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Court OKs appeal; death-row inmate will get new trial

AUSTIN (AP) — The death sentence of a man convicted in a San Antonio rape-slaying was overturned Wednesday by the Texas Court of Criminal Appeals, which said it had to order a new trial although it did not want to.

Caruthers Alexander had been convicted of capital murder in the April 23, 1981, strangulation of Lori Bruch, who was attacked after leaving her job as a waitress at a club.

Presiding Judge John Onion said in the majority opinion in the 5-3 decision on the Alexander case, "We are reluctant to reverse a conviction of this nature, but action of the state and the ruling of the trial court leave us no choice in view of our oaths."

The conviction was overturned because the trial judge allowed prosecutors to ask Alexander why he told a gun salesman he had no criminal convictions when, in fact, he had been convicted of arson in 1972 and involuntary manslaughter in 1975.

No gun was used in the Bruch slaying and the appeals court said the questions about the gun purchase were extraneous.

Onion was joined by Judges M.P. Duncan, Sam Houston Clinton, Michael McCormick and Marvin Teague in voting for reversal. Judges W.C. Davis, Chuck Miller and Charles Campbell dissented.

Judge Bill White did not participate in the case because it is from Bexar County, where he formerly served as district attorney.

Also Wednesday, the Court of Criminal Appeals upheld the death sentences of Phillip Daniel Tompkins, found guilty in a Houston robbery and slaying, and Allen Wayne Janecka, convicted of being a hired hit man in a Houston case.

Tompkins was convicted in the January 1981 suffocation of Mary Berry in Harris County. Berry was a pharmacist at Hermann Hospital in Houston.

Texas growers seek extended quarantine against Florida citrus

McAllen (AP) — Rio Grande Valley growers told federal officials Wednesday to keep Florida oranges and grapefruits out of Texas because the incurable citrus canker disease could wipe out the recovering industry here.

"I submit to you that the risk is too great, not only for Texas but for the entire U.S. citrus industry," Alvin Cannady, a grower and grove care manager from Mission, told federal officials at the second of three hearings on a proposal to lift the Florida quarantine.

Citrus canker is an aggressive bacterial disease that causes defoliation and other damage to leaves and stems and creates lesions in the fruit. The disease also can cause the fruit to drop from a tree before reaching maturity.

Shipping fresh citrus from Florida to other citrus-producing areas has been banned since a 1984 citrus canker outbreak.

The U.S. Department of Agriculture proposed allowing fruit deliveries to resume, subject to inspections and other precautionary measures.

But Texas growers, still recovering from a 1983 freeze that wiped out their crops, told the USDA there is too great a risk for biological disaster.

"If citrus canker is unintentionally or inadvertently introduced here, it would affect the lives of thousands of people from the workers in the field, to the packers at the sheds, to the secretaries in the offices, the chemical company employees and, of course, the grove owner himself,"

Janecka was indicted in the July 5, 1979, shootings in Houston of Diana Wanstrath, her husband John, and their 14-month-old son, Kevin, but was tried and convicted only for killing the infant.

A dissent, said the indictment failed to provide Janecka with sufficient notice of the accusation.

"The question that this court must answer in this case is not how amoral or immoral (Janecka) might have be-

"We are reluctant to reverse a conviction of this nature, but action of the state and the ruling of the trial court leave us no choice in view of our oaths."

— Judge John Onion, Texas Court of Appeals

come, or how far he had fallen in his lifetime from being a good Catholic boy to a hired executioner, but, instead, is whether (he) was deprived of any of the many legal rights that our law guaranteed him before he could be . . . sentenced to a premature death," Teague said.

Death Row inmate Markham Duff-Smith was a suspect in the Wanstrath killings, but he was never tried in the case. Mrs. Wanstrath was Duff-Smith's sister.

Duff-Smith was convicted in 1981 of arranging the October 1975 slaying of his adoptive mother, Gertrude Duff-Smith Zabolio, who was found strangled in her home in Houston's wealthy River Oaks neighborhood.

Testimony indicated Duff-Smith arranged the slaying to inherit her estate. Duff-Smith had been scheduled to die early Thursday, but a federal court has stayed that execution.

said Laura Coffman, executive director of Citrus World, which represents 58 growers on more than 2,000 acres in the Valley.

The USDA scheduled the hearings upon publishing the proposal in the Federal Register last month. The first hearing was Monday in Los Angeles, while the third is scheduled for Friday in Lake Alfred, Fla.

Ray Prewett, executive vice president of Texas Citrus Mutual, a McAllen-based growers' group, called for an 18-month extension of the quarantine.

"It is generally agreed that it may take 18 months, in some cases up to three years, before a canker infection manifests itself and can be detected by visual inspection," Prewett said.

But Robert Griffith, chief of the Florida Department of Agriculture and Consumer Services, said his state has a thorough inspection process. He said Florida citrus inspectors made more than 76,000 visits last year.

Mike Moeller, Texas' deputy commissioner of agriculture, questioned the inspectors' ability to detect the disease in Florida, and said the cause of the disease, which has at least three strains, remains unexplained.

"Once confirmed, the only control for the disease is complete destruction of all infested trees," Moeller said. "This action, as has been pointed out continuously to us this morning, would result in the death of our citrus industry which is attempting to recover from the devastation of the 1983 freeze."

Texas businessmen indicted in \$100 million fraud scheme

WASHINGTON (AP) — The heads of two Texas savings and loan associations and five other businessmen were indicted Wednesday for allegedly conspiring to inflate the value of Texas real estate to fraudulently obtain more than \$100 million from five thrift institutions, the Justice Department announced.

Four of the five S&Ls involved in the alleged fraud scheme have gone out of business, the department said.

The agency said the two S&L chiefs also were charged with racketeering.

They are Spencer H. Blain Jr., chairman of the board of Empire Savings and Loan Association in Mesquite, and Paul Arlin Jensen, 38, formerly of Dallas and now of Ogden, Utah, former chairman of Lancaster First Federal Savings and Loan Association of Lancaster.

Three real estate promoters and developers and two land appraisers for the S&Ls also were indicted.

The seven businessmen were accused, in an 88-count federal grand jury indictment returned in Dallas, of using their own and other thrift institutions to make loans at inflated values to the developers, with \$100 million in proceeds from the loans diverted for the defendants' personal profit.

The government said that the accused developers, David Faulkner and James Toler, both of Garland, assisted Blain in buying stock in Empire, where Blain became board chairman.

The Justice Department has been investigating allegations of fraud in savings and loan institutions in Texas for the past four years, resulting in 92 convictions.

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