

Bush gives convicted child killer reprieve

■ Ricky McGinn will have 30 more days to live while potentially exonerating DNA evidence is reviewed

By Michael Graczyk
The Associated Press

HUNTSVILLE, Texas — Gov. George W. Bush, campaigning for president as a compassionate conservative, blocked Thursday evening's scheduled execution of a convicted killer by approving his first reprieve in a Texas death penalty case.

Bush said he approved a 30-day reprieve for Ricky McGinn so that potential DNA evidence that might exonerate him could be reviewed, although the U.S. Supreme Court had earlier denied McGinn's appeals.

"Any time DNA evidence used in this context can be relevant as to the guilt or innocence of a person on death row, we need to use it," Bush told reporters in Sacramento during a hastily arranged news conference.

"I expect the courts and all relevant parties to act expeditiously to review the evidence and finally determine his guilt as to the charge of rape in this case," added

the governor, who took no questions.

The reprieve came less than a half-hour before the convicted murderer was set to die for killing his 12-year-old stepdaughter seven years ago.

Bush, a conservative Republican who has been trying to appeal to moderate voters, has allowed 131 lethal injections over his 5 1/2 years as governor of the nation's busiest execution state.

McGinn and his attorneys want additional DNA testing, which they say will exonerate him. Although DNA evidence was used by prosecutors to help convict McGinn of the May 1993 rape and ax slaying of Stephanie Flanary, his lawyers contend more sophisticated testing now exists to aid his case.

"Thank you for the chance. It came so close," McGinn told prison officials after receiving the word at 5:42 p.m. CDT, 18 minutes before he could have been taken to the death chamber. "I'm glad. Maybe they'll see what I've been telling them all these years."

The prison warden allowed him to call his family.

"I'm just fine," he told them, asking if they heard the news and

telling them he loved them.

"He was mostly reserved," prison spokesman Larry Fitzgerald said, describing McGinn's demeanor upon hearing word of the reprieve. "He didn't show a lot of emotion."

Because Bush was campaigning out of state, the reprieve actually was issued by state Sen. Rodney Ellis, a Democrat from Houston, who has approved three previous executions. As president pro-tem of the Texas Senate, Ellis constitutionally was in charge because Lt. Gov. Rick Perry, a Republican, also was out of the state.

"Throughout this process, I have been in close contact with the governor's office and we agree that a reprieve is necessary in this case," Ellis said. "I sincerely believe in the principle of swift and sure punishment, but our paramount concern must always be that justice is done. In my view, it is in the best interests of justice to delay Mr. McGinn's execution and permit new DNA testing."

McGinn's attorney, Richard Alley, said he felt "intense relief" when the reprieve came down.

"We had planned for this contingency, and we expect to have a working agreement within 48

hours as to how we're going to get the evidence and how we're going to get the testing done," Alley said.

The prosecutor who put McGinn on death row said he respected Bush's decision.

"I have mixed emotions about it from the standpoint of the family who was sitting there in Huntsville waiting for this to happen," Brown County District Attorney Lee Haney said.

The McGinn case illustrates a heightened national debate over the death penalty, which Bush favors. Illinois Gov. George Ryan, a Republican like Bush, imposed a moratorium on executions in January amid concern innocent people were on death row.

During his tenure as governor, Bush refused in 1998 to block the lethal injection of Karla Tucker, the first execution of a Texas woman since the Civil War era. A second woman, Betty Lou Beets, was executed in February, with Bush abandoning the GOP presidential primary campaign to return to Texas to sign off on her punishment.

In 1992, then Arkansas Gov. Bill Clinton at least twice pulled off the Democratic presidential cam-

paign to review the cases of condemned inmates. In each case, the convicts were executed, allowing Clinton to put forth a tough-on-crime image in hopes of attracting more conservative voters.

For Bush, a reprieve could be perceived as the opposite, allowing him to soften an image and attract more moderate voters.

Bush's likely Democratic opponent, Vice President Al Gore, said Thursday that Bush had a difficult decision but that it should not be viewed in terms of politics.

"I don't know the facts of the Texas case, but I think that DNA and DNA testing is a valuable new tool that can provide new evidence in a lot of cases," Gore said.

Despite the anticipated reprieve, Texas prison officials had prepared for the execution of McGinn, who had even eaten what was to be his final meal: a double-meat cheeseburger, french fries and a Dr Pepper, which he ate in a small cell a few feet from the death house.

Earlier, he spent more than 3 1/2 hours meeting with relatives, then was taken at midday from the Terrell Unit near Livingston, a to the Huntsville Unit, where executions are carried out.

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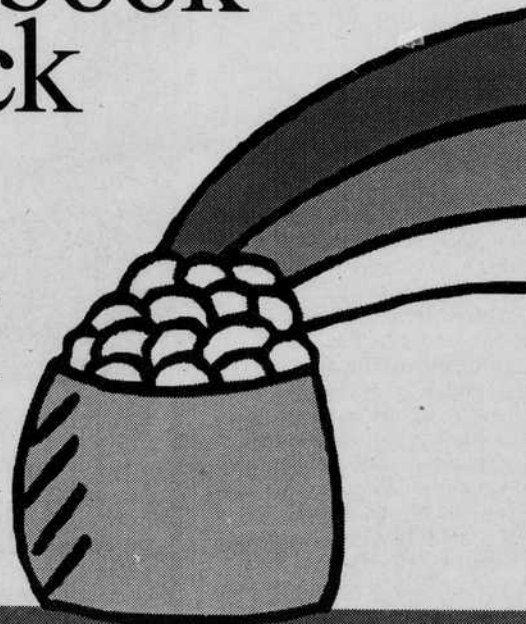
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