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**USA (Texas) Miguel Angel FLORES, Mexican national, aged 31**

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Miguel Flores is scheduled to be executed in Texas on 9 November 2000. He was sentenced to death for the 1989 abduction, rape and murder of 20-year-old Angela Tyson in the small town of Borger in north Texas. Serious questions have been raised about the competence of his legal representation and the fairness of his sentencing hearing at the 1990 trial.

Before it can impose a death sentence, a Texas capital jury must unanimously find that the defendant is likely to commit future violent acts if allowed to live, even in prison. If just one juror is persuaded that there is mitigating evidence enough to warrant leniency, the defendant receives a life prison sentence.

In arguing that Miguel Flores should be executed, the state presented psychiatrist Dr Clay Griffith, who testified that Flores would certainly commit future violent acts. Dr Griffith had never met or diagnosed the defendant, but based his "expert" opinion solely on the facts of the crime as presented at the trial.

Flores's lawyer failed to offer any evidence to counter this testimony, except for a statistical analysis of the general inaccuracy of such predictions. He presented no individualized evidence about his client, not even informing the jury that he had no criminal record. Many members of the Flores family were willing to testify concerning Miguel's good character and positive attributes, but none was called by the defence. Since the trial, extensive psychiatric testing and Flores's exemplary record on death row would appear to confirm that Dr Griffith's predictions were no more than a professionally unethical guess dressed up as an objective prognosis.

In April 2000, a federal judge said: "When one considers the conduct of Flores's trial attorney, it takes little inquiry to determine that this case is troubling". Noting that Dr Griffith's testimony lacked any scientific validity, the judge continued: "Given the paucity, indeed the complete lack, of mitigating evidence presented in this case, Dr Griffith's testimony virtually compelled the jury [to vote for a death sentence]."

In addition, the State of Texas violated its obligation to inform Miguel Flores of his right, as a Mexican national, to seek assistance from his country's consulate, as required under article 36 of the Vienna Convention on Consular Relations. Mexican consular officials have since declared that they would have advised Flores of his legal rights upon arrest, ensured that he was represented by competent lawyers and assisted in the presentation of mitigating evidence at the sentencing phase of the trial.

**BACKGROUND INFORMATION**

When the US Supreme Court ruled in 1976 (*Gregg v Georgia*) that executions could resume, it did so on the condition that sentencing in capital cases would be individualized in nature. The Court held that the jury should consider and weigh "the particularized nature of the crime and the particularized nature of the individual defendant". The jury who sentenced Miguel Flores to death heard all about the crime but nothing about the defendant apart from unreliable predictions of his propensity for violence.

In June 2000, the *Chicago Tribune* reported that of the 131 executions (now 143) carried out in Texas since Governor Bush took office in 1995, "defence attorneys in 40 cases presented no evidence whatsoever or only one witness at the sentencing phase". In at least 29 cases, the prosecution presented "damaging testimony from a psychiatrist who, based upon a hypothetical question describing the defendant's past, predicted the defendant would commit future violence. In most of these cases, the psychiatrist offered this opinion without ever examining the defendant". The paper noted that the American Psychiatric Association has condemned such testimony as "unethical and untrustworthy".

The Texas Governor may only commute a death sentence on the recommendation of the Board of Pardons and Paroles (BPP). The Governor may grant a single 30-day reprieve without the approval of the BPP. Furthermore, the Texas Administrative Code states in Title 37, Rule 143.58 that the BPP "shall investigate and consider a recommendation of commutation of sentence in any case, upon the written request of the governor".

**RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in English or your own language, in your own words, using the following guide:**

- acknowledging the seriousness of the crime and expressing sympathy for the friends and family of Angela Tyson;
- expressing concern that the jury was given none of readily available mitigating evidence to consider in deciding the sentence;
- expressing concern that the state relied on unethical and unreliable psychiatric testimony in order to persuade the jury to vote for death;
- noting Miguel Flores's exemplary record on death row, further apparent demonstration of the invalidity of such "expert" predictions;
- expressing concern that the arresting authorities failed to notify Miguel Flores of his right to contact the Mexican consulate, in violation of international law;
- calling on the Board to rectify these errors by recommending clemency;
- calling on Governor Bush do all in his power to stop this execution, including a written request that the Board of Pardons and Paroles investigate and consider commutation, as provided for under Title 37, Rule 143.58 of the Texas Administrative Code.

**APPEALS TO:**

Board of Pardons and Paroles, PO Box 13401, Austin, TX 78711-3401, USA

**Faxes: + 1 512 463 8120**

**Salutation: Dear Board Members**

The Honourable George W. Bush

Governor of Texas, PO Box 12428, Austin, TX 78711-2428, USA

**Faxes: + 1 512 463 1849 or + 1 512 637 8800**

**E-mail: <http://www.governor.state.tx.us/email.html>**

**Telegrams: Governor Bush, Austin, TX, USA**

**Salutation: Dear Governor**

Please also send appeals to the Secretary of State. You should note that of the 88 foreign nationals currently known to be under sentence of death in the USA, more than half are citizens of Mexico and other Latin American countries. AI believes that none of these Latin American nationals were informed of their consular rights upon arrest, in clear violation of international law. Appeals should call on the Secretary of State to intervene for clemency in this case.

The Honourable Madeleine Albright, Office of the Secretary of State,  
2201 C Street, N.W. Washington, DC 20520, USA

**Faxes: + 1 202 647 1533**

**Salutation: Dear Secretary of State**

**COPIES TO:** diplomatic representatives of USA accredited to your country.

You may also send letters (not more than 250 words) to: Letters to the Editor,  
*Dallas Morning News*, PO Box 655237, Dallas, TX 75265, USA.

**Fax: + 1 972 263 0456**

**E-mail: [letterstoeditor@dallasnews.com](mailto:letterstoeditor@dallasnews.com)**

**PLEASE SEND APPEALS IMMEDIATELY.**