

Texas executes Mexican and Honduran nationals

US Supreme Court rejects appeals despite international protests

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The state of Texas sent two prisoners to their deaths within two days this week, following US Supreme Court rulings that rejected stays of execution despite international protests.

Mexican-born Jose Ernesto Medellin died by lethal injection Tuesday night, ignoring a ruling by the International Court of Justice (World Court) that his execution be stayed, as well as protests by the Mexican government.

Heliberto Chi was executed on Thursday evening after the Supreme Court rejected his appeal on grounds that his consular rights had been violated. Chi, an undocumented Honduran national, was convicted and sentenced to death for the 2001 murder of his former boss.

Jose Medellin's execution at the Huntsville prison was delayed for close to four hours Tuesday while the US Supreme Court considered his appeal. He was pronounced dead at 9:57 p.m. local time, about nine minutes after he was injected with the lethal mix of chemicals.

Medellin was arrested in the 1993 gang rape and murder of two Texas teenagers, Elizabeth Pena, 16, and Jennifer Ertman, 14. Addressing the victims' families before his execution, he stated, "I'm sorry my actions caused you pain. I hope this brings you the closure that you seek. Never harbor hate."

Medellin's execution was carried out despite a July 16 ruling by the International Court of Justice that ordered the US stay the imminent executions of five Mexican nationals on death row in Texas. (See "World Court orders US to stay execution of Mexicans in Texas")

The World Court said the US should take all

measures necessary to ensure [they] are not executed pending judgment ... unless and until these five Mexican nationals receive review and reconsideration [of their sentences]."

Mexico had filed a petition with the World Court for stays of execution in the five condemned men's cases to determine whether their trial defenses had been impaired by denying them access to the Mexican Consulate following their arrests. Following Medellin's execution on Tuesday, the Mexican government sent a diplomatic note of protest to the US State Department.

The Supreme Court's refusal to grant a stay in Medellin's case is the culmination of a four-year process in which the high court, the Bush administration and the state of Texas have openly flouted international law in the interest of keeping the state-sanctioned killing machine going in Texas and the 35 other US states that practice capital punishment.

Following the ICJ's July 18 ruling, Robert Black, spokesman for Texas Governor Rick Perry, said the state would proceed with Medellin's scheduled August 5 execution: "The world court has no standing in Texas and Texas is not bound by a ruling or edict from a foreign court. It is easy to get caught up in discussions of international law and justice and treaties. It's very important to remember that these individuals are on death row for killing our citizens."

Article 36 of the 1963 Vienna Convention on Consular Relations (VCCR)—ratified by the US in 1969—mandates that local authorities inform all detained foreigners "without delay" of their right to have their consulates notified of their detention.

In 2004, the International Criminal Court—the United Nation's judicial arm for resolving disputes among

nations—ordered new hearings for the 51 Mexicans on death row at the time, who claimed their consular rights had been violated.

While the Bush administration ordered Texas authorities to comply with the order, the practical effect of the order was to put off a ruling by the US Supreme Court on the issue and stall any precedent being set on the issue of consular rights.

In March 2005, the Bush administration then took the extraordinary measure of withdrawing from an optional protocol to the VCCR—also ratified by the US in 1969—which gave the International Court of Justice jurisdiction over the Vienna convention. The Bush administration indicated, therefore, that while remaining a signer to the Convention, the US would thereafter refuse to submit to international law to enforce it.

Texas challenged the necessity of holding hearings for the prisoners, and the Supreme Court eventually ruled this past March, that only Congress could mandate such action through legislative proceedings. In rejecting Jose Medellin’s appeal on Tuesday and freeing the way for his execution, the unsigned majority opinion noted that such legislation had not progressed past the “bare introduction of a bill.”

The majority also stated that neither President Bush nor Texas Gov. Rick Perry indicated that any congressional or Texas legislative action was likely that would necessitate a delay. The court also noted that neither the Solicitor General nor Department of Justice had sought to intervene in the case. Justice Anthony Kennedy voted with the majority, joining the far-right bloc on the high court of Chief Justice John Roberts and Justices Antonin Scalia, Clarence Thomas, and Samuel Alito.

Justices John Paul Stevens, David Souter, Ruth Bader Ginsburg and Stephen Breyer dissented. Breyer argued that rejecting a stay of Medellin’s execution would place the nation in violation of international law. Stevens argued the stay should be granted, suggesting that a future hearing would likely rule that any violation of Medellin’s consular rights had not affected the outcome of his trial and the execution would proceed anyway.

As of July 18, 2008, 123 foreign nationals from 33 countries were on death rows across the US, including 55 Mexicans. According to the Death Penalty

Information Center, the US State Department has only been able to document seven cases in which authorities have complied completely with the consular notification requirement.

There are 22 executions scheduled across the US between now and the end of November, 13 of these are in Texas.



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