

EXTERNAL (for general distribution)

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Further information on TLX 15/91 (AFR 53/11/91, 4 March 1991) - Fear of Execution

SOUTH AFRICA: Paul BEZUIDENHOUT

Paul Bezuidenhout, who was scheduled to be executed on 5 March 1991, was granted a last-minute stay of execution by the Supreme Court (Transvaal Provincial Division) on the afternoon of 4 March. He had been convicted of murder on 15 September 1989 in the Supreme Court (Northern Cape Division) and his appeal against his sentence of death was dismissed by the Appeal Court on 28 September 1990. The State President had subsequently rejected his petition for clemency. On 26 February 1991 Paul Bezuidenhout was informed that he would be executed on 5 March.

On 3 March lawyers petitioned the Minister of Justice to grant a stay of execution pending their full submission to him of new evidence in the case. When, on the following day, the minister rejected this petition, the lawyers then made an urgent application in the Supreme Court for a stay of execution. They presented to the court sworn affidavits from a psychologist and a psychiatrist who had recently examined Paul Bezuidenhout. Their testimony indicated that there were extenuating factors in his case which had not previously been presented to the trial court. The lawyers asked the court for a stay of execution to enable them to petition the Minister of Justice, requesting him to use his powers under Section 327 of the Criminal Procedure Act (as amended in 1990) to refer the evidence back to the original trial court. The Attorney General, representing the Minister of Justice, opposed the application in court, arguing that it was brought in bad faith, that it constituted an abuse of procedures and that there was no substance to the evidence of the expert witnesses. The court, however, granted an indefinite stay of execution pending the Minister of Justice's response to their intended petition.

BACKGROUND INFORMATION

On 27 July 1990 the Criminal Law Amendment Act, which amended the Criminal Procedure Act of 1977, came into force. Among other changes, the new Act granted the Minister of Justice the power to receive new evidence in a case where the convicted person had exhausted all other avenues of appeal. After reviewing that evidence the minister may, if he thinks that this evidence could affect the conviction or sentence of death imposed on the convicted person, refer the evidence to the original trial court. In considering this new evidence, the trial court has the power to hear witnesses. The court is required to advise the State President whether, and to what extent, the new evidence affects the conviction or the sentence in question. The court is prohibited from making public its conclusions. The State President, with the advice from the court, may grant a free pardon, or substitute a conviction of lesser gravity and impose a different sentence, or commute a sentence of death to any other punishment

provided by the law. Under this proceeding there is no appeal allowed against the advice of the trial court or the decision of the State President.

No further action is needed at this stage. Thank you to all Urgent Action participants who made appeals on behalf of Paul Bezuidenhout.