

To:            **Sections**

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EXTERNAL (for general distribution)

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*Please seek appeals from parliamentarians, judges, lawyers or other influential people in your country.*

EXTRA 60/91

Death Penalty

5 September 1991

USA (Texas):

James Russell

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James Russell is scheduled to be executed by lethal injection on 19 September 1991. Mr. Russell, black, and now aged 42, was convicted of the March 1974 kidnap and murder of Thomas Stearns, a young white businessman. Mr. Russell was convicted and sentenced to death in November 1977 by an all-white jury. His legal appeals were exhausted when the US Supreme Court denied his petition for federal habeas corpus relief on 28 June 1991.

James Russell was arrested following the murder of Thomas Stearns in March 1974 and was detained for three years in jail awaiting trial. The evidence against him was allegedly circumstantial. The chief prosecution witness was an alleged accomplice to the crime who, in return for his testimony against Mr. Russell, received a reduced sentence and has now been released from prison. Lawyers now representing Mr. Russell on appeal are concerned that his guilt has not been established beyond doubt.

The prosecutor excluded several apparently well-qualified black potential jurors, ensuring that the final jury composition was all-white. Some of the prosecution's arguments seemed intended to inflame the jury in a racist manner: it was put to them that this crime was worse and more deserving of the harshest punishment because the defendant was black and the victim an upstanding white man.

The legal representation afforded to Mr Russell at his trial in 1977 was very poor. His elderly attorney appeared unprepared for the sentencing phase of the trial and presented no mitigation evidence whatsoever. (This is the stage in the proceedings during which the jury, having rendered a guilty verdict, considers whether the penalty will be life imprisonment without parole or death.) The attorney inexplicably failed to bring to the jury's attention the many reasons to disbelieve the testimony given by the prosecution's witnesses (two of whom had given inconsistent and inaccurate accounts to the police during the three-year case investigation).

Mr Russell's trial attorney was seen walking unsteadily and smelling of alcohol during the trial, yet the US District Court ruled in October 1987 that Mr. Russell "is not entitled to relief solely because [his lawyer] may have been intoxicated at times during the trial."

#### **BACKGROUND INFORMATION**

As of April 1991 there were 335 prisoners under sentence of death in Texas.

Three Texas prisoners have been executed this year, the most recent being Jerry Bird on 17 June 1991. Texas has the largest death row in the country and, since 1976, has executed more prisoners than any other state (41 to date).

Amnesty International opposes the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman and degrading treatment or punishment, as proclaimed in the Universal Declaration of Human Rights.

**RECOMMENDED ACTION: Telegrams/telephone calls/telexes/faxes/express and airmail letters:**

***Please seek appeals from parliamentarians, judges, lawyers or other influential people in your country.***

Appeals to the Texas Board of Pardons and Paroles:

- urging the Board to recommend that the Governor grant clemency to James Russell by commuting his death sentence;
- expressing concern at the circumstantial nature of the evidence presented against Mr. Russell at his trial;
- expressing concern at the prosecution's rejection of black potential jurors and the racially-based arguments he used;
- expressing concern at the poor legal representation Mr. Russell received at his trial.

Appeals to the Governor:

- urging Governor Richards to grant clemency to James Russell by commuting his death sentence;
- requesting that she give this case her most careful review in light of the circumstantial nature of the evidence against Mr. Russell, the poor legal representation he received at his trial, and the risk that his race (and that of the victim) may have unduly influenced the jury in its decision to impose the death penalty.

**APPEALS TO:**

**1.**

Texas Board of Pardons and Paroles  
**[Salutation: Dear Sirs]**  
8610 Shoal Creek Blvd.  
PO Box 13401, Capitol Station  
Austin, TX 78711, USA

**Telegrams: Texas Board Pardons/Paroles  
Austin, Texas 78711, USA**  
**Telephone: +(512) 459 2700/2716/2800**  
**Telexes: 910 874 1340**  
**Faxes: +(512) 459 2790**

**2.**

The Honorable Ann Richards  
**[Salutation: Dear Governor]**  
Governor of Texas  
Office of the Governor  
PO Box 12428  
Austin, TX 78711, USA

**Telegrams: Governor Richards, Austin, Texas 78711, USA**

**Telephone:** +(512) 463 2000  
**Telexes:** 910 874 1340  
**Faxes:** +(512) 463 1849

**COPIES TO:** Diplomatic representatives of the USA in your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 18 September 1991.