

EXTRA 18/02

Death penUSA (Georgia) Tracy Lee Housel (m), British national, white, aged 43

Tracy Housel is scheduled to be executed in Georgia on 12 March 2002. He has been on death row for over 16 years, having been sentenced to death in February 1986 for the murder of Jeanne Drew in April 1985.

Tracy Housel pleaded guilty to the crime. His trial therefore moved immediately to a sentencing phase, the stage of a US capital trial at which the state argues for execution and the defence presents evidence in support of a lesser sentence. Amnesty International believes that this system broke down in Tracy Housel's case, rendering the proceedings unfair and the jury's verdict for the death penalty unreliable.

Tracy Housel was represented by a lawyer who had never defended a capital case or been lead counsel on any murder case. By his own subsequent admission, the lawyer failed to investigate or present substantial available mitigating evidence, including that of his client's abusive childhood and mental health problems.

Tracy Housel was born in Bermuda (hence his UK nationality) shortly after the marriage of his parents - a 14-year-old girl and a 43-year-old man. Both parents were alcoholic, and his father subjected him and his siblings to severe physical violence. He and his brothers would reportedly often turn up at school with black eyes, broken noses or bruises. In addition, Tracy Housel sustained numerous serious childhood head injuries in accidents and as a result of beatings by his father. Testimony relating to Housel's background from 20 lay witnesses - including family, teachers and neighbours - has been presented on appeal. All said they would have testified at the trial if they had been asked. Instead the jury heard brief testimony from three witnesses in a defence presentation that took less than 30 minutes.

Furthermore, the jury heard no expert evidence, and was left unaware of Tracy Housel's serious mental/medical problems. He suffers from hypoglycemia, a condition of severe blood sugar imbalance. Since the trial, an expert in this area has concluded that Tracy Housel had undergone "an acute state of hypoglycemia, exacerbated by alcohol, at the time of the crime", and that he would not have been able to distinguish right from wrong, to control his behaviour, or to form the intent necessary for first-degree murder. In addition, two mental health experts have concluded that Tracy Housel suffers from brain damage and psychological impairment, which combined with his drug and alcohol abuse, "substantially impaired" Housel's ability to recognize the criminality of his conduct. The state has introduced no conflicting expert testimony to rebut this evidence, which could have been used to present a defence of temporary insanity. Instead, his inexperienced lawyer allowed Housel to plead guilty to capital murder.

Meanwhile, the centrepiece of the prosecution's case for execution was evidence that Tracy Housel had allegedly committed three other crimes in other states, including a murder in Texas, during a six-week period before Jeanne Drew's murder. The state was allowed to present the evidence of these crimes, for which Housel had neither been charged nor convicted, without having to prove that Housel had committed them. In 2001, in another case, the Inter-American Commission on Human Rights (IACHR) found that the use of such evidence at a capital sentencing violated the USA's international obligations, and called

on the US authorities to act, "in particular by prohibiting the introduction of evidence of unadjudicated crimes during the sentencing phase of capital trials". On 27 February, the IACHR issued "precautionary measures" calling for Tracy Housel's execution to be stayed until it has ruled on the case.

In the US courts, Tracy Housel's appeal lawyers have argued that the constitutional requirement of reliability in death sentencing must prohibit the jury from weighing such evidence in its sentencing decision until it has found, beyond a reasonable doubt, that the defendant committed them. The US Court of Appeals for the 11th Circuit rejected this claim in 2001, despite writing that "perhaps [the US] jurisprudence has evolved to recognize the right that Housel espouses".

Concern over the introduction of this evidence in Tracy Housel's case is heightened by the fact that the evidence of his involvement in the crimes was questionable. For example, in the case of the Texas murder, the primary evidence was a statement made by Tracy Housel while he was held in coercive conditions during pre-trial detention in the local jail. He was not allowed to take a shower in the first three months of his incarceration, and was held in solitary confinement throughout this time. On several occasions, he was subjected to electro-shocks from a stun gun, including when standing in a pool of water. He also displayed serious mental health problems during this period.

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

- expressing sympathy for the family and friends of Jeanne Drew, and explaining that you are not seeking to condone the manner of her death;
- calling for commutation of Tracy Housel's death sentence;
- expressing concern that Tracy Housel's inexperienced lawyer failed to present substantial available mitigating evidence, including his client's abusive childhood and his serious mental health problems;
- expressing concern at the state's use of evidence of unadjudicated crimes, noting the Inter-American Commission on Human Rights's opinion in 2001, and its call for a stay in this case;
- noting the 11th Circuit's comment on this issue and that the power of executive clemency exists to compensate for the rigidities of the courts.

APPEALS TO:

Walter S. Ray, Chair, The State Board of Pardons and Paroles
Floyd Veterans Memorial Building, Balcony Level, East Tower
2 Martin Luther King Jr Drive, S.E., Atlanta, Georgia 30334, USA

Fax: + 1 404 651 8502

Salutation: Dear Mr Ray

(For those who do not have access to a fax, it will be possible to send faxes via the website moratoriumcampaign.org from 5 March)

COPIES TO:

If possible, please fax a copy your appeals to the Board to: **+1 404 688 0768** (for use by defence team in clemency proceedings).

Also to: The Honourable Roy E. Barnes, Governor of Georgia, 203 State Capitol, Atlanta, GA 30334, USA. **Fax: + 1 404 657 7332**

and to diplomatic representatives of the USA accredited to your country.

If possible, please also send an appeal to the UK Prime Minister, Tony Blair, welcoming the UK's commitment to abolition and the UK Foreign Secretary's called for commutation of this death sentence. Urge the Prime Minister to use his influence by himself now making a personal intervention on behalf of Tracy Housel. Urge him to telephone Board Chairperson Walter Ray, Governor Roy Barnes, and President George Bush to call for commutation of this death sentence (note: the IACHR's "precautionary measures" went to the federal government).

Tony Blair
The Office of the Prime Minister
10 Downing Street, London SW1A 2AA, United Kingdom
Fax: + 44 207 925 0918
Salutation: Dear Prime Minister

PLEASE SEND APPEALS IMMEDIATELY.