

USA (Texas) Toronto Markkay Patterson (m), black, aged 24

Toronto Patterson is scheduled to be executed in Texas on 28 August for a murder committed when he was aged 17. International law, respected in almost every country of the world except the USA, prohibits the death penalty against people who were under 18 at the time of the crime.

Toronto Patterson was convicted of killing three-year-old Ollie Brown, whose body was found in her home in Dallas on 6 June 1995 along with that of her six-year-old sister Jennifer Brewer and their mother Kimberly Brewer. All three, who were cousins of Toronto Patterson, had been shot.

The following day it was discovered that a car at the house had had its wheels stolen. The car belonged to Vernon Stiff, an older cousin of Toronto Patterson who had introduced the teenager to drug dealing in 1993 as a way for Patterson to be able to afford school clothes and supplies. Police arrested Toronto Patterson after they learned that he had a penchant for expensive car wheels, that his had been stolen a short while before, and that he had visited the victims' home on the day of the murders.

Without a lawyer present, Toronto Patterson gave police a statement in which he admitted to being at the scene of the crime with two Jamaican drug dealers (whose existence was later verified by a trial witness), but did not admit to the murders themselves. An aggressive interrogation followed, during which Toronto Patterson allegedly asked for a lawyer and for the interrogation to be recorded. After being held incommunicado for over four hours, Toronto Patterson confessed to the shootings: "I'm sorry for what I have done to my family and friends. I confess to Detective Wig that I want y'all to know that I love y'all and I didn't want nothing to happen to me, nor family or friends. I can be rehabilitated. This is the hardest situation I have ever been in dealing with the Jamaicans. I will never do it again".

In a completely separate case in Dallas a month later, 21-year-old Michael Martinez was arrested and charged with capital murder. He confessed to the same police officer, who apparently used the same techniques he had employed in Toronto Patterson's case. Martinez's confession was false, and he was later exonerated. Patterson's jury was not allowed to hear Martinez's testimony to weigh against Patterson's claim that his confession had been coerced and that he was innocent of the murders. Over the years in the USA, several prisoners who confessed to the crimes which put them on death row have been released after evidence of their innocence emerged.

The US Supreme Court said in 1982 that "the chronological age of a minor is itself a relevant mitigating factor of great weight". Nevertheless, Toronto Patterson's trial lawyers did not present the jury with expert or any other evidence about age as a mitigating issue. The lawyers also failed to present substantial evidence of Toronto Patterson's abusive and deprived childhood. From an early age he was exposed to drugs, alcohol and violence in his home and the community. His mother used to beat him; sometimes using electric cords and sticks.

The Texas Court of Criminal Appeals then appointed a lawyer to represent Toronto Patterson for his appeals. This lawyer had never handled such an

appeal. The one he filed for Toronto Patterson was six pages long. Such appeals filed by adequately funded, experienced lawyers can be expected to run to 150 pages because of the number of issues raised and the complexity of the law. Toronto Patterson's appeal did not challenge his trial lawyer's failure to investigate and present the above mitigating issues. Because they were not raised in the state courts, such issues have been lost to review by the federal courts.

BACKGROUND INFORMATION

Toronto Patterson was born less than two weeks after the USA signed the International Covenant on Civil and Political Rights (ICCPR) in 1977, and he was sentenced to death three years after the USA ratified the treaty in 1992. Article 6(5) prohibits the use of the death penalty against people who were under 18 at the time of the crime; a prohibition which stems from recognition of a young person's immaturity, impulsiveness, vulnerability to peer pressure, and capacity for rehabilitation. Since 1990, the Convention on the Rights of the Child, which carries the same prohibition, has been ratified by 191 countries; all but the USA and Somalia.

When the USA ratified the ICCPR, it filed a "reservation" purporting to exempt it from the prohibition on the execution on child offenders. The Human Rights Committee, the expert body established by the ICCPR to oversee implementation of the treaty, has stated that the reservation is invalid and should be withdrawn. It has confirmed that the prohibition cannot be derogated from, even in times of emergency, and has "deplored" the USA's continuing execution of child offenders.

Since 1998, there have been 15 executions of child offenders documented worldwide, 10 in the USA (six in Texas). Yemen and Pakistan, two of the six other countries reported to have executed child offenders since 1990, have since abolished such use of the death penalty. It was recently reported that 74 child offenders who had remained on death row in Pakistan have had their death sentences commuted. Another of the six countries, Democratic Republic of Congo, commuted the death sentences of five child offenders in 2001.

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

To all addressees:

- acknowledging the seriousness of the crime, and the suffering it will have caused;
- expressing deep concern that Texas is intending to execute Toronto Patterson, in violation of international law prohibiting the death penalty for people who were under 18 at the time of the crime;
- pointing out that this prohibition, respected across the globe, stems from a recognition of a young person's immaturity and capacity for change;
- noting residual doubt about his guilt, point out that international safeguards require that no death sentence be carried out if there is any "room for an alternative explanation of the facts";
- expressing concern that the jury were not presented with evidence about the mitigating effect of youth and of substantial mitigating evidence of Toronto Patterson's abusive childhood, and that these issues have been lost to federal review due to the failings of his inexperienced state-appointed appeal lawyer;

To the Board of Pardons and Paroles:

- urging them to recommend that the Governor grant clemency;

To the Governor:

- calling on the governor to do all in his power and influence to stop this execution, in the interest of decency and the reputation of his state.

*In all appeals, please quote Toronto Patterson's prisoner number:
TDCJ#999178.*

APPEALS TO:

Texas Board of Pardons and Paroles
Executive Clemency Section
PO Box 13401, Capitol Station
Austin, Texas 78711, USA
Fax: + 1 512 467 0945
Salutation: Dear Board Members

Governor Rick Perry
c/o Bill Jones, General Counsel
PO Box 12428, Austin, Texas 78711, USA
Fax + 1 512 463 1932/1849/0039
Salutation: Dear Governor

COPIES TO: Diplomatic representatives of USA accredited to your country.

Please also send a copy of your appeals to, or write a letter to the editor of, the newspaper below. Letters should be under 300 words, and if emailed should not be sent as attachments but as straight email messages.

Letters to the Editor, *Dallas Morning News*, Box 655237, Dallas, Texas 75265, USA. **Fax: +1 972 263 0456. E-mail: letterstoeditor@dallasnews.com**

PLEASE SEND APPEALS IMMEDIATELY.