

11 June 2001

Further information on EXTRA 19/01 (AMR 51/048/2001, 23 March 2001) and follow-up (AMR 51/060/2001) - Death penalty

USA (Ohio) Jay D. Scott, black, aged 48

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Jay Scott, who has twice come within minutes of execution in recent weeks, is now scheduled to be put to death on 14 June 2001. He was sentenced to death in 1984 for the murder of 74-year-old Vinnie Prince, who was shot during an attempted robbery of her Cleveland delicatessen in May 1983.

Jay Scott has developed serious mental illness in the past few years. Last December a prison doctor diagnosed him as suffering from schizophrenia. Prior to this, doctors had variously described him as "delusional" and as having a "major depressive disorder, chronic with psychotic features". Jay Scott is reported to have suffered from auditory hallucinations - a symptom of schizophrenia - from as early as 1992. His disturbed behaviour over the years has included setting fire to his cell, banging his head against the wall, screaming incoherently, and fouling his food and then eating it. During recent psychotic episodes, he was taken out of his cell and placed on 24-hour suicide watch. He has been given anti-psychotic drugs.

Jay Scott was scheduled to be killed on 17 April 2001. The Governor denied clemency, but the Ohio Supreme Court blocked the execution about an hour before it was due to be carried out in order to give a lower court more time to consider the issue of his mental illness. On 20 April, that court ruled that Scott, while "unquestionably ill", was competent to be executed, that is that he understood the reality of and reason for his punishment. The court further ruled that it was not unconstitutional to execute the mentally ill. Scott's execution was set for 15 May. Again, minutes before it was due to be carried out, the federal Sixth Circuit Court of Appeals stopped the execution in order for the Court to consider whether to reopen the case. Catheters had already been put in Jay Scott's arms in preparation for the lethal injection. On 30 May, the Sixth Circuit lifted the stay. The lawyers sought to delay the setting of another execution date, but on the evening of 7 June, a new date of 14 June was set.

The state is not disputing that Scott is mentally ill, but maintains that he is competent and can therefore be executed. Its position contradicts repeated resolutions at the UN Commission on Human Rights urging countries which still use the death penalty not to impose it "on a person suffering from any form of mental disorder or to execute any such person". The latest such resolution was adopted in April. The US National Alliance for the Mentally Ill believes that "the death penalty is never appropriate for a defendant suffering from schizophrenia or other serious brain disorders".

Jay Scott's background is one of poverty, deprivation and exposure to violence from an early age. At his 1984 trial, his lawyers decided not to present any mitigating evidence to this effect because they feared it would reveal details of his criminal history. Their decision meant that the jury was left unaware of factors which had helped to shape Jay Scott's life.

According to his current lawyers, Jay Scott was the sixth of 11 children born to parents who married when they were both 14 years old because the mother was pregnant. Because the father spent the family's money on alcohol and

gambling, the mother used to ask neighbours for food or allow the children to steal food if they were hungry. The father was physically and emotionally abusive to his wife and children, particularly when he was drunk. He would beat them, and on one occasion he stabbed his wife, who had to be hospitalised. Jay and his brothers ran into trouble with the law from an early age, and were all convicted of juvenile offences. Jay was first incarcerated when he was nine because of truancy problems. He was in and out of juvenile detention through his teen years and served several years in prison as an adult.

The rest of the family's story is a litany of tragedy. One brother was shot dead, and another was paralysed from the neck down as a result of gunshot wounds. Another brother suffered mental illness and has spent much of his life in psychiatric hospitals. Jay Scott's eldest sister died in a house fire before he was born. Another sister was shot to death during an argument. A third killed a brother-in-law in self-defence.

In April 2000, the federal Sixth Circuit Court of Appeals wrote that the mitigating evidence which had been withheld from the jury "would have revealed Scott's personal loyalty to his siblings, girlfriend, and children, and an exceedingly violent environment throughout his upbringing...[I]t is impossible to say for certain that one juror would not have been swayed by this evidence [juror unanimity was required for a death sentence], but certainty is not what is required here; we must ask only whether Scott has met his burden of demonstrating a reasonable probability that this would happen...Scott can only offer a hypothetical juror, not a reasonable probability, and hence cannot show prejudice".

**FURTHER RECOMMENDED ACTION: Please telephone or send telegrams/faxes/emails IN YOUR OWN WORDS in English or your own language, using the following guide:**

- expressing sympathy for the relatives and friends of Vinnie Prince and explaining that you do not wish to condone the manner of her death;
- expressing concern that Ohio is preparing to execute a man who suffers from serious mental illness;
- noting the cruelty of his repeated execution dates;
- noting the positions of the UN Commission on Human Rights and the National Alliance for the Mentally Ill, reflecting commonly held standards of decency opposing the execution of the mentally ill;
- urging the Governor to break the cycle of violence that has marked Jay Scott's life, evidence of which the jury never heard;
- urging the Governor to reconsider his earlier decision to deny clemency and to now commute Jay Scott's death sentence.

**APPEALS TO:**

Governor Bob Taft  
 30th Floor, 77 South High Street  
 Columbus, Ohio 43215-6117, USA  
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**Salutation: Dear Governor**

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**PLEASE SEND APPEALS IMMEDIATELY.**