

Questioning the myth of a painless execution

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It was execution 33 that sent death row chaplain **Carroll Pickett** to a therapist in 1989. He sought help not because **Carlos DeLuna**, 27, behaved more like a frightened, withdrawn teenager than a hardened killer. Nor was it that the ninth-grade dropout had taken to calling him "Daddy." It was Carlos' pulse. It didn't stop.

In the 32 executions Pickett had witnessed before that one, the condemneds' pulses had stopped before the second lethal chemical was injected into their veins. Carlos' pulse continued after the first drug and anesthesia sodium thiopental flowed through one of the young man's veins. Pickett could feel Carlos' pulse as he clutched his ankle and stared into his big brown eyes, which never blinked. Carlos' ankle jerked after the second lethal drug, pancuronium bromide, dripped into another vein. His eyes remained open. The pulse kept throbbing until a third drug kicked in.

Pickett sought out a Dallas therapist because he believed Carlos endured an agonizing death due to the use of pancuronium bromide, which is outlawed in Texas for euthanizing animals in shelters. If he is right, Carlos was awake as the pancuronium bromide collapsed his diaphragm and lungs; conscious as a third drug -- potassium chloride -- shut down his heart.

As prison chaplain from 1980 to 1995, Pickett led dozens of inmates through the death routine, always assuring them it would be quick and painless. Of the 95 men Pickett prepared for execution, he is most haunted by one: **Carlos DeLuna**.

Pickett believes Carlos was conscious, though he didn't call out. Fourteen year later he knows why: Medical experts now say pancuronium bromide, a neuromuscular blocking agent, can veil the suffering it unleashes. Carlos was sentenced to death for robbing and killing 24-year-old Wanda Jean Lopez, a clerk at a Corpus Christi service station.

Dr. Mark Heath, a professor of clinical anesthesia at Columbia University, likened the drug to a "chemical veil" that masks suffering of people who aren't fully sedated during surgery or executions. Here's how he described the drug's effects in an affidavit for a Texas inmate who is challenging the state's use of the drug in lethal injections:

"Pancuronium bromide makes the patient look serene because of its paralytic effect on the muscles. The face muscles cannot move or contract to show pain and suffering. It therefore provides a chemical veil over the proceedings.

"There are significant risks that the inmate in Texas' lethal injection procedure will not be rendered unconscious by the sodium thiopental (anesthesia) and will therefore experience the psychologically horrific effects of pancuronium bromide."

The drug was controversial before Texas death row inmate Tomas Gallo filed his challenge to it in November. The American Veterinary Medical Association several years ago condemned use of

pancuronium bromide to euthanize animals, saying it was inhumane. The Texas Legislature this year came to a similar conclusion. It passed a bill that makes it illegal for animal shelters to use pancuronium bromide to put down a dog or cat. Even reptiles must be spared a death by pancuronium bromide under a bill that Gov. Rick Perry signed in May.

Even so, Texas prison officials say they will continue using the drug in the lethal cocktail the state uses to execute people.

"Our medical staff has assured us that the combination of drugs that we use makes the person incapable of feeling pain while the execution is carried out," said Mike Viesca, a spokesman for the Texas Department of Criminal Justice.

The Rev. Pickett, the author of "Within These Walls," a memoir of his years as chaplain on death row, believes otherwise. Last week, he described Carlos' last minutes prior to execution.

"Carlos was basically very scared," Pickett said. "I said, 'It will take about seven to 12 seconds and you will be asleep. Don't worry. You've already done the hard part with the needles.'"

"He said, 'OK' and thanked me for being there and being his last friend . . . He never took his eyes off me. I moved back to my position at the foot of the gurney.

"He asked if I could hold his hand, but I said I couldn't do that because 'You will be strapped down, so I'll hold your right leg and squeeze it so you know I will be right here, right here.' "

That night things didn't go as usual. The pulse didn't fade quickly and the leg jerked.

Pickett still sees the frightened, questioning eyes of **Carlos DeLuna** and wrestles with his conscience about whether he misled the young man about his execution being swift and painless -- like falling asleep.

"He gave me a look in his face, which I interpreted to mean, 'Did you tell me the truth? Because this is taking longer than 7 seconds.' "

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NEWS

CHANGE OF HEART / Witnessing death turns minister into execution critic

ALLAN TURNER

Staff

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(Copyright 2002 Houston Chronicle)

HUNTSVILLE - Once the poisons began to flow, Texas death house chaplain **Carroll Pickett** told the condemned man, unconsciousness would follow swiftly. Breathing out would speed the process. Together they practiced counting the seconds - one . . . two . . . three.

Offering such lessons in how to die increasingly tormented Pickett, a Presbyterian minister, and in this case the inmate was lost in childlike befuddlement.

Would the needles hurt?

Could Pickett hold his hand?

Those were the things the killer, 27-year-old **Carlos DeLuna**, wanted to know.

Later, after DeLuna had mumbled his last words, again begged the chaplain to hold his hand - an act officially forbidden - and quietly died, a shaken Pickett stood alone in the death chamber with the killer's corpse.

The December 1989 execution was a key moment in his transformation from a backer of capital punishment to an outspoken opponent.

"Gone were the warden and the guards, those who had administered the deadly chemicals and the witnesses, leaving me alone in a silent, sterile world that I badly wanted to lash out against," he recalled. "I wanted to scream out the fact that he'd not even understood what we were doing.

"Instead, I only breathed deeply and kept my vigil. Still trembling, I reached out and took his hand."

Today, Pickett, who retired in 1995 after 15 years as chaplain at Huntsville's Walls Unit, is a fixture on the anti-death penalty circuit. Drawing on his experience in scores of executions, he has spoken to civic clubs and churches, authored opinion articles for national newspapers, testified in legislative hearings, appeared on National Public Radio's Witness to an Execution series and, most recently, co-written a book chronicling his prison career.

The book, *Within These Walls: Memoirs of a Death House Chaplain*, written with Texas author Carlton Stowers, will be issued in May by St. Martin's Press.

In search of justice

"This was an evolving process," Pickett, 68, noted last week at his Huntsville office. "I was raised in South Texas under the Old West philosophy. My father was a proponent of eye for an eye, tooth for a tooth. I was raised in a town where the sheriff was king. We were all taught that justice is punishment.

"The more I worked for the Texas prison system, the more I began to see there is not total justice in punishment. . . . At one point, I did support capital punishment. I was wrong."

Pickett offered familiar arguments to back his anti-death penalty views: The punishment is irreversible, and innocent people likely have been put to death. The penalty falls inequitably on minorities and the poor. It is applied unfairly and doesn't deter crime.

"I fundamentally believe we shouldn't take anything that we can't restore," he said. He emphatically supports life without parole and believes some death row inmates should be eligible for parole. As many as 60 percent of death row inmates, he said, are genuinely remorseful for their crimes.

His views draw spirited rebuttal from death penalty supporters.

"People are not sent to death row to be rehabilitated," countered Dianne Clements, executive director of Houston-based Justice for All, a pro-death penalty victims' rights organization. "Belief in God, repentance

of sin can be meaningful spiritual achievements. But they don't undo the crime. People are not sent to death row to find God. They are sent to death row to be punished."

Stowers, an award-winning true-crime author whose 1998 book *To the Last Breath: Three Women Fight for the Truth Behind a Child's Tragic Murder* was based on the killing of a 2-year-old Alvin girl, said Pickett's persuasive powers are potent because they are low-key.

The avuncular, white-haired Pickett, who now works as director of a national amateur jump rope association, doesn't "pound on the Bible and quote Scripture," Stowers said.

"He is very soft-spoken, very low-key, very comfortable with himself," said Stowers, who favors the death penalty in some cases. "He never asked me, 'Hey, how do you feel about this?' At no point do you feel he's trying to sway you to his side. The book is about what he saw, felt and believes. He presents his case and asks you to think about it."

Facing tragedy

Pickett's first encounter with the Texas prison system came in July 1974 - long before he became a prison chaplain - when he was summoned to comfort families of hostages seized during drug lord Fred Gomez Carrasco's attempted jailbreak.

For 11 days, the hostages, including members of Pickett's First Presbyterian Church, were held by Carrasco and his heavily armed cohorts in the prison library. On the final day, Carrasco advised the minister by telephone that he finally was making his break, and allowed him to talk with hostages who volunteered to go with him.

Two of them, Presbyterian church women, accurately foretold their deaths in the foiled escape. One urged Pickett to proceed with her daughter's planned wedding; the other calmly detailed desires for her funeral.

Carrasco, one of his associates and the two women were killed. Another hostage, a priest, was seriously injured.

Condemned's counselor

Devastated by the ordeal of the nation's longest prison standoff, Pickett vowed he'd never set foot in the storied, red-brick prison again.

For six years, he concentrated on family life and church work. He successfully ran for school board. But in early 1980 he became chaplain of the Walls, in part to save a marriage strained by the around-the-clock demands placed on a "free world" minister.

