

PUBLIC

AI Index: AMR 51/122/2001

16 August 2001

Further information on UA 156/01 (AMR 51/095/2001, 22 June 2001) and follow-up (AMR 51/110/2001, 31 July) - Death penalty / Legal concern

USA (Texas)Napoleon Beazley [m], black, aged 25

Amid huge national and international publicity, the Texas Court of Criminal Appeals granted Napoleon Beazley a stay of execution by a 6-3 vote, less than four hours before he was due to be killed. He had already been moved to a death watch cell in readiness for his execution, scheduled for 6pm local time on 15 August.

Issuing the emergency reprieve in response to a 134-page petition filed by Napoleon Beazley's lawyers, the court noted that the "applicant presents 10 allegations challenging the validity of his conviction and resulting sentence". These claims include that Napoleon Beazley's first post-conviction lawyer, by his own recent admission, failed to adequately investigate and present the case on appeal; that the prosecutors knowingly used false testimony (of Napoleon Beazley's two co-defendants); that one of the jurors was racially biased; and that another juror was biased because she knew the victim. Another of the issues is Napoleon Beazley's age at the time of the murder of John Luttig. He was 17 - international law bans the death penalty against those under 18 at the time of the crime.

The US Supreme Court had earlier denied a stay of execution on a 3-3 vote. Three of the nine Justices had abstained, because of their various relationships with the son of the murder victim, who is a federal appeals court judge. Despite denying a stay, the Supreme Court has yet to announce whether it will consider the merits of the Beazley case brought before it on appeal.

The Texas Board of Pardons and Paroles voted 13-3 against a reprieve and 10-6 against recommending that the Governor commute the death sentence. This left Governor Rick Perry with the option to grant a 30-day reprieve. He had not said whether he would do so when the Court of Criminal Appeals issued the stay. However, less than an hour earlier, he told reporters that he supported the state's law that allows 17-year-olds to be subject to the death penalty: "My son's 17. And I am comfortable that my son understands right from wrong. Citizens from the state of Texas have sent a clear message that when you reach 17 years of age you're going to be held responsible for your actions just like you were an adult". Yet in February this year, a *Houston Chronicle* poll suggested that only a minority of Texas citizens support the death penalty for juvenile offenders. Moreover, in May, the Texas House of Representatives passed a bill which would have raised the age of death penalty eligibility in the state to 18. There was optimism that the bill would pass the Senate also, until the governor's office intervened with a threat to veto it. Governor Perry recently vetoed a bill which had passed both houses of the Texas legislature banning the use of the death penalty against prisoners with mental retardation.

Among those who appealed for clemency to the Governor and the Texas Board of Pardons and Paroles was the original trial judge, Judge Cynthia Stevens Kent. In a letter to the governor, she wrote that "it is my recommendation that due to his age at the time of the offense... that you consider carefully and grant his request that his sentence be commuted". Smith County District Attorney Jack Skeen, one of Napoleon Beazley's prosecutors, said he was shocked by the judge's letter and that he was "absolutely committed to respond to this letter

in the strongest terms possible to Governor Perry". He said that his office would "fight and fight and fight until the verdict is carried out". Earlier, the District Attorney of Houston County, Napoleon Beazley's home county, had appealed for clemency, saying that, knowing the facts of the crime and background of the defendant, she would never have sought the death penalty in the case.

Among the governmental bodies and international and US non-governmental organizations which appealed for clemency were the European Union, the Council of Europe, the Swiss and Norwegian governments, Human Rights Watch, Human Rights Advocates, the American Bar Association, the Youth Law Center, the Children's Defense Fund, the Mid-Atlantic Juvenile Defender Center, the National Urban League, the Juvenile Law Center, the American Civil Liberties Union, the Child Welfare League of America, the Constitution Project, and the National Mental Health Association. For details, please see the website of the American Bar Association's Juvenile Justice website, www.abanet.org/crimjust/juvjus, where some of the media articles and the clemency letters are posted, including Amnesty International materials.

Napoleon Beazley's parents have asked for their heartfelt thanks to be passed on to all who sent appeals on their son's behalf.

Meanwhile, Texas has just scheduled the execution of another juvenile offender. Gerald Mitchell is due to be executed on 22 October, also for a crime committed at 17 (see *USA: Time to stop executing juvenile offenders and join the modern world*, AMR 51/121/2001, 16 August 2001).

FURTHER RECOMMENDED ACTION: If you have the capacity, please send an extra appeal, in English or your own language, IN YOUR OWN WORDS. In all appeals, please express sympathy for the family and friends of John Luttig.

To District Attorney Jack Skeen:

- noting that the trial judge, the Honourable Judge Cynthia S. Kent, appealed for clemency in this case, as did the Houston County District Attorney, and many prominent organizations, and that many leading US and Texas newspapers editorialized against the execution;
- expressing concern at the District Attorney's reported continuing opposition to clemency, and urging him to reconsider this position in the light of international law and national and international standards of decency reflected in the attention given to this case at home and abroad.

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

To the Governor:

- welcoming the stay of execution for Napoleon Beazley which provides the State of Texas with the opportunity to ensure that no more juvenile offenders are executed in the state, again noting the huge national and international concern over this case;
- expressing concern at reports of the Governor's continuing support for Texas law which allows 17-year-old defendants to be subject to the death penalty, in violation of international law;

- urging the Governor to offer principled leadership on this fundamental human rights issue, and to publicly state that he will oppose the execution of anyone in Texas sentenced to death for a crime committed when they were 17 years old.

The Honourable Rick Perry

Governor of Texas

State Capitol, PO Box 12428, Austin, TX 78711, USA

Fax: +1 512 463 1849

Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY.