

# Court orders new trial for convicted Galveston man

AUSTIN (AP) — A Galveston man convicted and sentenced to death in the murder of his toddler stepdaughter had an ineffective lawyer and should be given a new trial, the Texas Court of Criminal Appeals ruled Wednesday.

In a 5-4 ruling, the court found that Santiago Varelas' attorney did not ask for specific jury instructions on how to consider some of the evidence against him.

Because the evidence in question was similar in nature to the charged offense, the omission prejudiced the jury against Varelas and severely reduced his chances of being convicted only of a lesser charge, the court said.

Varelas, 25, was convicted in 1995 and sentenced to die for the beating death of his 2-year-old stepdaughter.

During trial, prosecutors presented evidence that the girl had suffered physical abuse over the six weeks before her death, including fractured ribs, bruises, and burn on her arm and a cut on her face.

Prosecutors also presented evidence of several prior acts allegedly committed by Varelas: that he had dunked the girl's head in a swimming pool, thumped the back of her head, made her sit still on a couch for two hours and hit her the night before her death.

Although Varelas' attorney suggested the girl's mother was the killer, prosecutors said the alleged acts showed a pattern of abuse.

"The evidence he committed those injuries was far from definite," said Varelas' appeals attorney, Gary Hart of Austin.

Galveston County District Attorney Michael Guarino did not immediately return telephone message.

Varelas' trial attorney should have requested the jury be told that it cannot consider extraneous acts of evidence unless they believe beyond a reasonable doubt the acts occurred, the court said.

Because the extraneous acts were central to the state's case, the omission fell below a reasonable standard of representing a client, the court said.

In other court rulings Wednesday:

- The court rejected a claim of ineffective trial counsel from death row inmate Brent Ray Brewer, 30, who was convicted of the 1990 robbery and stabbing death of Robert Doyle Laminack in Amarillo. Brewer complained that his trial attorney should have requested that he be examined by a mental health expert.

- The court upheld the capital murder conviction of Lonnie Wayne Pursley, 39, who was sentenced to die for the 1997 beating death of Robert Earl Cook, 47, in Livingston.

- The court denied an appeal from death row inmate Melvin Wayne White, 51, who was convicted in 1999 of the sexual assault and beating death of 9-year-old Beth Gravel of Ozona.

# Police seek couple thought to given inmates getaway car

SAN ANTONIO (AP) — A Central Texas couple who might have supplied the getaway car for seven prison escapees was sought Wednesday by law officers who reportedly have talked to the man who sold the vehicle to the pair.

The GMC Suburban was waiting for admitted fugitive George Rivas and other fugitives from the Connally Unit when they arrived at a store parking lot at nearby Kenedy, law officers believe.

"We have learned that the vehicle was sold in San Antonio a couple of days before the escape," John Moriarty, lead investigator for the Texas Department of Criminal Justice in Austin, told the *San Antonio Express-News*.

He said investigators learned that a San Antonio individual sold the

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— John Moriarty  
lead investigator for  
Texas Department of Criminal Justice

Suburban two days before the Dec. 13 escape to a Hispanic man and woman in their 40s or 50s.

Investigators believe the Suburban was then left in the Wal-Mart parking lot with the keys inside the vehicle, perhaps within hours after it was purchased, enabling the convicts to flee before prison officials could set up roadblocks.

"We believe it was left (for the fugitives) within 48 hours of the escape," Moriarty said.

The San Antonian who sold the Suburban through a newspaper ad is not a suspect in the case, authorities say.

"All I did was sell my car. I'm not involved in any of this other stuff," the man, who spoke on condition of anonymity, told *The Dallas Morning News* in Wednesday's editions.



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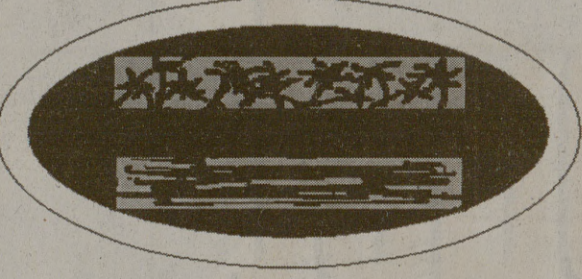
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