His duties were to conduct Sunday services and to minister to prisoners and staff.

"For 2 1/2 years, I ministered to dying convicts, to dying staff and the staff's family," Pickett said. "I assisted with those who committed suicide. I assisted twice in cutting the ropes because the guards on duty didn't want to do it. To me, that was the ministry that God had called me to do. For 2 1/2 years, I didn't even know the death house was there.

"The Supreme Court had stopped executions, and nobody ever talked about it."

When the high court cleared the way for resumed executions in 1982, Pickett was told he would be counselor to the condemned.

"You're going to be with the inmate all day," the warden told him, "and it's important that you gain his trust as quickly as possible. Talk to him, listen to him, comfort him as much as you possibly can. But, above all else, I want you to seduce his emotions so he won't fight."

"The first time I stepped into the death house," Pickett said, "I was nauseated."

On Dec. 7, 1982, the state executed Charlie Brooks Jr., 40, for the kidnapping-murder of a Fort Worth car-lot employee. His was the first of more than 40 executions at which Pickett was chaplain. Many others during Pickett's tenure ended in last-minute stays.

So emotionally racking was the job that the chaplain sometimes left the execution chamber drenched in perspiration.

Texas has executed 262 killers since capital punishment was reinstated.

As chaplain, Pickett was both spiritual counselor, confidant and official representative of the prison administration.

"I never read the offense jackets," Pickett said. "I always tried to relate to them as a human being."

At their sides to the end

Pickett greeted the inmates when they arrived at the Walls, facilitated visits and phone calls, helped them polish final statements, carefully explained the sequence of events that would lead to their deaths and - finally - accompanied them to the death house. Often he conducted their funerals and counseled their survivors.

Once, Pickett - at the inmate's request - called a radio station to request it play the killer's favorite song. Then, as the death hour approached with the request unfulfilled, he called again. The song began seconds before the killer's last walk was set to begin. Pickett successfully implored the warden to delay the execution three minutes as the inmate raptly listened to his radio as it played the Willie Nelson tune Help Me Make It Through The Night.

Another time, Pickett noted that a small window, the sole source of outside light in the holding area, caused condemned inmates consternation. Through it, they could see the growing shadows that heralded their deaths. The chaplain arranged to have the window painted over.

"These may seem like small things," Pickett said, "but to the prisoners, they were very, very important."

Even as his distaste for capital punishment grew, Pickett felt compelled to appear neutral.

"If I told the inmate I favored capital punishment, I'd lose his trust," he said. "If I said I opposed the death penalty, I would lose my job. My job was to minister to the inmates."

"I didn't make the law. I didn't serve on the jury. I didn't inject the drugs."

Pickett acknowledged some death penalty opponents have faulted him for not publicly decrying capital punishment while employed by the state.

"Sometimes I get stung," he said.

`Was he innocent?'

No single execution can be credited with changing his views on capital punishment, he said. But the execution of DeLuna for the murder of a Corpus Christi convenience-store clerk and the near-execution of Johnny Paul Penry, a rapist and killer with an IQ of 60 who arrived at the death house with crayons and a coloring book, played a role.

So, too, did the execution of Leonel Torres Herrera, convicted of murdering a state trooper during a traffic stop. Despite public questions of Herrera's guilt - based, in part, on his nephew's affidavit swearing his own father had committed the crime - the inmate was executed in May 1993.

"Was he innocent? Had something very wrong taken place as he had stated?" Pickett says in his memoir. "I am doomed to forever wonder."

In January 1995 the state of Texas for the first time in more than 40 years executed two inmates in a single day. They were Clifton Russell Jr. and Willie Williams, sentenced, respectively, for Abilene and Houston robbery-murders.

The executions were the sixth and seventh in a month, and Pickett felt drained. He had to force himself to report for work. The back- to-back executions, he felt, were atrocities. The situation worsened when prison authorities left the timing of the execution of the second inmate, Williams, to Pickett's discretion.

Williams relieved the pressure by asking the chaplain to end his waiting.

Afterward, though, Pickett experienced sharp abdominal pains that no medical tests could diagnose.

"My problem," he wrote, "was not of the body but of the mind and spirit. I had watched too many people die in the name of justice and vengeance. My feelings about what was taking place with increasing regularity had grown stronger. It was becoming increasingly difficult to hide my thoughts about the barbaric nature of executions.

"I began to consider the possibility that it was time to step away."

Photo: **Carroll Pickett** stands outside the Walls unit in Huntsville, where he served as death row chaplain. Within These Walls: Memoirs of a Death House Chaplain chronicles his career (color)

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Factiva

Dow Jones & Reuters

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Executed murderer asked forgiveness, chaplain says

KATHY FAIR
Staff
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HUNTSVILLE - One of **Carlos DeLuna's** last acts before being executed was to ask a prison chaplain to mail a letter to one of his victims seeking forgiveness.

As condemned inmates are prepared to meet their fate, they are encouraged to make peace with those they might harbor bitterness toward, said the Rev. **Carroll Pickett**, the chaplain who held DeLuna's

hand as prison officials strapped him to the gurney and inserted the needle, which carried the fatal solution, into his arm.

The 27-year-old former electrician - who started his life of crime as a juvenile stealing autos, drinking and sniffing paint fumes - died at 12:24 a.m. Thursday for the 1983 robbery and stabbing death of Wanda Jean Lopez, a 24-year-old convenience store clerk in Corpus Christi.

``I'm glad it's finally over," Mary Vargas, Lopez's mother, said when she was notified DeLuna had died.

Pickett acknowledged that DeLuna had asked him to mail a letter to someone the convict believed had not forgiven him. It was not sent to Lopez's parents, Pickett said. He declined to specify to whom the letter was addressed, other than to say it was not sent to anyone involved in the case for which he was executed.

DeLuna, Pickett said, was scared and had asked the minister to maintain physical contact with him while he died. So Pickett stood there, with his right hand lightly resting on the condemned man's lower right leg as the lethal injection was administered.

``He was very much afraid," Pickett said. ``He was not afraid of dying; he was afraid of the unknown." DeLuna raised his head off the gurney twice to look at Pickett before giving his final statement in the death chamber at the Huntsville ``Walls" Unit.

``I want to say that I don't hold any grudges," the inmate said. ``I don't hate anyone. I want to let my family know I love them and I want to tell my friends on death row to keep the faith up, to hang in there. Everything is going to be all right."

The youngest of nine children, DeLuna had asked four of his siblings and a friend to witness his execution. But after they visited with him on his final day, Pickett said, his sisters and half-brother decided they could not handle watching him die.

DeLuna became the fourth Texas prisoner to die this year and the 33rd since executions were resumed in 1982 after the U.S. Supreme Court rejected his plea for a stay and Gov. Bill Clements refused to grant a reprieve Wednesday afternoon.

His execution could have been avoided, though, had DeLuna, accepted prosecutor Steve Schiwetz's offer of a life sentence in exchange for a guilty plea. Schiwetz, who now is in private practice in Corpus Christi, said he did not recall until Thursday that he had offered the then 21-year-old a plea bargain.

DeLuna's criminal record began in 1978, when he was 16 and was arrested for public intoxication. Court records show that he was arrested six times that year on charges that included burglary, paint sniffing, auto theft and running away.

By his 18th birthday, he had been arrested six more times, mostly on public intoxication charges. He served his first prison sentence in 1980 after being convicted of unauthorized use of a motor vehicle and attempted rape of a Dallas woman.

He was on parole just two days from that sentence when his parole was revoked after he attempted to rape the mother of one of his prison pals. He had been on parole about six weeks before being arrested for Lopez's death.

``I just ran with the wrong crowd," DeLuna said of his troubles with the law. He described himself as the black sheep of his family.

DeLuna's history of alcohol and substance abuse as a teen-ager was one of three issues that his attorney, Chris Weaver of Dallas, had raised in appeals, hoping to win a stay on the basis that jurors should have been instructed that such factors were evidence that mitigated against imposition of the death sentence.

But that evidence was never presented at his trial, a move that the 5th U.S. Circuit Court of Appeals, in denying a stay, said must have been a tactical decision on the part of his trial attorneys. Had his trial attorneys presented evidence of his alcohol and drug abuse, the state could have introduced evidence of DeLuna's criminal history.

``I find it hard to understand how any lawyer in a capital case could fail to investigate and present any mitigating evidence ... where that is the only thing that could save a person's life," Weaver said.

State attorneys, however, said that even if such evidence had been introduced, it would not have shown that DeLuna's ability to decide right from wrong had been impaired by his drinking and paint sniffing.

Attorney General Jim Mattox said the execution is likely to be the last one in Texas until after the U.S. Supreme Court decides how broadly to apply its ruling in the case of Johnny Paul Penry, a 33-year-old retarded inmate convicted of the 1979 rape-slaying of Livingston homemaker Pamela Moseley Carpenter.

When the court overturned Penry's conviction last summer, it said jurors should have been told that his history of severe child abuse and mental retardation could be sufficient evidence to impose a life sentence rather than the death penalty.

In the case of John Henry Selvage, 39, convicted of slaying an off-duty Harris County sheriff's deputy, Albert Garza, during a 1979 jewelry store heist, the court will determine whether he had good cause not to raise evidence of his mental impairment at his trial and whether there would be a ``fundamental miscarriage of justice" if he were prevented from bring it up now. Arguments in that case are set for Jan. 17.

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Murderer DeLuna is put to death

KATHY FAIR
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HUNTSVILLE - A self-described black sheep who believed his death sentence was part of some pre-ordained blueprint today became the fourth person executed in Texas this year.

Carlos DeLuna, 27, one of nine children, died of lethal injection at 12:24 a.m. for the February 1983 robbery and murder of Wanda Jean Lopez, a Corpus Christi convenience store clerk.

Lopez, 24, mother of a 6-year-old daughter, was stabbed to death as she frantically called police and described her assailant.

``I hold no grudges," said DeLuna in his final words. ``I hate nobody. I want to let my family know I love them, and I want to tell everyone on death row to keep the faith up. Everything will be all right and to keep it going."

As the lethal injection was administered, prison chaplain **Carroll Pickett** held onto DeLuna's right leg.

DeLuna's fate was sealed about 4:15 p.m. Wednesday, when the U.S. Supreme Court, with only Justices Thurgood Marshall and William J. Brennan Jr. dissenting, refused to grant the former electrician a stay. DeLuna's attorney then turned to Gov. Bill Clements, who rejected the plea for a reprieve.

News of the high court's decision appeared to upset DeLuna, said prison system spokesman Charles Brown. Prison officials did not elaborate on DeLuna's reaction. A week ago, he had said he feared facing his executioner. ``I'm human. Of course I'm afraid to die," he said.

``My daughter was afraid, too," said Lopez's mother, ``because she knew he was going to kill her."

DeLuna's bouts with the law began in 1978, when he was 16 and arrested for public intoxication. He was arrested six times that year, on charges that included burglary, paint sniffing, auto theft and running away.

By his 18th birthday, he had been arrested six more times, mostly on public intoxication charges. He served his first prison sentence in 1980 for unauthorized use of a motor vehicle and attempted rape of a Dallas woman.

DeLuna was on parole just two days when the parole was revoked after he attempted to rape the mother of a prison pal. He had been on parole about six weeks when arrested for Lopez's death.

``I just ran with the wrong crowd," DeLuna said of his troubles with the law.

DeLuna, the 33rd person, all murderers, executed since Texas resumed the death penalty in 1982, spent his final day talking with relatives and a friend. He refused lunch and supper.

``I want him to pay for what he did to my daughter," said Mary Vargas, the victim's mother. But she said DeLuna's death would not erase all of her pain of the past six years.

``You feel an emptiness, in yourself," Vargas said. ``Something is missing."

DeLuna's death, she added, would ``make me feel a little better. You can rest when you know justice has been done."

The attorney who prosecuted DeLuna described him as sullen and a liar.

``His is more of a surreptitious violence," said Steve Schiwetz, a Corpus Christi attorney who had been with the Nueces County district attorney's office when DeLuna was tried. ``His primary victims were autos and women. I can't remember any instance of him trying to pick on a male."

Although he testified at his trial that someone else robbed and murdered Lopez, DeLuna refused to elaborate on the crime after his conviction. One witness at his trial identified him as the knife-wielding man seen outside the store, and another witness saw him struggling with the victim inside the store.

DeLuna was found hiding beneath a parked vehicle about a quarter of a mile from the store, barefoot and without a shirt. His bloody shirt and shoes were found in a yard the next day.

He had been convicted of attempting to rape a woman he had stalked across a Dallas YMCA parking lot and then later, while celebrating his parole, attempting to rape the mother of one of his prison buddies, Schiwetz added. The second assault occurred after the 57-year-old woman had what Schiwetz termed a ``Welcome Home from the Joint Party" for DeLuna and her son.

DeLuna's attorney, Chris Weaver of Dallas, said he was frustrated with the lower courts' refusal to grant a stay based on claims that jurors were not instructed on consideration of mitigating evidence, a matter previously argued successfully before the U.S. Supreme Court.

Mug: **Carlos DeLuna**

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