals court stepped in before the execution and the prisoner subsequently received a life sentence. The pattern of rejection of clemency recommendations by Governor Henry and his predecessor raises the legitimate question as to whether the Oklahoma clemency process is truly meaningful, as required under the International Covenant on Civil and Political Rights, which the USA ratified in 1992.

No further action is requested. Hung Thanh Le's lawyer has asked that her thanks be passed on to all who sent appeals.