

URGENT ACTION

EXECUTION SET IN SNIPER SHOOTING CASE

John Allen Muhammad is due to be executed in Virginia on 10 November. He was convicted in 2003 of capital murder in relation to a series of shootings in 2002. His lawyers are seeking clemency on the grounds that he suffers from serious mental impairment.

There were a series of 16 shootings between 5 September and 22 October 2002 in Maryland, Alabama, Louisiana, Washington, DC and Virginia, leaving 10 people dead and another six seriously wounded. John Allen Muhammad, aged 41, and 17-year-old Lee Boyd Malvo (see overleaf) were arrested by federal agents in Maryland on 24 October 2002, asleep in a car. Among the items found in the car was a Bushmaster rifle which was linked to many of the shootings through ballistics testimony.

John Muhammad was tried in Virginia in 2003 for the murder of Dean Meyers, who had been shot while fuelling his car at a petrol station in Manassas, Virginia, on 9 October 2002. Initially John Muhammad chose to represent himself at trial despite being warned by the judge that he would be making a "tremendous mistake" given the complexity of the case. Two days later he fired himself and his stand-by counsel took over his representation.

A psychiatric evaluation obtained by his lawyers determined that despite an "ability to sometimes show a superficial brightness," Muhammad did not have "a reasonable degree of rational understanding." The psychiatrist concluded that he "was not competent to stand trial," that his "ability to make decisions and understand the proceedings was impaired," and that his "judgment and ability to think logically were severely compromised." Magnetic Resonance Imaging revealed that John Muhammad's brain had serious abnormalities, including a shrunken cortex, indicating a loss of brain tissue likely to have been caused by a severe injury to the head. Another abnormality found in his brain is sometimes associated with schizophrenia, and two experts retained concluded that Muhammad probably suffered from this serious mental illness. This opinion was consistent with indications that John Muhammad suffered from delusional and bizarre thinking. Other testing indicated that he had severe cognitive impairments.

Because John Muhammad refused to be interviewed by the prosecution's psychiatrist, however, the trial judge ruled that no expert testimony could be introduced, greatly reducing the defence lawyers' ability to protect Muhammad from the death penalty. They had built a mitigation case based around the testimony of a mental health expert. Among other things, according to Muhammad's appeal lawyers, his relatives and others had provided the expert with "heart-wrenching stories of the abuse and neglect Muhammad suffered as a child – beatings with hoses and electrical cords, denial of food, clothing and basic necessities, and suffering on a scale difficult to imagine." Mental health experts have linked this abuse with John Muhammad's brain dysfunction.

PLEASE WRITE IMMEDIATELY in English or your own language, in your own words:

- Recognizing the serious crimes in this case and the trauma and suffering caused;
- Opposing the execution of John Allen Muhammad;
- Noting expert evidence not heard by the jury that he suffers from brain damage and mental illness;
- Calling on Governor Kaine to commute John Muhammad's death sentence and to work against the death penalty.

PLEASE SEND APPEALS BEFORE 10 NOVEMBER 2009 TO:

Governor Timothy M. Kaine
Patrick Henry Building, 3rd Floor
1111 East Broad Street
Richmond, Virginia 23219, USA

Fax: +1 804 371 6351

Email: <http://www.governor.virginia.gov/AboutTheGovernor/>

contactGovernor.cfm.

Salutation: Dear Governor

Also send copies to diplomatic representatives of the USA accredited to your country.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

EXECUTION SET IN SNIPER SHOOTING CASE

ADDITIONAL INFORMATION

State and federal officials were divided over where to first prosecute John Muhammad and Lee Malvo, and which jurisdiction would be best placed to obtain and carry out the death penalty became a disturbing part of the decision-making process. Despite the fact that the two suspects were arrested in Maryland and most of the murders had happened there, the prosecutions were handed to Virginia which, unlike Maryland and the federal government, was and remains one of the most "efficient" executing jurisdictions in the USA, second only to Texas in the number of executions carried out since 1977 and with a reputation for moving cases swiftly through the appeals system. On 7 November 2002, US Attorney General John Ashcroft, an ardent advocate of capital punishment, announced that Virginia should conduct the initial prosecutions, emphasising at a press conference that it was "imperative that the ultimate sanction be available for those who have committed these crimes," even in the case of the teenaged Malvo.

The 2002 sniper shootings were undoubtedly traumatic for the individuals and communities affected by them. Amnesty International does not seek to downplay the seriousness of these crimes or the suffering they have caused. It nevertheless opposes unconditionally the execution of John Allen Muhammad, as it does every execution, regardless of the seriousness of the crime or the culpability of the condemned. To end the death penalty is to abandon a destructive, diversionary and divisive public policy that is not consistent with widely held values. It not only runs the risk of irrevocable error, it is also costly, to the public purse as well as in social and psychological terms. It has not been proven to have a special deterrent effect. It tends to be applied in a discriminatory way, on grounds of race and class. It denies the possibility of reconciliation and rehabilitation. It promotes simplistic responses to complex human problems, rather than pursuing explanations that could inform positive strategies. It prolongs the suffering of murder victims' families, and extends that suffering to the loved ones of the condemned prisoner. It diverts resources that could be better used to work against violent crime and assist those affected by it.

Today, some 139 countries are abolitionist in law or practice. International law is abolitionist in outlook, seeking to have retentionist countries narrow the applicability of the death penalty with a view to ending its use altogether. Consistent with this, even those tried by international tribunals for the most serious crimes of concern to the international community – crimes against humanity, genocide and war crimes – cannot be subjected to the death penalty. In July 2002, a year before John Muhammad was sentenced to death, the Rome Statute of the International Criminal Court came into force. Under Article 77 of the Statute, the maximum penalty which the Court can impose is life imprisonment, subject to review after 25 years.

Lee Malvo was also tried in Virginia, and was sentenced in December 2003 to life imprisonment without the possibility of parole, a sentence which violates international law in the case of an offender convicted for a crime committed when he or she was under 18 years old (see UA 288/03, AMR 51/127/2003, 9 October 2003, <http://www.amnesty.org/en/library/info/AMR51/127/2003/en>, and update, 24 December 2003, <http://www.amnesty.org/en/library/info/AMR51/166/2003/en>).

There have been 42 executions in the USA this year, bringing to 1,178 the total number of executions carried out there since judicial killing resumed in 1977. Virginia accounts for 103 of these executions.

See also, USA: The execution of mentally ill offenders, January 2006, <http://www.amnesty.org/en/library/info/AMR51/003/2006/en>.

UA: 291/09 Index: AMR 51/112/2009 Issue Date: 29 October 2009

AMNESTY
INTERNATIONAL

