

EXTERNAL

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EXTRA 146/96

Fear of Imminent Execution 9 September 1996

BAHAMAS

Trevor Nathaniel FISHER

Trevor Nathaniel Fisher is due to be hanged at 8am, local time, on Thursday 12 September 1996. He was sentenced to death on 25 March 1994 for the murder of Duventon Daniels and his appeal to the Court of Appeal was dismissed in October 1994. His petition for leave to appeal to the Judicial Committee of the Privy Council (JCPC), the final court of appeal for the Bahamas, was dismissed in May 1996. It is reported that the Committee on the Prerogative of Mercy advised the Governor General that Trevor Fisher's case was not one in which mercy should be exercised.

Lawyers in the Bahamas are reported to be filing a constitutional appeal on his behalf and will be seeking a stay of execution. They are also appealing to the Inter-American Commission on Human Rights of the Organization of American States. The grounds of these appeals include the inhuman and degrading treatment arising from the conditions on death row: prisoners are confined for 24 hours a day to small, single cells with metal plates fitted across the bars of the cell doors, restricting the air flow; they are allowed out of the cells only for 10-15 minutes four times a week.

BACKGROUND INFORMATION

The Bahamas resumed executions after a 12-year break with the hanging of Thomas Reckley on 13 March 1996. His execution went ahead despite the fact that he had spent more than five years under sentence of death, pursuing appeals that were legally available to him. This is contrary to the 1993 JCPC ruling, in the case of Pratt and Morgan v. The Attorney General of Jamaica, which stated that, "*in any case in which execution is to take place more than five years after sentence there will be strong grounds for believing that the delay is such as to constitute 'inhuman or degrading punishment or other treatment'*". Approximately two weeks after Thomas Reckley's execution, Dwayne McKinney became the second person to be hanged in the country since 1984. There are currently over 40 people on death row in the Bahamas.

The resumption of hangings in the Bahamas coincides with a recent spate of inner-city gang-related violence. Reports of Thomas Reckley's execution stated that the large crowd which had gathered outside the prison cheered when the notice that the execution had been carried out was posted at the entrance to the prison. Afterwards the president of the Bahamas Conference of the Methodist Church expressed horror at the "bloodthirstiness" of the reaction to the execution.

RECOMMENDED ACTION: Please make urgent appeals by telephone/telegram/telex/faxes/express or airmail letters in English or your own language:

- expressing deep concern that Trevor Nathaniel Fisher is to be executed on 12 September 1996 and urging that his death sentence be commuted and that no further executions be carried out;
- stressing that a constitutional appeal on Fisher's behalf is still pending as well as an appeal to the Inter-American Commission on Human Rights and that if the execution takes place it would be in contravention of the *Safeguards Guaranteeing Protection of the Rights of Those Facing the*

Death Penalty, adopted by the United Nations Economic and Social Council (ECOSOC) in resolution 1984/50 and adopted by the UN General Assembly on 14 December 1984 which state: "*Capital Punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence*";

- expressing sympathy for the victims of violent crime and their relatives.

If possible, also make some or all of the following general points about the death penalty:

- it has never been shown to deter crime more effectively than other punishments;
- it has a brutalizing effect upon all those who are involved in the process;
- it goes against the widely accepted principle of rehabilitating the offender;
- it does not necessarily alleviate the suffering caused to the victims of violent crime;
- execution is irrevocable and, despite the most stringent judicial safeguards, can be inflicted on the innocent.

APPEALS TO:

Governor General

His Excellency Orville Turnquest

Governor General

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Salutation: Dear Attorney General

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and to diplomatic representatives of The Bahamas accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.