

PUBLIC

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Death penalty / Legal concern

USA (North Carolina)

Jerry Wayne Conner (m), white, aged 40

Jerry Conner is scheduled to be executed in North Carolina on 12 May 2006. He was sentenced to death in 1991 for the armed robbery and murder of shopkeeper Minh Rogers and the rape and murder of her 16-year-old daughter, Linda Rogers, on 18 August 1990. His lawyers have questioned the reliability of his conviction, and are seeking new DNA testing.

According to the evidence heard at trial, the bodies of Minh and Linda Rogers were found on the morning of 19 August 1990 by an employee at the family-run store, Rogers' Grocery, outside Gatesville, North Carolina. Jerry Conner was interrogated by police on 31 August, and told them that on or around 13 August, after he had been fired from his job as a truck driver, he had talked with a black man who had offered him \$7,000 to kill a "Japanese woman who ran a store in Gates County" (in fact Minh Rogers was Vietnamese). He said that he had rejected the offer, but later went back to try to find the man. Conner said that he had not found the man, but decided to kill the woman and attempt to collect the money later. He said that he had shot Minh Rogers, raped and shot Linda Rogers, and stolen money from the store.

Three witnesses who had been in the grocery's car park on the evening of 18 August testified that they had seen Minh Rogers leave the store with a white male, talk briefly with him and then go back into the store. The man had then taken a shotgun from his white car and told the witnesses that he was a federal law enforcement officer involved in a drugs seizure, and warned them that they should leave the area. At the trial, the three identified Jerry Conner as this man. In his statement to the police, Jerry Conner did not recall having identified himself as a law enforcement officer, and in any event he later changed his story, saying he had been in Rogers' Grocery store earlier on 18 August, and had been teased by the woman owner and a white male. He said that he returned to the store later that evening after drinking large amounts of whiskey, challenged the white male to a fight and, after the man had refused and left, had killed Minh and Linda Rogers as he previously related.

Jerry Conner's 1991 trial resulted in the death penalty. This was overturned on appeal because of an error during jury selection. At a re-sentencing hearing in 1995, he was again sentenced to death.

Conner's lawyers have raised doubts about his conviction given the inconsistencies in his statements to the police, which were made under the threat of the death penalty. An expert who has reviewed the statements and the trial testimony of the interrogating officers, and factored in Conner's borderline mental retardation and psychological make-up, has raised serious doubts about the credibility of the "confession". The jury did not hear testimony from another witness who said that she had seen a white male arguing with Minh Rogers outside the store on the evening of 18 August and that there were other males in a blue vehicle with the man. This witness said that the man she had seen was not Conner.

The state conducted DNA testing on the semen evidence from the crime but it was inconclusive. Conner's lawyers are seeking new DNA testing using modern techniques which can provide significantly more proof of identity. The state has so far refused to carry out these tests.

One of the jurors at the 1995 re-sentencing was a journalist who had covered the 1991 trial. During jury selection she was asked whether she had "heard this case discussed by any person who indicated direct or firsthand knowledge of the facts about the case". She replied that she had not. On appeal, Conner's lawyers presented affidavits from an investigator and two law students who alleged that the journalist had told them that during her reporting of the 1991 trial she had obtained information from officials that had not been made

available to the public, including “victim impact” evidence of how Minh Rogers’s 14-year-old son had reacted to his mother’s death. Dissenting against his two colleagues’ decision to uphold the death sentence in 2005, Judge Michael Luttig of the US Court of Appeals for the Fourth Circuit wrote: “Here, the circumstances that Conner alleges plainly establish the risk of actual bias. He alleges that juror Knight engaged in confidential conversations about his case with investigators and a key trial witness, and that these conversations included victim impact evidence highly relevant to the sentencing trial in which Knight sat as a juror. These allegations raise the obvious possibility that Knight relied on such extraneous evidence (and other yet undisclosed communications) in her deliberation about whether to sentence Conner to death. Such would constitute a quintessential instance of actual juror bias.” Judge Luttig concluded that Conner should receive a new sentencing.

BACKGROUND INFORMATION

Amnesty International takes no position on the guilt or innocence of Jerry Conner, and opposes his death sentence in any case, as it does in all cases everywhere. Nevertheless, the organization notes the high error rate in capital cases in the USA – since 1973, 123 people have been released from death row in 25 states on grounds of innocence. In 15 of these cases, DNA testing played a substantial role in the exoneration. The cases illustrated the widespread problem of inadequate defence representation and prosecutors failing to reveal exculpatory evidence. In the USA, the Innocence Project has revealed that false confessions were present in 27 per cent of the first 130 criminal cases across the country in which DNA evidence exonerated the convicted person. In 78 per cent of the 130 cases, mistaken identification was a factor.

Today, 123 countries have abolished the death penalty in law or practice, recognizing its inherent flaws. Since the USA resumed executions in 1977, it has put 1,021 men and women to death (of which North Carolina accounts for 42). There have been 17 executions in the USA this year.

For updates on Jerry Connor’s case, see <http://jerryconner.blogspot.com/>.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- explaining that you are not seeking in any way to excuse the brutal murders of Minh and Linda Rogers, and expressing sympathy for their family and friends;
- voicing your opposition to the execution of Jerry Conner;
- expressing concern that the state has refused to carry out modern DNA testing on evidence from the crime scene, despite concern about the reliability of the conviction;
- expressing concern at the possible juror bias in the trial, noting that the existence of or perception of such bias is damaging to public confidence in the administration of justice;
- urging the Governor to grant clemency to Jerry Conner, and to authorize DNA testing in his case, and to support a moratorium on executions in North Carolina.

APPEALS TO:

Governor Michael F. Easley
Office of the Governor, 20301 Mail Service Center, Raleigh, NC 27699-0301, USA

Fax: +1 919 715-3175

+1 919 733-2120

Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 12 May 2006.