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Death penalty / Legal concern

24 November 2004

USA (Pennsylvania)

George Banks (m), black, aged 62

George Banks is scheduled to be executed in Pennsylvania on 2 December 2004. He was sentenced to death in 1983 for the murder of 12 people in 1982, and received a life prison sentence for a 13th murder. His lawyers are challenging his execution as unconstitutional on the grounds that he is legally insane. George Banks's mental condition, a prominent factor in the case since the time of the crime, is reported to have deteriorated during his 20 years on death row.

Six adults and seven children were shot dead in Wilkes-Barre, Pennsylvania, on 25 September 1982. Five of the victims were George Banks's own children – Kismayu, Moutanzima, Maritanya, Foraroude and Bowendy Banks – aged six and under. The other victims were four women with whom Banks had had relationships, and their relatives: Susan Yuhás, aged 23; Regina Clemens, 29; Dorothy Lyons, 29, and her 11-year-old daughter Nancy Lyons; Sharon Mazillo, 24, her mother Alice Mazillo and nephew Scott Mazillo, aged six. A passer-by, Raymond Hall, was also shot dead.

After the shootings, police found George Banks barricaded in a friend's house. Although apparently having only a limited recall of events, he told the police that he had killed his children to spare them from the racism he had experienced as a child. George Banks was born in 1942 to a white mother and African American father. Growing up, he was reportedly subjected to racial prejudice by both communities. He joined the army at 17, but left 19 months later, saying that he had been racially abused by a white officer. From 1976, he became convinced that a race war was looming and began stockpiling supplies in remote mountain locations and purchased a military assault rifle, the weapon later used in the shootings. In 1980, George Banks took a job as a prison guard. On 6 September 1982, he told fellow workers that he wanted to kill himself and was relieved of duty. He was assessed as depressed and suicidal and given medication. The shootings took place not long afterwards.

In the course of pre-trial proceedings, George Banks was examined by psychiatrists. They raised evidence that he was incompetent to stand trial, namely that he was unable to assist in his defence because of his fixed delusional beliefs. At the trial, psychiatrists for the defence and prosecution agreed that he suffered from mental illness, but disagreed whether, as a result of this psychotic disorder, he had been able to distinguish between right and wrong at the time of the shootings. George Banks consistently refused to cooperate with his trial lawyer in the preparation of an insanity defence because he insisted on presenting a claim of innocence or partial innocence. In court, he alleged that there was a conspiracy, which included the prosecutor, the judge, the coroner and police, to frame him for some of the murders. He claimed that some of the victims were killed by police, and he insisted on using gruesome autopsy photographs to prove his conspiracy theory. A state psychiatrist testified that George Banks was psychotic and delusional when he insisted on cross-examining witnesses, over the objection of his lawyer.

Since being sent to death row, George Banks has made numerous suicide attempts and threats of suicide. He has been diagnosed as suffering from various mental illnesses, including paranoid schizophrenia, depression, schizoaffective disorder, as well as personality disorders. He has been prescribed anti-psychotic medications. A psychiatrist, Dr Richard Dudley, who has reviewed his case, has reported that "Mr Banks has an extensive history of psychiatric hospitalizations, commitments and treatment during the course of his incarceration. The records of those hospitalizations provide insight into the chronic nature of his mental illness."

George Banks's lawyers are challenging his execution on the grounds that it would violate US law. A 1986 US Supreme Court decision, *Ford v Wainwright*, prohibits the execution of a prisoner who is insane – i.e. is unable to comprehend the reason for or reality of his or her punishment. Dr Dudley has concluded that George Banks is incompetent to be executed and has stated in an affidavit: "Specific efforts to determine Mr Banks's competency to be executed under *Ford v Wainwright* revealed that he believes that his convictions and sentences have been vacated by God. As a result, he believes that his continued incarceration and potential execution are the results of a wide-ranging conspiracy among corrections officers, prosecutors and other government officials. He does not believe that he will actually be executed, but rather that the threat of execution is an attempt by the conspirators to put pressure on him to help them in their conspiracy". Another mental health expert has agreed that there are substantial doubts about Banks's competency and supports a stay of execution.

BACKGROUND INFORMATION

Amnesty International opposes the death penalty in all cases. Every death sentence is an affront to human dignity, every execution a symptom of a culture of violence rather than a solution to it. There have been 944 executions in the USA since judicial killing resumed there in 1977. Pennsylvania accounts for three of these executions, all of which have been of prisoners who dropped their appeals. The last execution was in July 1999.

Today, 118 countries are abolitionist in law or practice, and there are strict international safeguards applying to those countries which have not yet abolished the death penalty. For example, the United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty prohibit the execution of "persons who have become insane". In repeated resolutions in recent years, the UN Commission on Human Rights has called on those countries which still retain the death penalty not to use it against anyone suffering from a mental disorder.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words:

- expressing sympathy for the family and friends of those shot in Wilkes-Barre on 25 September 1982, explaining that you are not seeking to downplay the seriousness of this crime or the suffering caused;
- noting that George Banks has exhibited signs of mental illness for much of his life, including at the time of the crime and the trial, as well as during his time on death row, and noting calls at the United Nations for an end to the execution of people suffering from mental disorders;
- noting evidence that his mental illness may rise to the level of insanity, which would render his execution unconstitutional as well as a violation of international standards;
- noting that Pennsylvania has not carried out an execution for five years, a period which has seen national concern about the US death penalty grow, and the global trend towards abolition continue;
- calling on Governor Rendell to stop the execution of George Banks and commute his death sentence.

APPEALS TO:

Governor Edward G. Rendell

225 Main Capitol Building

Harrisburg, Pennsylvania 17120, USA

Fax: + 1 717 772 8284

Email (via website): http://sites.state.pa.us/PA_Exec/Governor/govmail.html

Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY.