

Texans await execution ruling

Supreme Court to hear racial challenge to death penalty

By John Gonzalez
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At least three Texas death-row inmates are among hundreds of convicted murderers nationwide whose lives are at stake as the U.S. Supreme Court hears arguments this week in a case challenging the application of capital punishment laws as racially discriminatory.

The nation's highest court will listen to lawyers debate a Georgia man's contention that juries have applied the death penalty unevenly against blacks. Attorneys for Warren McCleskey, a black who was convicted of murdering a white Atlanta policeman in 1978, say that statistics indicate people convicted of killing whites were much more likely to be sentenced to death than those who killed blacks.

Just as the Supreme Court is about to take up the McCleskey case, an appellate court in Austin has rejected similar arguments from a Hispanic man, who is sentenced to die on Wednesday for slaying a white Corpus Christi woman in 1983.

On Monday, the Texas Court of Criminal Appeals denied a stay of execution for Carlos De Luna, convicted of the 1983 robbery-slaying of a Corpus Christi convenience-store clerk. The move came three days after the U.S. Supreme Court refused to grant him a stay on the basis of arguments similar to those of McCleskey. De Luna's attorneys said they would file an appeal on similar grounds Tuesday with the federal court in Corpus Christi.

McCleskey's appeal hinges on a survey of Georgia homicides from 1973 to 1978, which concluded that

people who killed whites were 20 percent more likely to be sentenced to death than those who killed blacks. Law professor David Baldus of the University of Iowa conducted the study.

The study McCleskey is relying on was criticized as flawed by Georgia prosecutors and was rejected as inconclusive by federal district and appellate courts. In comments leading up to the high court's deliberations on the McCleskey case, prosecutors in Georgia, Texas and other states have vigorously denied assertions that they or jurors put a greater value on a white person's life than on a black person's.

However, according to statistics compiled from state officials by the NAACP Legal Defense and Education Fund Inc. and the American Civil Liberties Union, about 90 percent of the estimated 70 people executed since 1977, when the death penalty was reinstated by the Supreme Court, had killed white people. Eighteen of the executions have been in Texas — eight of them this year.

Of the estimated 1,700 inmates under death sentences nationwide, 51 percent are white, 41 percent are black and 8 percent are Hispanic or other races. In an estimated 80 percent of the cases, the murder victim was white, the NAACP reported.

An undetermined number of convicted killers in Oklahoma, Arkansas and Louisiana also have pending appeals that parallel McCleskey's.

Texas has 236 men awaiting execution, but Department of Corrections spokesman Charles Brown

said it was not known how many could be affected by the Supreme Court's ruling in the McCleskey case. Several of the 236 included McCleskey's argument as one element of their appeals.

Among them is Raymond Riles, who last month was granted a stay of execution by a federal judge in Houston. Riles was convicted of the 1974 robbery-slaying of a Houston man.

Another Texan awaiting the Georgia case's outcome is Antonio Nathaniel Bonham of Houston, convicted in 1981 in the rape, robbery and murder of a Houston business-college instructor. Bonham won a stay of execution one month ago, just nine hours before he was to be put to death by lethal injection.

Gara LaMarche said, executive director of the Texas Civil Liberties Union, said no one had been executed in Texas for slaying a black since 1977, "even though blacks are disproportionately the victims of crimes."

"It's a phenomenon in which blacks are much more often the victims of homicides, and yet the system seems to work in a way to much more heavily penalize the people who kill whites," he said.

"No one is necessarily saying this is overt racism, that there is a deliberate conspiracy to let off people who kill blacks.

"It's just the fact that prosecutors don't very often ask for the death penalty (for a white defendant). Another part of the problem is that on juries, for whatever reason, blacks are excluded from the decision-making process."

From Sister U. de Gutierrez