

13 December 1999

Further information on UA 105/99 (AMR 51/77/99, 12 May 1999) and follow-up (AMR 51/98/99, 17 June 1999) - Death Penalty / Legal Concern

USA (Virginia) Douglas Christopher Thomas, aged 26

Douglas Christopher Thomas is scheduled to be put to death in Virginia on 10 January 2000 for a crime committed when he was aged 17. International law bans the use of the death penalty against people convicted of crimes committed when they were under 18 years old.

Chris Thomas was five hours from execution on 16 June 1999 when the Virginia Supreme Court granted a reprieve to determine whether parental notification following his arrest had been adequate. In November the Court ruled that it had.

Chris Thomas was convicted in 1991 of the 1990 murders of James Wiseman and Kathy Wiseman, the parents of his 14-year-old girlfriend Jessica Wiseman. He received a 65-year prison sentence for the murder of James Wiseman, and was sentenced to death for the murder of Kathy Wiseman.

Chris Thomas's adoptive parents (his maternal grandparents) died when he was 12, and he went to live with his natural mother. They were not close, and he became involved in petty offending, such as shoplifting, and drug abuse. He would miss school and his grades plummeted. Psychological assessments of him at this time describe an isolated, angry, depressed teenager who was alienated from school and home. In 1989 he attempted suicide.

In 1990 Chris Thomas met Jessica Wiseman and the two became involved in an intense sexual relationship. Her parents' disapproval escalated to the point that James Wiseman allegedly threatened to kill Chris if he continued to see Jessica. The children plotted to kill the parents, and shot them as they slept on 10 November 1990. One shot killed James Wiseman. The second hit Kathy Wiseman, but she survived and came to Jessica's room. She was killed by a third gunshot.

On 10 November, without a lawyer or an adult present, while still under the effects of alcohol and drugs, and having slept for only two hours in the past 40, Chris Thomas confessed to both murders. He subsequently retracted part of his confession, saying that he had not fired the final shot.

At the 1991 trial, his confession to having fired all three shots was allowed into evidence. The defence failed to develop or present any evidence that he may not have fired the third shot. In June 1999, two women learned of Chris Thomas's imminent execution and came forward to testify that, as teenagers, they had been held in juvenile detention with Jessica Wiseman. They claimed that she had told them that she fired the second shot at her mother, after Chris froze. Jessica Wiseman has denied the claims. She had been tried in 1991 as a juvenile, sentenced to juvenile detention until her 21st birthday, and released in 1997.

The defence lawyers had employed a psychologist to do an assessment of Chris Thomas for use during the sentencing phase of his trial. The expert found that Chris Thomas was a developmentally immature teenager, who in taking the full blame was trying to protect Jessica. However, the defence team became worried that he would be an ineffective defence witness. On the eve of the sentencing,

they asked the prosecution's psychologist to testify on Chris Thomas's behalf. He agreed, and testified for both the defence and the prosecution. In an affidavit in 1993, he stated that "with no adequate evaluation and with literally less than 24 hours to prepare, it was impossible to do anywhere close to a decent and adequate job". He further stated that in his opinion, based on experience in over 20 capital cases, the defence attorneys' presentation of mitigating evidence at the sentencing hearing had been "grossly inadequate".

BACKGROUND INFORMATION

The International Covenant on Civil and Political Rights and the Convention on the Rights of the Child prohibit the use of the death penalty against child offenders - those who commit crimes when under 18 years old. The ban is so widely accepted, and adhered to, that it has become a principle of customary international law, binding on countries regardless of which international instruments they have or have not ratified. The only four executions of child offenders known in the world since October 1997 have all been carried out in the USA. In the past decade, the USA has carried out 10 of the 19 known executions of child offenders. Chris Thomas is one of three child offenders scheduled to be put to death in the USA in January 2000 (see *Shame in the 21st Century: Three Child Offenders Scheduled for Execution in January 2000*, AMR 51/189/99, December 1999). The global ban on the use of the death penalty against child offenders does not seek to excuse their crimes or belittle the suffering caused, but only to recognize a child's immaturity and capacity for change.

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

- expressing deep concern that Douglas Christopher Thomas is facing execution in violation of international law which bans the use of the death penalty against those who commit crimes when under 18 years old;
- explaining that this international ban does not seek to excuse violent crimes committed by children, but rather to recognize children's immaturity and their capacity for change;
- expressing concern that the expert who presented mitigating evidence for the defence had 24 hours to prepare and has since noted that the defence team's presentation at sentencing was inadequate;
- noting post-trial evidence supporting Chris Thomas's claim that he did not fire the third shot, and that this casts doubt over whether the jury would have recommended death if they had heard such evidence;
- urging the Governor to commute Chris Thomas's death sentence in line with international law and a worldwide consensus against such executions.

APPEALS TO:

The Honourable James Gilmore
 Governor of Virginia
 State Capitol, Richmond, VA 23219, USA
Telegrams: Governor Gilmore, Richmond, VA, USA
Tel: +1 804 786 2211
Faxes: +1 804 371 6351
Salutation: Dear Governor

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

You may also write brief letters of concern (not more than 250 words) to:

Letters to the Editor: *Richmond Times-Dispatch*, PO BOX 85333, Richmond, VA 23293, USA. **Faxes: + 1 804 775 8090**

PLEASE SEND APPEALS IMMEDIATELY.