

EXTRA 57/02Death penalty

26 July 2002

USA (Texas)Richard William Kutzner (m), white, aged 59

Richard Kutzner is scheduled to be executed in Texas on 7 August for the murder of Kathryn Harrison.

The murderer had used a plastic tie wrap to strangle Kathryn Harrison in her office in Montgomery County on 22 January 1996. Her ankles had been bound with a similar tie wrap, and her wrists bound by red electrical wire.

Richard Kutzner was sentenced to death in September 1997. The state presented strong circumstantial evidence against him, including samples of red wire and plastic ties of the sort used in the murder which had been found in Kutzner's house and truck. There was also evidence indicating that Kutzner had been in possession of a videocassette recorder and computer keyboard similar to ones taken from the murder scene. Also presented was a note in Harrison's handwriting, dated a few days before the murder, possibly pointing to Kutzner as a potential client.

Kathryn Harrison's husband had been the initial focus of the investigation. There was evidence of his abusive conduct towards her and that she had feared that he might kill her. A car of the type and colour driven by her husband was seen outside the office around the time of the murder. Kathryn Harrison used to record telephone conversations with him at the office. At the time of her death, Kathryn Harrison had been gathering evidence of his infidelity. The recording device was missing from the murder scene. It was found in her husband's vehicle two weeks after the murder, yet it had not been there a week earlier when police had searched the vehicle. Her husband said that he could not remember where he had obtained it.

Police focus shifted to two other men, Roy Landry and Richard Kutzner, after they were identified as suspects in a murder that had occurred two weeks before the Harrison killing. Richard Kutzner was also sentenced to death for this murder, that of Rita Sheron Van Huss, who was killed in her office in Houston in similar circumstances to Kathryn Harrison. He is still appealing against the death sentence he received for that murder. Landry agreed to testify against Kutzner in the Harrison case after he, Landry, was threatened with a capital murder charge.

Richard Kutzner has consistently maintained his innocence of the murder of Kathryn Harrison. He came within 24 hours of execution in July 2001. The Texas Court of Criminal Appeals granted a stay to allow consideration of his request to have DNA analysis done on fingernail scrapings from the victim and hair evidence from the crime scene, on the grounds that it could implicate someone else as the perpetrator. This was the first attempt by a Texas death row prisoner to use a new state law, which came into effect on 5 April 2001, allowing inmates state-paid DNA testing where such testing could affect the outcome of the case. The trial court and the Court of Criminal Appeals subsequently denied Kutzner's motion to have the evidence tested, ruling that it would not have affected the outcome of the trial.

In addition to commutation, Richard Kutzner is requesting a 120-day reprieve so that DNA testing of the physical evidence can be carried out.

BACKGROUND INFORMATION

Amnesty International does not know whether Richard Kutzner is guilty or innocent of the murder of Kathryn Harrison, but opposes his execution in any event, as it opposes all use of the death penalty. The organization believes that every death sentence is an affront to human dignity, and every execution a symptom of, not a solution to, a culture of violence.

International safeguards hold that those countries which still retain the death penalty must not carry it out against anyone whose guilt is in any doubt, specifically where there is any "room for an alternative explanation of the facts". As an abolitionist organization, Amnesty International is calling for commutation of Richard Kutzner's death sentence regardless of his guilt or innocence. It submits that under this minimum safeguard, Texas should, at a minimum, grant his request for a reprieve to allow DNA testing to be carried out.

More than 100 people have been released from death rows in the USA since 1973 after evidence of their innocence emerged. In 12 cases, DNA testing played a substantial role in the prisoner's exoneration. In other cases, DNA testing has implicated capital suspects or has failed to exonerate already condemned inmates. For example, on 1 June 2000, 20 minutes before he was due to be executed, Ricky McGinn was granted a reprieve to allow DNA testing in his case. During presidential campaigning a few days earlier, then Governor George W. Bush said that he supported DNA testing if it "helps to settle a case, or erase any doubts or concerns". McGinn was executed on 27 September 2000 after the testing did not exonerate him.

Since executions resumed in the USA in 1977, 786 prisoners have been put to death. Texas accounts for 274 of these killings.

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 Kathryn Harrison, and explaining that you are not seeking to condone the manner of her death;
- opposing the execution of Richard Kutzner;
- noting that he has requested DNA testing of physical evidence under the Texas law enacted in 2001;
- noting international safeguards requiring that the death penalty not be used where there is "any room for an alternative explanation of the facts";
- calling on the Board to recommend commutation of Richard Kutzner's death sentence;
- calling on the Board, at a minimum, to recommend a 120-day reprieve to allow the DNA testing to be carried out.

PLEASE INCLUDE RICHARD KUTZNER'S PRISONER IDENTIFICATION NUMBER IN YOUR APPEALS -- (TDCJ#999227).

APPEALS TO:

Texas Board of Pardons and Paroles
 Executive Clemency Section
 PO Box 13401, Capitol Station
 Austin, Texas 78711, USA
Fax: + 1 512 467 0945
Salutation: Dear Board Members

COPIES TO:

Governor Rick Perry
Office of the Governor
PO Box 12428, Austin, Texas 78711-2428, USA
Fax: + 1 512 463 1849 / 463 0039 / 463 1932

and to diplomatic representatives of USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.