

M.D. convict loses appeal

Written by Administrator
Friday, 03 June 2011 23:00



DR. NOEL CHUA

ATLANTA — The Georgia State Supreme Court unanimously upheld the 2007 precedent-setting felony murder conviction and life jail sentence of south Georgia Filipino-American internist Noel Natividad Chua, who used his position as a physician and access to prescription drugs to have sex with young men.

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The unanimous ruling, released Monday, is in connection with the 2005 death of 19-year-old James Carter III, who moved into Chua's home a month after the doctor began treating him of severe headaches.

The decision, like the conviction and sentence, is the first of its kind in Georgia, according to the *Florida Times-Union*.

Other physicians in Georgia have been charged with civil medical malpractice or neglect in such cases, but Chua has the unique distinction of a criminal murder conviction and sentence for prescribing medicine to a patient who died, the *Times-Union* said.

The court also affirmed Chua's five convictions for illegally giving Carter prescriptions for morphine, oxycodone, methadone, OxyContin and Percocet, among other narcotics prescribed in the three months up until his death on a bathroom floor in Chua's home on Dec. 15, 2005.

Carter's family members were relieved and gratified by the court's decision.

Chua's lawyer, Donald Samuel, had told the justices that Chua, now 50, made proper prescriptions for Carter's chronic pain, headaches and insomnia.

Carter overdosed without Chua's knowledge, assistance or acquiescence.

Therefore, Chua didn't murder him, Samuel asserted.

In its 25-page ruling, the high court rejected Chua's contention during arguments on March 8 that introducing evidence of a gay sexual relationship during his trial was "highly inflammatory and unfairly prejudicial."

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It has upheld the trial court's decision to allow the testimony of two other young men who developed relationships with Chua.

One of those relationships involved a 15-year-old with whom Chua had a sexual relationship, and the other a 16-year-old who eventually checked himself into a medical facility due to his addiction to hydrocodone prescribed by Chua.

The trial court did not err in admitting the "similar transaction" evidence, the opinion says, because it "showed a course of conduct by which Chua would use his position as a physician, and his access to prescription drugs, to facilitate relationships with young men, such as the one cultivated with Carter, during which Chua acted beyond his role as a physician when writing prescriptions for Carter."

The court, however, did throw out Chua's conviction and five-year prison term for keeping a dwelling for the purposes of using controlled substances.

The justices ruled the evidence was insufficient to show that the house was anything other than a home for Chua and Carter.

Prosecutors contend that Chua used the drugs to entice Carter into living with him.

Chua also offered him a job in his office, gave him gifts, and took him on a trip to New York.

Before that trip, Chua had Carter tested for HIV.

During the trial, prosecutors successfully introduced into evidence Chua's prior sexual relationship with a 15-year-old boy in Pennsylvania.

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In the unanimous decision, penned by Justice P. Harris Hines, the court finds that “the evidence authorized the jury to find [Noel Chua] guilty beyond a reasonable doubt” of distributing controlled substances by prescribing them in a manner that was not “in the usual course of his professional practice,” and was not “for a legitimate medical purpose,” in violation of the Georgia Controlled Substances.

By illegally providing controlled substances which Chua knew posed a foreseeable risk of death to a young man with a history of drug problems, the evidence also “authorized the jury to find Chua guilty beyond a reasonable doubt of felony murder by violating [Official Code of Georgia] § 16-13-41,” the opinion says.

Chua, who began serving his life sentence on Nov. 6, 2007, can appeal to the U.S. Supreme Court.

A medical graduate of the Far Eastern University in Manila, Chua placed 11th in the 1992 Philippine medical board exam.

A native of Caloocan City, Philippines, he worked as a Christian missionary doctor in Palawan before moving to the United States for his master’s degree in health care policy and management at Carnegie Mellon University in Pennsylvania.

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The late James Carter III.