

Paper: HOUSTON CHRONICLE

Date: FRI 12/08/89

Section: A

Page: 32

Edition: 2 STAR

Executed murderer asked forgiveness, chaplain says

By KATHY FAIR
Staff

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.

