

DeLuna waits for execution in '83 murder

By KATHY FAIR
Houston Chronicle

HUNTSVILLE — A 27-year-old former electrician who started a life of crime stealing cars and sniffing paint as a juvenile was awaiting his execution late Wednesday night.

Carlos DeLuna's fate was sealed about 4:15 p.m. Wednesday, when the



DeLuna

U.S. Supreme Court refused to grant the 10th grade dropout a stay. Justices Thurgood Marshall and William J. Brennan Jr. were the only members favoring a stay of execution.

DeLuna was scheduled to die shortly after midnight for the Feb. 4, 1983, robbery and slaying of Wanda Jean Lopez, a 24-year-old convenience store clerk in Corpus Christi.

News of the high court's decision appeared to upset the inmate, said Charles Brown, spokesman for the prison system. Prison officials did not elaborate on his reaction.

The youngest of nine children, DeLuna spent his final day visiting with family members and a friend. He refused lunch and supper. Three other men have been executed in Texas this year and 32 have been put to death since Texas resumed executions in 1982.

"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 the pain she has felt in the six years since her daughter was stabbed to death while she frantically called police to describe her attacker.

"You feel an emptiness, in yourself," Vargas said. "Something is missing. It's not the same." DeLuna's death, she added, "will make me feel a little better. You can rest when you know justice has been done."

Just a week ago, the prisoner had said in a death row interview that while he was afraid to die, he believed his execution was part of a predetermined life plan over which he had no control.

"I'm only human; of course I'm afraid to die," DeLuna said.

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

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, the prisoner refused to elaborate on the crime in interviews 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 mile from the store, barefoot and without a shirt. His bloody shirt and shoes were found in a yard the next day.

DeLuna had an extensive juvenile record for public intoxication, paint sniffing and auto theft, Schiwetz said, but about two years before Lopez's death, DeLuna's crimes became more violent.

He was convicted of attempting to rape a woman he had stalked across a Dallas YMCA parking lot and then later, while celebrating his parole, attempted 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 argued successfully before the U.S. Supreme Court in what is widely called the Penry decision.

"I think the courts are scared to death of Penry," Weaver said. "I think the 5th Circuit is attempting to limit Penry to (that one case) probably because if it is applied broadly, there are 287 others on death row convicted on the basis of a statute that's been determined to be unconstitutional."

State attorneys, however, disagreed with Weaver's interpretation that the Supreme Court, in ordering a new trial for death row inmate Johnny Paul Penry, ruled the Texas statute unconstitutional.

"They clearly did not say the statute is facially unconstitutional or unconstitutional as applied to others," said Bill Zapalac, an assistant attorney general.

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