

PUBLIC

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UA 296/05

Death Penalty

USA

Wesley Eugene Baker (m), black

Wesley Baker is scheduled to be executed in Maryland during the week beginning 5 December 2005, for the 1991 murder of a white woman, Jane Frances Tyson.

Jane Tyson was shot in the head at point-blank range on 6 June 1991, as she was getting into her car at a shopping mall. A passer-by pursued a vehicle with two occupants which sped from the scene, noted its registration number and called the police. Driver Gregory Baker and passenger Wesley Baker were arrested after a chase. In Maryland, only the actual murderer can be sentenced to death. Wesley Baker was charged as the gunman. He was sentenced to death on 30 October 1992. Gregory Lawrence was sentenced to life imprisonment.

Doubts have been raised about whether Wesley Baker was the actual gunman. The victim's six-year-old grandson, who was present at the attack, indicated that the man who shot his grandmother ran to the driver's side of the getaway vehicle. The man who pursued the vehicle identified Wesley Baker as being on the passenger side. Blood from Jane Tyson was found on Baker, but Lawrence's clothing was not tested. There were fingerprints from Baker's right hand on Tyson's car. However, as the US Court of Appeals for the Fourth Circuit noted in 2000, "one must wonder how it was possible for [the right-handed Baker] to hold the gun to Tyson's head and leave his fingerprints on the [car], especially in light of the fact that the incident took only a matter of moments." It emerged after Baker's trial that Gregory Lawrence had a history of armed robberies, including a carjacking in which he had held a gun to the victim's head.

In denying Baker's appeal in July 2000, the Fourth Circuit Court of Appeals admitted that "the evidence that Baker shot Tyson was not overwhelming". The United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty state that "capital punishment may only be imposed when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts."

Wesley Baker was the subject of two previous UAs: UA 98/01 (AMR 51/059/2001, 12 April 2001) and EXTRA 33/02 (AMR51/065/2002, 29 April 2002).

BACKGROUND INFORMATION

In recent years Maryland's capital justice system has drawn scrutiny and concern. In 1996 the then governor, Parris Glendening, appointed a Task Force on the Fair Imposition of Capital Punishment to look into the fairness of the state's death penalty system. The Task Force concluded that in Maryland "the high percentage of African-American prisoners under sentence of death and the low percentage of prisoners under sentence of death whose victims were African-American remains a cause for concern". Following this, Governor Glendening commissioned a study by the University of Maryland into the state's capital justice system. The study's report was released in January 2003. Entitled *An Empirical Analysis of Maryland's Death Sentencing System With Respect to the Influence of Race and Legal Jurisdiction*, by Professor Raymond Paternoster of the University of Maryland, the study examined all first and second-degree murders committed in Maryland from September 1978 until December 1999, approximately 6,000 cases in all. This is the most comprehensive study of the impact of race and geography on the death penalty in Maryland.

Governor Glendening also imposed a moratorium on executions in May 2002, just days before Wesley Baker was due to be executed, pending the outcome of the study.

The University of Maryland's study concluded that, even when other factors are taken into account, people who kill white victims are "significantly" more likely to face the death penalty than killers of non-whites. It also concluded that prosecutors in different counties within the state "exhibit considerable variation" in their pursuit of the death penalty. In terms of whether a particular "death-eligible" murder will be pursued as a capital crime, therefore, "clearly the jurisdiction where the homicide occurs matters and matters a great deal".

Wesley Baker was prosecuted by Baltimore County, which was named as one of the US counties with the highest death sentencing rates in a major study of the US death penalty by Columbia Law School in 2002, as well as the highest error rates in capital cases. Baltimore County accounts for three of the four people executed in Maryland since 1978, when the current death penalty statute became effective.

Upon taking office in 2003, Governor Robert Ehrlich lifted the moratorium in the state, saying that he would review every death warrant on a case-by-case basis.

Amnesty International does not seek to excuse the perpetrators of violent crime. However, it believes the death penalty is wrong in all cases, This is a punishment that is an affront to human dignity and a part of a culture of violence rather than a solution to it. It has not been shown to deter crime more effectively than other punishments; it denies the possibility of rehabilitation and reconciliation, carries the risk of irreversible error as well as inconsistent and discriminatory application, and consumes resources that could be used to fight violent crime and assist those affected by it. In addition, in the USA capital justice system is marked by arbitrariness, discrimination and error.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- expressing sympathy for the family and friends of Jane Tyson, and explaining that you are in no way seeking to excuse the manner of her death;
- expressing deep concern at the imminent execution of Wesley Baker;
- noting that there are still doubts about whether he was the gunman;
- noting the University of Maryland study which concluded that there is racial and geographic bias in the state's capital sentencing system;
- noting that these elements are evidenced in Wesley Baker's case;
- suggesting that the systemic problems revealed by the study cannot be remedied on a case-by-case basis at the time of clemency proceedings;
- urging Governor Ehrlich to commute Wesley Baker's death sentence.

APPEALS TO:

Governor Robert L Ehrlich Jr
Office of the Governor
State House
Annapolis, MD 21401-1925
USA

Fax: +1 410 974 3275

Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY.