

USA (South Carolina) Joseph (Joe) Ernest ATKINS, aged 51

Joseph Ernest Atkins is scheduled to be executed in South Carolina on 22 January 1999. He was sentenced to death for the murder of his adoptive father and a young girl in his home town of North Charleston in 1985.

Joe Atkins was exposed to violence from an early age. The unwanted child of a prostitute, he was adopted by B.F. Atkins and Gladys Atkins. He was subjected to frequent beatings and verbal tirades by his adoptive father who would insult him with racist epithets because of his dark skin (his race is unknown, possibly partly African American).

Joe Atkins was also often attacked by his older half-brother, Charles. He required surgery after one such assault in which Charles repeatedly knifed him in the stomach. On three occasions Charles split Joe's head open by hitting him with a rifle butt, a pool cue and a bottle. Joe Atkins also witnessed repeated violence, including rape, by his father against Gladys. Joe Atkins believed that this brutality against his adoptive mother, which included having her head hit against walls and floors, caused the brain tumour that killed her when he was 15.

Joe Atkins was called up to fight in the war in Vietnam when he was about 21. He was involved in fighting on the border with Cambodia and Laos, where he reportedly witnessed extreme violence, including seeing people killed and mutilated, and hearing fellow soldiers who had been captured being tortured to death. On his return home in October 1969, he was awarded a Vietnam Campaign Medal, the Vietnam Service Medal and the National Defense Ribbon.

Three months later, on 31 December 1969, Joe Atkins killed his half-brother Charles after the latter had violently attacked him after the two had been drinking. Given the circumstances, his defence lawyer and the prosecutor agreed that a manslaughter plea was appropriate. However, due to poor defence advice, the plea collapsed in court when Atkins unwittingly led the judge to believe that a self-defence plea was possible. The trial proceeded, but with inadequate defence counsel Atkins was found guilty of murder and sentenced to life imprisonment. The trial lasted a day.

Joe Atkins was paroled in 1980. With a criminal record, and possible Post-Traumatic Stress Disorder (PTSD) from his Vietnam experience, he struggled to make a new life, but became alcoholic. After a night of drinking on 27 October 1985, he reportedly dressed in military fatigues, armed himself with a machete and shotgun and engaged in other behaviour possibly indicative of a PTSD flashback, and killed his adoptive father and the 13-year-old daughter of his neighbours.

At his trial in 1986, the only aggravating factor making his crime capital was the fact that he had a previous murder conviction. Without this, or if he had been convicted of manslaughter in 1970, he would not have been eligible for the death penalty. His 1986 defence lawyers, who had no experience of a capital case in South Carolina, did not raise the possibility of a verdict of "guilty but mentally ill" (where, because of mental disease or defect, a person lacks the capacity to abide by the law). It appears that the lawyers were either unaware of the 1984 law allowing for this verdict, or that Joe Atkins was a suitable case for it.

Joe Atkins's subsequent death sentence was overturned on a technicality, but in 1988 he was resentenced to death by a jury who was not told the full range of mitigating evidence. His lawyers failed to fully investigate his background. Expert witnesses now admit that their original diagnoses were faulty because they were not in possession of all the facts about his upbringing or the effects of his war experience.

In South Carolina the Governor has the power to grant clemency. The last person executed in the state was Andy Lavern Smith on 18 December 1998. He was the 500th prisoner to be put to death in the USA since executions resumed in 1977.

RECOMMENDED ACTION: Please telephone/send telegrams/faxes/express/airmail letters in English or your own language:

- expressing deep concern that Joseph Ernest Atkins is scheduled to be executed on 22 January 1999;
- expressing concern that he was sentenced to death by jurors who did not know the full extent of his childhood physical abuse or the psychological effects on him of his Vietnam wartime experiences;
- noting that Joe Atkins had no history of violence before he fought in Vietnam, and noting also that he has been a model prisoner;
- urging the Governor to grant Joe Atkins clemency.

Appeals from health professionals and military personnel would be welcome.

APPEALS TO:

The Honorable Jim Hodges,
PO Box 11369,
Columbia, SC 29211,
USA

Telegrams: Governor Hodges, Columbia, South Carolina, USA

Telephone: +1 803 734 9818

Faxes: +1 803 734 1598

Salutation: Dear Governor

(Jim Hodges takes office on 13 January 1999, but all appeals which arrive before then will be kept for him)

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

PLEASE SEND APPEALS IMMEDIATELY