

13 June 2007

Further information on UA 118/07 (AMR 51/090/2007, 18 May 2007) – Death penalty concern

/Legal

USA (Texas) Cathy Lynn Henderson (f), white, aged 50

On 11 June, the Texas Court of Criminal Appeals issued an indefinite stay of execution for Cathy Henderson, and remanded the case to the trial court for consideration of newly available evidence that she is innocent of capital murder. She was sentenced to death in May 1995 for the murder of a three-and-a-half-month-old baby, Brandon Baugh, in January 1994. She was scheduled to be executed in Texas on 13 June 2007.

After her arrest, Cathy Henderson admitted that she had killed the child, but stated that it had been an accident, which she has maintained ever since. She said that she had dropped the baby and that he had struck his head on a concrete floor. However, Cathy Henderson was charged with capital murder. In Texas, the murder of a child under six years old is punishable by death.

The trial jury heard expert opinion that the head injuries sustained by the baby could not have been the result of an accidental fall from the defendant's arms. Dr Roberto Bayardo, who conducted the autopsy, stated that the nature of the injuries "proved" that Cathy Henderson had deliberately murdered Brandon Baugh by a blow to the head. For example, he said that the baby would have to have fallen "from a height higher than a two-storey building", or to have been "involved in a motor vehicle accident" in order to have sustained the head injury in question.

In an appeal filed in the Texas Court of Criminal Appeals in May 2007, Cathy Henderson's current lawyers pointed out that the analysis of infant head trauma has developed substantially in the dozen years since her trial. With accompanying reports from four experts, the appeal argued that the trial of Cathy Henderson would today be conducted against a fundamentally different scientific landscape than existed in 1995 (see original UA). The expert reports lent support to Cathy Henderson's claim that the baby's death was accidental.

The appeal also included an affidavit from Dr Bayardo, who stated that "since 1995, when I testified at Cathy Henderson's trial, the medical profession has gained a greater understanding of paediatric head trauma and the extent of the injuries that can occur in infants as a result of relatively short distance falls, based in part on the application of physics and biomechanics. Specifically, and as shown in the reports that I have read, even a fall of a relatively short distance onto a hard surface can cause the degree of injury that Brandon Baugh experienced. If this new scientific information had been available to me in 1995, I would have taken it into account before attempting to formulate an opinion about the circumstances leading to the injury ... Based on the physical evidence in the case, I cannot determine with a reasonable degree of medical certainty whether Brandon Baugh's injuries resulted from an intentional act or an accidental fall. In fact, had the new scientific information been available to me in 1995, I would not have been able to testify the way I did about the degree of force needed to cause Brandon Baugh's head injury."

The Court of Criminal Appeals concluded that Dr Bayardo's re-evaluation of his 1995 opinion "is a material exculpatory fact".

No further action by the UA Network is requested. Many thanks to all who sent appeals.
