

# Supreme Court decision could affect Autry case

United Press International

AUSTIN — Texas officials said Monday's ruling by the U.S. Supreme Court that states do not have to compare capital punishment cases to see if the death penalty is being handed out fairly means James "Cowboy" Autry can expect a new execution date soon.

The high court justices reversed a California ruling in the double-murder case of Robert Alton Harris, whose attorneys claimed state law did not provide sufficient constitutional safeguards.

The issue became known as proportionality and suggested that states should com-

pare capital murder and first-degree murder cases to ensure equality in sentencing.

Texas has maintained the state's system of mandatory review of capital punishment cases to the court of criminal appeals is a sufficient test of proportionality.

"I felt for several years that Texas' law is constitutional and that it's fair to the defendants as well as the state," Gov. Mark White said. "I hope now we can see these important issues resolved without undue delay."

Attorney General Jim Mattox said the ruling meant Autry and death row inmates Ronald Clark O'Bryan and Thomas "Andy" Barefoot all

could be executed within the next three to six months.

O'Bryan, a former optician in the Houston suburb of Deer Park, was convicted of the 1974 Halloween poisoning of his 8-year-old son. His crime earned him the nickname "Candy Man."

Barefoot, 38, was convicted of the 1978 murder of Harker Heights police officer Carl Levin. His execution has been halted previously by a Supreme Court stay.

The ruling only partially clears the way for Autry's execution, though, said Stefan Presser of the American Civil Liberties Union in Houston.

He also said he does not expect Texas to set another

execution date for his client immediately.

"There's still the incompetence of counsel issue and also there's an Eighth Amendment claim that they tortured him," Presser said.

Autry is the death row inmate who spent an nearly hour on a stretcher with the executioner's needle in his arm last October until a stay was issued just minutes before he was to die.

A hearing was held last Thursday in Beaumont federal court to address the incompetence and torture claims. Presser said he would be filing his final briefs in two weeks and expected a ruling soon after.

# Jobless rate goes up slightly despite creation of new jobs

United Press International

AUSTIN — The Texas Employment Commission reported Monday that the jobless rate in most metropolitan areas went up during December, even though the state's slowly improving economy continued to generate new jobs.

"Most of the areas followed the statewide trend of going up a bit," said labor market analyst Diane Dobie. "Having both the level of employment and unemployment rise over the month is a bit unusual but it does happen."

"What that means is that even though there were jobs being created, there simply were not enough to accommodate everyone entering the labor force."

The December unemployment rate was only 3.2 percent for Bryan and 4.0 percent for Austin.

Texas recorded an average unemployment rate of 7.7 percent in December, up sharply from the November rate of 6.7 percent. The average jobless rate overall for 1983 was 8 percent.

The unemployment rates for Texas metropolitan areas were:

Austin, 4.0 percent; Brownsville-Harlingen-San Benito, 15.7 percent; Bryan-College Station 3.2 percent; Corpus Christi, 9.9 percent; Dallas-Fort Worth, 4.5 percent; El Paso, 11.3 percent; Galveston-Texas City, 10.4 percent; Houston, 7.9 percent; Laredo 22.0 percent; Lubbock 7 percent; Midland 5.0 percent; Odessa 6.9 percent; San Antonio 5.6 percent; Wichita Falls, 5.7 percent.

# Mother testifies against nurse accused of murdering child

United Press International

GEORGETOWN — The mother of 15-month-old Chelsea McClellan sobbed continuously Monday as she told a jury the baby girl was laughing and healthy moments before nurse Genevieve Jones gave her two injections, and a few hours later Chelsea was dead.

The intensely emotional testimony from Patti McClellan, 28, opened the second week of Jones' murder trial. The vocational nurse is accused of murdering Chelsea with the powerful muscle-relaxant called succinylcholine.

McClellan said Chelsea's death on Sept. 17, 1982, shocked her because the child had been playful and healthy early on the day she died.

"One minute she was running and playing, and the next minute she was just laying there, and then they came out and tell me she's gone," said the dark-haired, neatly dressed woman, whose tears and sobs forced several breaks in her testimony.

Jones, a 33-year-old mother of two, stared impassively at McClellan throughout her testimony. McClellan did not look at Jones.

Chelsea's mother testified her baby had a cold the first time she went to Dr. Kathleen Holland's Kerrville pediatric clinic, where Jones worked, on Aug. 24, 1982.

Minutes after Jones took the child into an examining room, the baby suffered a seizure and was rushed to an emergency room. McClellan said tests performed during a subsequent hospital stay found nothing wrong with the child.

Chelsea accompanied her mother to the clinic again on Sept. 17, when McClellan's son Cameron, now 5, had the flu.

Holland decided Chelsea needed some routine immunizations, and McClellan said Jones got "sort of huffy" when she insisted on accompanying her daughter into the examining room. She said she held her baby in her arms as the nurse gave the child the first of two injections.

"She gave her a shot in her leg, her left leg, on her upper thigh," said McClellan. "She (Chelsea) started acting funny. She wasn't breathing right and her eyes were looking at me. They were funny. She was whimpering, trying to say 'Mama,' and she couldn't get it out."

"I told Genevieve something was wrong, to do something. She said Chelsea was mad because she had to have a shot. She gave her another shot. She went limp like a rag doll. She was looking at me but she didn't look like she could see me," McClellan said.

"Her eyes were all strange looking. She was just like a Raggedy Ann. Genevieve took her and said she was having a seizure."

After being treated in a Kerrville hospital emergency room, McClellan said Chelsea again seemed healthy. Holland, however, decided to take the baby by ambulance to a San Antonio hospital for further examination.

Jones accompanied Chelsea in the ambulance while Holland and the McClellans followed in other cars. A few miles outside Kerrville, the ambulance pulled to the side of the road and the group then made a hurried detour to a small hospital in Comfort.

"When they took her out of the ambulance, she was just laying there, blue," McClellan testified.

On cross-examination, defense attorneys tried to show Chelsea had experienced several serious health problems before being treated at Dr. Holland's clinic. But McClellan insisted her daughter was healthy and normal.

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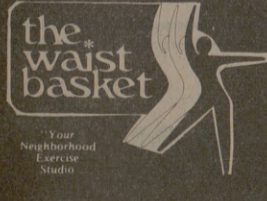
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