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# REPRIEVE

## CASE BRIEFING: Linda Carty

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After a catastrophically flawed trial, British grandmother Linda Carty was sentenced to death in February 2002 by a Texan court and is now dangerously close to execution.



Linda Carty was convicted and sentenced to die by lethal injection for the 2001 murder of Joana Rodriguez. The crime took place on 16 May 2001, when three men broke into the apartment of Rodriguez and her partner Raymundo Cabrera, demanding drugs and cash.

They abducted Rodriguez and her four-day-old son, Ray, who was later found unharmed in a car, while Rodriguez had suffocated. The perpetrators saved their own lives

by laying the blame on Linda.

Linda was forced to rely on a local court-appointed lawyer, Jerry Guerinot, whose incompetence has already led to 20 of his clients ending up on death row, more than any other defence lawyer in the US.

Guerinot's catalogue of serious failings in Linda's case includes:

- Failure to spot obvious flaws and inconsistencies in the prosecution case;
- Failure to meet Linda until immediately before the trial;
- Failure to interview witnesses; and failure to investigate key mitigating evidence;
- Failure to inform Linda of her right to consular assistance; and
- Failure to inform Linda's common law husband of his right to spousal privilege

### **Failure to spot obvious flaws and inconsistencies in the prosecution case**

The prosecution's rather implausible theory was that Linda was afraid of losing her commonlaw husband and thought that if she had another baby he would stay. Unable to get pregnant, they allege she had hired three men to kidnap Rodriguez and that she planned to steal the child - a baby of a different race to Linda.

The failings in the prosecution's case were obvious but Guerinot failed to carry out a

meaningful investigation of his own and did not object when the prosecution produced the scissors at trial.

### **Failure to meet Linda until immediately before the trial**

Despite the fact that Linda's life was at stake, an investigator from Guerinot's office spoke to Linda for the first time just a couple of weeks before her trial, and then only for 15 minutes. Guerinot himself did not meet with Linda until shortly before trial. According to Guerinot he tried to talk to Linda but she refused. Linda, on the other hand, says she tried to get in touch with him numerous times but that he refused to accept her calls. Guerinot claims that Linda finally talked to him after bribing her with a chocolate bar but this claim is absurd; Linda is allergic to chocolate.

### **Failure to interview witnesses; and failure to investigate key mitigating evidence**

Linda was born on 5 October 1958 on the Caribbean island of St Kitts to Anguillan parents and holds a UK dependant territory passport. She worked as a primary school teacher in St Kitts until she was 23 years old. Guerinot was awarded funds by the court to carry out investigation there but he never bothered to go. After Linda's conviction, investigators from Reprieve visited St Kitts and learnt that she was still remembered as a passionate teacher who frequently held extra classes for children with special needs. She also taught at Sunday school, sang in a national youth choir and led a volunteer social-work group.

This information would have enabled Guerinot to present her to the jurors as a dedicated teacher and community leader – factors that might well have induced them to vote to spare her life.

By the time the Carty family emigrated to the US in 1982, Linda had a daughter Jovelle, then two (born 10 September 1979). Shortly after Jovelle was born, Jovelle's father emigrated to New York, leaving Linda to care for the child alone. A year after Linda moved to Houston her cousin Harriet died suddenly. Linda and Harriet were very close and Linda was devastated.

During the 80s, Linda had begun to work as a confidential informant for the Drug Enforcement Agency (DEA), befriending suspected traffickers in order to get information and sometimes to make test purchases of drugs. Linda has always asserted her innocence, and believes that she was framed because of her work with the DEA.

In 1988 Linda was raped in a University of Houston car park. The rape resulted in a pregnancy and Linda gave birth to a baby girl (born 23 June 1989) who was given up for adoption. Linda felt a deep sense of shame and concealed the rape and the pregnancy from her family. Two months prior to giving birth, Linda's beloved father died, Linda was distraught. Later, she found herself in an abusive relationship and was a victim of domestic violence.

### **Failure to inform Linda of her right to consular assistance**

Under the Vienna Convention on the Right to Consular Assistance and a bilateral treaty between the UK and the US the US has undertaken an obligation to the UK to notify British consular officials whenever a British national is detained and notify the national of their right to consular assistance. The British consulate was not informed that Linda had been arrested and was being charged with capital murder, neither was

Linda informed of this right to consular assistance. Guerinot knew that Linda was from St Kitts and was not a US citizen but did not raise the failure to notify Linda of her rights nor of the failure to alert the consulates.

The British government has filed an amicus brief before the Court arguing that had they been notified of Linda's arrest they would have:

- Assisted in obtaining meaningful and effective legal representation by consulting Reprieve at an early stage;
- Monitored proceedings;
- Attempted to persuade prosecutors not to seek the death penalty;

Indeed at the time of Linda's arrest the Foreign and Commonwealth Office was already working closely with Reprieve. After Linda's conviction Reprieve has gathered significant mitigation evidence in Linda's case and Reprieve believes that had this evidence been presented at trial she would never have been sentenced to death.

### **Failure to inform Linda's common law husband of his right to spousal privilege**

Guerinot never spoke to Linda's common-law husband, Jose Corona. Corona was called as a witness by the Prosecution. It was never explained to him that there is a marital privilege and under that privilege he had the right to refuse to testify. Had Guerinot informed him, Corona would never have testified.

Moreover, Guerinot's failure to interview Corona prevented the jury from hearing any of the powerful mitigation evidence he had to offer; had he been asked he would have testified: "I do not believe that she is an aggressive person or a threat to society."

### **The death penalty in Texas**

Linda is one of 10 women on death row in Texas. She is incarcerated at Mountain View Unit. The last woman to be executed in Texas was Frances Newton (14 September 2005), she was the first black woman to be put to death in the United States since the Civil War. The last British woman to be executed was Ruth Ellis who was hanged at Holloway Prison on 13 July 1955. Since executions were resumed in the US in 1977 after a 5 year moratorium 11 women have been executed, 3 of them in Texas.

Capital punishment in Texas has come under scrutiny since it emerged that an innocent man may have been executed. Cameron Todd Willingham was executed in 2004 for the murder by arson of his three young children but it has since been established that the forensic evidence of arson presented at trial had no scientific basis and should not have led to Willingham's conviction. Willingham's lawyers did no independent investigation into how the fire started.

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