

USA (Oklahoma) Norman Lee NEWSTED, aged 45

Norman Newsted is scheduled for execution in Oklahoma on 8 July 1999 for the February 1984 murder of a taxi driver, Lawrence Buckley, in Tulsa.

At his trial Newsted argued Buckley had attacked him with a knife and that he had shot him in self-defence. The jury rejected this argument and on 24 June 1984 found Newsted guilty of first-degree murder. At the sentencing later the same day, his defence lawyer introduced no mitigating evidence or witnesses on his client's behalf. At the sentencing stage of a US capital trial, jurors are presented with aggravating and mitigating evidence relating to the crime and defendant in order to enable them to decide whether to recommend a life or death sentence.

In Norman Newsted's case, evidence presented in mitigation could have included his troubled childhood and serious psychological problems. He was brought up by an alcoholic mother and an abusive father, from whose sexual and physical assaults Norman tried to protect his sister. Norman tried to escape this family life by running away from home, began to use drugs at the age of 13, and dropped out of school at 16. According to reports, his mental capacity is in the borderline retardation range, and he suffers from serious personality disorders.

In 1998 a 10th Circuit Court of Appeals agreed that the complete failure of the defence to investigate or present any mitigating evidence constituted ineffective representation, but ruled that this ineffectiveness had not been shown to be prejudicial: "We cannot say that the omission of such evidence would have changed the jury's conclusion. To look back is clairvoyant. Hindsight is never wrong; a trial never has such luxury".

Norman Newsted had robbed a bar in Utah earlier in February 1984 with Doug Kaye and Cynthia Brosemer. Three people were killed. Brosemer gave herself up, was granted immunity from prosecution, and gave statements to the police. The Oklahoma prosecution relied on Newsted's involvement in this crime as the aggravating evidence to persuade the jury that he was a continuing threat to society and should be executed. The prosecution was allowed to present Cynthia Brosemer as a witness, despite defence protests that they had not been informed that this would happen and were therefore unprepared to cross-examine her. In her original statements to the police, withheld from the defence, Brosemer said that Newsted fired two non-fatal shots in the Utah bar, but that it was Kaye who killed all three victims. However, her testimony in court under the prosecutor's questioning differed to the extent that it allowed the inference that Newsted may have killed one or more of the Utah victims. Because Brosemer's police statements had been concealed, the jury never heard her prior unequivocal testimony that it was Kaye who had killed all three.

The 10th Circuit Court agreed that the prosecutor should have disclosed these statements to the defence, as well as a police report noting signs of a struggle on Buckley's body and clothing, given its relevance to Newsted's self-defence argument. However the court stated that this prosecutorial misconduct was not necessarily prejudicial to Newsted's defence.

In Utah, Doug Kaye negotiated a plea bargain that allowed him to escape the death penalty for the three killings in the bar in 1984. The Utah trial found that Norman Newsted had not killed any of the Utah victims.

BACKGROUND INFORMATION

Since the USA resumed judicial executions in 1977, it has executed 548 people, over 400 of whom have been put to death since 1990. Race, economic status and the quality of defence representation appear to play a major part in who will, and who will not, receive a death sentence. Prosecutorial misconduct, and the use of unreliable physical evidence or witness testimony have also contributed to this lottery, and even to wrongful convictions. Eighty US prisoners have been exonerated since 1973 - including six in 1999 - after being sentenced to death. Many came close to execution. The use of the death penalty in the USA frequently fails to meet minimum international standards. For example, mentally impaired prisoners have been sentenced to death and executed, and the USA continues to use the death penalty against child offenders in violation of international law.

Oklahoma has put 16 people to death since it resumed executions in 1990. Since 1991 the state's male death row inmates have been housed in H-Unit of Oklahoma State Penitentiary, where Amnesty International believes conditions amount to cruel, inhuman or degrading treatment, in violation of international standards. Inmates are moved to solitary confinement in special isolation punishment cells 30 days prior to their execution date in order to stop them killing themselves before the lethal injection team does. They are subjected to regular cell and body searches, and may even be X-rayed. This policy was introduced after an inmate attempted to kill himself by overdosing shortly before his execution in 1995. Norman Newsted was moved into an isolation cell on 8 June 1999.

RECOMMENDED ACTION: Please send e-mails/telegrams/faxes/express/airmail letters in English or your own language:

- expressing sympathy for victims of crime and their families/friends;
- noting that appeal courts have found Norman Newsted to have received an ineffective defence from a lawyer who failed to prepare any mitigation, and that the prosecutor improperly withheld evidence from the defence;
- expressing concern that the jury were therefore not in a position to be able to genuinely weigh up mitigating and aggravating factors;
- urging that Norman Newsted be granted clemency.

APPEALS TO:

Before 15 June

Please send as many faxes as possible to the **Oklahoma Pardon and Parole Board** to arrive before **15 June** (date of Norman Newsted's clemency hearing).

Faxes: + 1 405 427 6648

Salutation: Dear Board Members

After 15 June

Governor Frank Keating

212 State Capitol

Oklahoma City, OK 73105, USA

Telegrams: Governor Keating, Oklahoma City, OK, USA

Faxes: + 1 405 521 3353

E-mails: governor@oklaosf.state.ok.us

Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY.