

UA 355/00

Death penalty / Legal concern

17 November 2000

USA (Oklahoma) Wanda Jean Allen (f), black, aged 41

Wanda Jean Allen is scheduled to be executed in Oklahoma on 11 January 2001. She was sentenced to death in 1989 for killing her lover, Gloria Leathers, in Oklahoma City in 1988. Her clemency hearing before the state Pardon and Parole Board is due to take place on 15 December.

The two women, who had met in prison, had a turbulent relationship; each had called the police to their home on more than one occasion after a domestic dispute. Gloria Leathers' death followed a protracted argument between the couple which began at a local shop, continued at their home, and culminated outside a police station. Allen maintained she had acted in self-defence, claiming that Leathers had struck her in the face with a hand rake during the confrontation at the house, and that outside the police station Leathers had again come at her with the rake. Allen shot Leathers, who died four days later on 5 December 1988. The wound to Allen's face from the rake was still visible on 6 December, when she was photographed in jail.

Allen's family approached a lawyer known to them. Believing that this was not a capital case, he agreed to take it for a fee of \$5,000. The family made an initial payment of \$800. The state then charged Wanda Jean Allen with first-degree murder and announced that it would seek the death penalty. The lawyer asked the judge to allow him to withdraw from the case on the grounds that he did not have the resources to represent a capital defendant. He had learned that the family was unable to pay for an investigator or any other expert to aid in the defence, and that they could not pay him the remaining \$4,200 either. He offered to act as co-counsel, for free, if a public defender was appointed as lead counsel. The prosecution opposed the lawyer's motion, and the court refused to allow him to withdraw. He was therefore forced to defend Wanda Jean Allen on a total payment of \$800, with no co-counsel, no investigator and no resources to hire expert witnesses. Furthermore, this was his first capital case.

Evidence that Leathers had a history of violent conduct, and that she had stabbed a woman to death in Tulsa in 1979, was central to the self-defence argument at Allen's trial. Allen testified that she feared Leathers because she had boasted to her about the killing. The defence sought to corroborate this claim with testimony from Leathers' mother, whom Leathers had told about the stabbing. However, the prosecution objected, and the court prohibited the introduction of any such testimony. Although the state knew about the Tulsa stabbing, the prosecutor told the jury: "Regardless of how many times [the defence] tells you that Gloria Leathers... killed someone... that's just from the defendant's mouth alone that you heard that testimony. Please remember that, from the defendant's mouth alone that you heard that testimony." The prosecutor had already depicted Allen as a remorseless liar. For example, noting that Allen had cried throughout the trial, the prosecutor suggested to the jury that her crying was insincere and a further sign that she was lying.

In a 1991 affidavit, the defence lawyer stated that after the trial he had learned that when Allen was 15 years old, her IQ had been measured at 69, and that the doctor who examined her had recommended a neurological assessment because she manifested symptoms of brain damage. The lawyer

stated "I did not search for any medical or psychological records or seek expert assistance" for use at the trial.

A psychologist conducted a comprehensive evaluation of Wanda Jean Allen in 1995 and found "clear and convincing evidence of cognitive and sensori-motor deficits and brain dysfunction" possibly linked to an adolescent head injury. At the age of 12, Allen had been hit by a truck and knocked unconscious, and at 14 or 15 she had been stabbed in the left temple. He found that Allen's "intellectual abilities are markedly impaired", and that her IQ was 80. He found "particularly significant left hemisphere dysfunction", impairing her "comprehension, her ability to logically express herself, her ability to analyse cause and effect relationships..". He also concluded that Allen was "more chronically vulnerable than others to becoming disorganized by everyday stresses - and thus more vulnerable to a loss of control under stress".

BACKGROUND INFORMATION

Since the USA resumed executions in 1977, 677 prisoners have been put to death, including five women: Velma Barfield (North Carolina, 1984); Karla Faye Tucker (Texas, 1998); Judy Buenoano (Florida, 1998), Betty Lou Beets (Texas, 2000) and Christina Riggs (Arkansas, 2000). The last African American woman put to death in the USA was reportedly Betty Butler in Ohio in 1954. The last woman to be executed in Oklahoma was Dora Wright in 1903.

RECOMMENDED ACTION: Please send faxes/express/airmail letters in English or your own language, in your own words, using the following guidelines:

- expressing sympathy for the family and friends of Gloria Leathers, and explaining that you are not seeking to condone the way she died;
- expressing concern that Wanda Jean Allen's trial lawyer did not have the resources, investigative or expert, to be able to adequately represent a capital defendant at either the conviction or sentencing stage;
- noting that the jury heard no evidence about Wanda Jean Allen's significant mental impairments, as revealed in post-conviction evaluations, and that such evidence was relevant to culpability and as mitigation;
- pointing out that the execution of the mentally impaired and those denied adequate legal representation contravenes international standards;
- (before 15 December) urging the Board to recommend that the governor grant clemency;
- (after 15 December) appealing to the governor to do all in his power and influence to stop this execution.

APPEALS TO:

To arrive before 15 December:

Pardon and Parole Board
4040 North Lincoln, Suite 219, Oklahoma City, OK 73105, USA

Fax: + 1 405 427 6648

Salutation: Dear Board Members

After 15 December:

Governor Frank Keating
Capitol Building, Oklahoma City, OK 73105, USA

Fax: + 1 405 521 3353

E-mail: governor@oklaosf.state.ok.us

Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY.