



United States Mission to the OSCE

Response to the European Union's Statement on the Death Penalty

As delivered by Chargé d' Affaires Kyle Scott
to the Permanent Council, Vienna
April 19, 2007

Mr. Chairman,

I've listened very carefully to the statement by the EU. I think it is important here as we review our commitments and undertakings in the international arena to repeat that international law does not prohibit capital punishment. The International Covenant on Civil and Political Rights specifically recognizes the rights of countries to impose the death penalty for the most serious crimes, carried out pursuant to a final judgment rendered by a competent court and in accordance with safeguards and observance of due process. The U.S. judicial system provides exhaustive protections to ensure that the death penalty is not applied in an extra-judicial, summary or arbitrary manner.

Mr. Chairman, fellow delegates, the issue of the imposition of the death penalty continues to be a subject of vigorous and open discussions among the American people. The use of the death penalty in the United States is a decision of democratically elected governments at the federal and individual state levels. The people of the United States, acting through their freely elected representatives, have chosen, in most states, not to abolish the death penalty.

In that regard, I'd like to turn to the specific case in Nebraska cited by the European Union. Carey Dean Moore was sentenced in 1980 for the murders the year before of two taxi drivers in Omaha, Nebraska. He callously planned each murder, selecting these taxi drivers for specific characteristics and then luring them to remote locations before killing them. His guilt is not in doubt nor contested. His sentence was reviewed by numerous courts including the Nebraska Supreme Court and the U.S. Circuit Court of Appeals.

The Nebraska legislature has been debating legislative proposals to abolish or limit the death penalty this year but has rejected such proposals as recently as last week. There has been no formal moratorium on the death penalty in Nebraska although the last execution was in 1997.

Perhaps now I can turn to the case of James Lee Clark in Texas. Mr. Clark was executed on April 11, 2007 for the 1993 brutal rape and murder of a 17-year-old girl, Catherine Crews, a high school honors student. After killing her 16-year-old friend, Jesus Garza, Ms. Crews was bound, gagged, blindfolded, brutally raped, shot in the back of the head with a double-barrel shotgun and then her body was dumped in the creek. Although Mr. Clark claims his innocence, DNA evidence linked Mr. Clark both to the rape and to the fatal shooting and there was other substantial evidence of his guilt. At the time of the murder, Clark had been on parole for less than two weeks, having just been released from jail. He also had other prior criminal convictions.

Although the crime took place in 1993, Mr. Clark's attorneys appealed the death sentence on the basis of mental incapacitation only in 2003, the year after the U.S. Supreme Court prohibited the execution of mentally retarded individuals. At that point his lawyers began to claim that Mr. Clark was mentally retarded. However, a number of U.S. courts at the state and federal level have carefully applied the relevant standards for determining whether a

defendant is mentally competent or mentally retarded and have ruled that Clark was not retarded and therefore was competent to stand trial and face judgments given by the courts.

Thank you.