

31 July 2001

Further information on UA 156/01 (AMR 51/095/2001, 22 June 2001) -Death penalty / Legal

USA (Texas)Napoleon Beazley [m], black, aged 24

Napoleon Beazley remains scheduled to be executed in Texas on 15 August. He was sentenced to death in 1995 for a murder in Tyler, Smith County, committed when he was 17 years old. International law prohibits the execution of those who were under 18 at the time of the crime.

The victim was John Luttig, a 63-year-old white Tyler businessman and the father of a federal judge. All the trial jurors were white, after several blacks were removed by the state during jury selection. Moreover, it has emerged that one juror harboured severe prejudice against blacks, whom he used allegedly to refer to "on more occasions than not" as "niggers".

Only a small proportion of US murders result in execution, a punishment supposedly reserved in the USA for the "worst of the worst" offenders. In reality the condemned are selected under a system marked by arbitrariness, discrimination and error.

A year after Napoleon Beazley's trial, Ivan Holland, a 63-year-old homeless African-American man was shot dead in Tyler by a group of three young white men who had driven around the town looking for a black person to kill. At a 1997 hearing, Todd Rasco, who fired the gun, reportedly stated that his two friends had goaded him to "just kill a nigger", and that they had laughed about it afterwards because they thought they had got away with the crime when news reports said that the police were looking for three Hispanic men. Todd Rasco was sentenced to 45 years in prison after a plea bargain. One of his co-defendants was sentenced to 37 and a half years for encouraging Rasco to shoot Holland. Both inmates will be eligible for parole after serving half their sentences. Napoleon Beazley's two black co-defendants were sentenced to life imprisonment for their involvement in the Luttig murder. They will not be eligible for parole for 80 years.

John Luttig's murder was punishable by death under Texas law because it was committed during a robbery - the three perpetrators stole one of the Luttigs' Mercedes Benz cars. Amnesty International does not know if Smith County ever considered seeking the death penalty in the Holland murder, but it may have been unable to do so if there were no "aggravating" factors under state law - such as robbery or kidnaping - making the crime "death-eligible". Napoleon Beazley's lawyer has noted to Amnesty International the fact that "even today in Texas, a black man can be executed for a murder of a white man while stealing his property, yet a white man cannot be executed for murdering a black man because he was black".

In Texas, the jury has to decide that the defendant will pose a future threat to society if allowed to live. There was little support for this in Napoleon Beazley's case. He had no criminal record and no record of violent behaviour.

A stream of witnesses described a helpful, respectful teenager, whose involvement in the Luttig killing was out of character. The state relied upon his two co-defendants' testimony - much of which they have since admitted was false and was given in return for a prosecution promise not to pursue the death penalty against them - to paint a picture of a violent and remorseless

individual. They now say he was remorseful to the point of being suicidal after the crime.

Among those appealing for clemency is the District Attorney of Napoleon Beazley's home county, Houston County. In her appeals, she writes: "I have been a strong advocate for the death penalty my entire adult life... Based on my knowledge of Napoleon Beazley as a person, as well as my knowledge of the facts of his criminal offense, I would not have sought the death penalty had this case been filed in Houston County... Bottom line, Mr Beazley is a young, black man from a small community who could have done great things in his life because he was charming, smart, respectful and a genuinely good kid.

He was a fool to be influenced by his co-defendants and a fool to act like a common street thug in this one instance. He made a terrible mistake this one time, but I hope you will consider his background, his remorse for the sorrow he has brought to the victim's family as well as his own and the fact this is an isolated incident and commute his sentence to life in prison."

International law forbids the execution of those who were under 18 at the time of the crime in recognition of their immaturity, impulsiveness, vulnerability to peer pressure, and capacity for change. See *Too young to vote, old enough to be executed - Texas set to kill another child offender*, AMR 51/105/2001, July 2001 (available on www.amnesty.org).

FURTHER RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language. In all appeals, please express sympathy for the family and friends of John Luttig.

To the officials from the original trial:

- noting that despite the jury's finding of future dangerousness, Napoleon Beazley's record in prison has justified the confidence that mitigation witnesses had in his capacity for rehabilitation, noting that this capacity for change in a young person lies behind the worldwide ban on the use of the death penalty against those under 18 at the time of the crime;
- noting that the co-defendants have stated that they painted a false picture of Napoleon Beazley to the jury;
- noting widespread concern that the US death penalty is marked by arbitrariness, noting the Houston County District Attorney's appeal for clemency, and comparing the case of Ivan Holland as you see fit;
- calling on them to ask the Board of Pardons and Paroles to recommend that this death sentence be commuted by the Governor.

APPEALS TO:

Jack Skeen, Jr.
Smith County District Attorney
 100 N. Broadway
 Tyler, Texas 75702, USA
Fax: + 1 903 535 0410
Salutation: Dear District Attorney

(ex-Assistant Smith County District Attorney)
 David Dobbs
 112 E. Line, Suite 300
 Tyler, Texas 75702, USA
Fax: + 1 903 595 1999
Salutation: Dear Mr Dobbs

Sheriff J. B. Smith
106 E. Elm Street
Tyler, Texas 75702, USA
Fax: + 1 903 535 0724
Salutation:Dear Sheriff

To the Governor:

- expressing concern that Texas is seeking to execute Napoleon Beazley in the face of a worldwide consensus that it is wrong to execute people who were under 18 at the time of the crime;
- using case details as you see fit (you may wish to consult AI's report), urging him to use his power and influence to oppose the execution in the interest of justice, decency and the reputation of the State of Texas.

The Honourable Rick Perry
Governor of Texas
State Capitol, PO Box 12428, Austin, TX 78711, USA
Fax: +1 512 463 1849
Telegrams: Governor Perry, Austin, TX, USA
Salutation:Dear Governor

COPIES (of appeals to all those named) to newspaper:
Tyler Morning Telegraph
P.O. Box 2030
Tyler, Texas 75710, USA
Fax: + 1 903 595 0335

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

PLEASE SEND APPEALS IMMEDIATELY.