

USA (Alabama) Brian Keith BALDWIN, black, aged 40

Brian Baldwin is scheduled to die in the electric chair on 18 June 1999 in Alabama. According to his clemency petition, there is new evidence that he may not have committed the crime for which he was sentenced to death, at a 1977 trial infected with racism.

Brian Baldwin, who is black and was 18 at the time of the crime, was convicted of the March 1977 abduction, robbery and murder of a 16-year-old white girl, Naomi Rolon. His co-accused, 19-year-old Edward Horsley, also black, was tried separately and executed in 1996. According to Baldwin's clemency petition, Horsley signed a statement in 1985 that Baldwin "was not present at any point before or after the murder of Naomi occurred. In fact he was not even aware that she had been killed until after we were arrested and the dead body was recovered that night in Monroeville." Just before his execution, Horsley reportedly said: "No one else is responsible."

At Brian Baldwin's trial, which lasted a day and a half, the main evidence against him was a confession he gave to Wilcox County police. Baldwin stated at the trial that he had made this confession out of fear: "They told me that if I didn't [confess], they were going to hang me, shoot me, beat me up; then they took handcuffs and handcuffed me to a bar and took an electric stick, the thing you stick cows with, and poked me with that"; he said that one of the officers had "opened his coat and put his hand on his pistol and started pulling it out and asked me if I was gone [sic] to sign [the statement], so I signed it". The judge allowed Baldwin's confession to be used as evidence against him.

In a recent affidavit, a former Wilcox County police officer - in 1977 the only African American deputy in the county - stated that Baldwin "was beaten and physically mistreated" during interrogation, and that there was an electric cattle prod at Wilcox County Jail at the time. Baldwin's current lawyers claim to have located former inmates who remember bruises and other injuries on Baldwin's body after his interrogation.

The prosecution reportedly failed to disclose to the defence expert evidence that Baldwin's clothing and shoes, unlike Horsley's, had no blood on them. A forensic expert has recently stated that the death blow to Naomi Rolon, by a hatchet, was most probably delivered by a left-handed person. Brian Baldwin is right-handed. Horsley, who had a cut on his right thumb when he was arrested, was left-handed.

As in Horsley's case, Brian Baldwin was tried in Monroe County Circuit Court before an all-white jury, after the prosecutor had used 11 of his peremptory challenges (the right to exclude jurors without giving reasons) to exclude the only 11 African Americans in the jury pool. The judge did not intervene, and the defence attorney did not object. According to Baldwin's clemency petition, during the trial both the prosecutor and the defence lawyer referred to Baldwin as "boy", a racially derogatory term.

In 1988 an African American man, Walter McMillian, was sentenced to death in Monroe County Circuit Court. He faced the same prosecutor and judge as Baldwin had. The judge sentenced McMillian to death after overriding the jury's recommendation for life, following a day-and-a-half long trial marked by racism.

McMillian was released in 1993 after being found to have been wrongfully convicted of the murder of a white woman (see *Fatal flaws: Innocence and the Death Penalty*, AMR 51/69/98, November 1998). In another case, in 1993 an Alabama appeals court found a *prima facie* case of racial discrimination in the Monroe County Circuit Court's grand jury selection process between 1977 and 1991.

On 11 June 1999, former US President Jimmy Carter wrote to the Governor of Alabama, urging that Baldwin's sentence be commuted: "This request is based upon my understanding of the facts in the records, which indicate that: 1) There were clear reasons to question his culpability in the murder...; and 2) There is no doubt that racial prejudice was a significant factor both in his trial and in his death sentencing."

Brian Baldwin lived in a hotel from the age of 13 because he and his father did not get along. He was expelled from school at 16. At the time of his trial he had not seen his family for three years. During more than two decades on death row, Brian Baldwin has obtained his high school diploma, and has successfully completed the Legal Assistant / Paralegal curriculum of the Blackstone School of Law. He edits an abolitionist newsletter, *On Wings of Hope*, mailed across the US and abroad.

RECOMMENDED ACTION: In the short time available, please telephone or organize as many telegrams/faxes as possible, in English:

- acknowledging the appalling murder of Naomi Rolon and expressing sympathy for her family;
- noting that while Brian Baldwin does not deny being involved in the crime which led to Naomi Rolon's murder, there are serious doubts over his culpability in the actual killing;
- expressing concern that racial discrimination was a significant factor in Brian Baldwin's trial;
- noting new evidence that his confession was coerced by police;
- noting Brian Baldwin's efforts to better himself on death row;
- urging the governor to grant clemency, or at the very least a stay of execution so that the recent claims can be fully examined in court.

APPEALS TO:

The Honourable Don Siegelman
 Governor of Alabama
 Alabama State Capitol
 600 Dexter Avenue
 Room N-104, Montgomery, Alabama 36130, USA
Faxes: + 1 334 242 0937 or 242 2335
Telegrams: Governor Siegelman, Montgomery, Alabama, USA
Telephone: + 1 334 242 7100
Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY.