

USA (Maryland) Wesley Eugene Baker (m), black, aged 44

Wesley Baker is scheduled to be executed in Maryland during the week beginning 13 May for the murder of Jane Frances Tyson in 1991.

Jane Tyson was shot in the head from point-blank range as she was getting into her car at a shopping mall on 6 June 1991. A member of the public pursued a vehicle with two occupants which sped from the scene, noted its registration number and called the police. Wesley Baker, the passenger, and Gregory Lawrence, the driver, were arrested after a chase. In Maryland, only the actual murderer can be sentenced to death. Wesley Baker was charged as the gunman. He was sentenced to death on 30 October 1992. Gregory Lawrence received a life prison sentence.

Doubts have been raised about whether Wesley Baker was the actual gunman. The victim's six-year-old grandson, who was present at the attack, indicated that the man who shot his grandmother ran to the driver's side of the getaway vehicle. The man who pursued the vehicle identified Wesley Baker as being on the passenger side. Blood from Jane Tyson was found on Baker, but Lawrence's clothing was not tested. There were fingerprints from Baker's right hand on Tyson's car. However, as the US Court of Appeals for the Fourth Circuit noted in 2000, "one must wonder how it was possible for [the right-handed Baker] to hold the gun to Tyson's head and leave his fingerprints on the [car], especially in light of the fact that the incident took only a matter of moments." It emerged after Baker's trial that Gregory Lawrence had a history of armed robberies, including a carjacking in which he had placed a gun against the victim's head.

The Fourth Circuit admitted that "the evidence that Baker shot Tyson was not overwhelming". The United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty state that "capital punishment may only be imposed when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts."

On 7 June 2000, Maryland's Governor, Parris Glendening, commuted the death sentence of Eugene Colvin-El, an African American man facing imminent execution for the murder of a white woman. The governor stated that he could not be certain of the inmate's guilt: "It is not appropriate to proceed with an execution when there is any level of uncertainty, as the death penalty is final and irreversible." (See update to EXTRA 50/00 (AMR 51/94/00, 8 June 2000).

The execution of Wesley Baker has been scheduled despite the fact that a University of Maryland study into the state's capital justice system is not due to be completed until September 2002. Its prime focus is the impact of race on capital sentencing. Governor Glendening commissioned the study after his Task Force on the Fair Imposition of Capital Punishment concluded in 1996 that in Maryland "the high percentage of African-American prisoners under sentence of death and the low percentage of prisoners under sentence of death whose victims were African-American remains a cause for concern".

Maryland's population is 64 per cent white and 28 per cent black. Of the 13 prisoners on its death row in April 2002, nine (70 per cent) were black and four were white. In 12 of the 13 cases (92 per cent) the victims of the crimes were white, although around 75 to 80 per cent of murder victims in Maryland

are black. Since the USA resumed executions in 1977, Maryland has executed three prisoners, two black and one white. All three were convicted of killing whites. Wesley Baker is African American; Jane Tyson was white.

The Lt Governor of Maryland, Kathleen Kennedy Townsend, a likely candidate for the 2002 state gubernatorial campaign, has indicated her support for a moratorium in the event that the study shows that race plays a role in the state's death penalty system.

Geographical disparities are also evident in Maryland's death penalty system. Wesley Baker was prosecuted by Baltimore County (population 74 per cent white, 20 per cent black), which accounts for 14 per cent of Maryland's population. Of the 13 on death row in Maryland, nine (70 per cent) were prosecuted in Baltimore County, a jurisdiction which accounts for less than 10 per cent of the state's murders. A major study of the US death penalty at Columbia Law School names Baltimore County as one of the US counties with the highest death sentencing rates, as well as the highest error rates in capital cases.

RECOMMENDED ACTION: Please send appeals in English or your own language, in your own words, using the following guide:

In appeals to both addressees:

- expressing sympathy for the family of Jane Tyson, and explaining that you are in no way seeking to excuse the manner of her death;
- expressing deep concern at the imminent execution of Wesley Baker;
- noting residual doubts about whether he was the gunman, and praising Governor Glendening's principled stand in the Eugene Colvin-El case because of such doubts;
- noting that this case involves precisely the sort of racial, as well as geographical, disparities that have raised serious questions about Maryland's capital justice system;
- stating that in addition to the residual doubt, it would be unconscionable to allow any execution to go ahead before the results and recommendations of the study commissioned by Governor Glendening are known.

In appeals to Governor Parris Glendening:

- urge him to commute Wesley Baker's death sentence, and to impose a moratorium on executions in Maryland.

In appeals to Lt. Governor Kathleen Kennedy Townsend:

- noting her support for a moratorium in the event that the study shows that race has played a role in capital sentencing, and requesting her to urge Governor Glendening to commute Wesley Baker's death sentence.

APPEALS (in equal numbers) TO:

The Honourable Parris Glendening
 Governor of Maryland
 State House, Annapolis, Maryland 21401, USA
Telegrams: Governor Glendening, Annapolis, Maryland, USA
Fax: + 1 410 974 3275
E-mail: governor@gov.state.md.us
Salutation: Dear Governor

The Honourable Kathleen Kennedy Townsend
 Lt. Governor of Maryland
 State House, Annapolis, Maryland 21401, USA
Telegrams: Lt Governor Townsend, Annapolis, Maryland, USA
Fax: + 410 974 5882

E-mail: ltgovernor@gov.state.md.us

Salutation: Dear Lt. Governor

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

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

Letters to the Editor, *Baltimore Sun*, 501 North Calvert Street

P.O. Box 1377, Baltimore, Maryland 21278, USA

E-mail: feedback@sunspot.net

Fax: + 1 410 332 6455

PLEASE SEND APPEALS IMMEDIATELY.