

USA (Texas)Victor Hugo Saldaño (m), Argentine national, aged 29

Victor Saldaño remains on death row in Texas despite the state Attorney General's attempts to have his death sentence overturned because of the introduction of racially discriminatory testimony at his 1996 trial. The District Attorney of the county where the trial was held is seeking, so far successfully, to have the death sentence upheld in the courts.

Victor Saldaño, an Argentine national, was convicted in 1996 in Collin County of the murder in November 1995 of Paul Ray King, white. A death sentence can only be passed in Texas if the jury unanimously agrees that "there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society" - so-called "future dangerousness". At Victor Saldaño's sentencing, the prosecution presented a psychologist as an expert witness who testified that "because [Saldaño] is Hispanic, this is a factor weighing in favour of future dangerousness". The psychologist said that he based his theory on the fact that "Hispanics are over-represented in prison compared with their percentage of the general population".

When this issue emerged during the appeals process, the Texas Attorney General -- representing the state in the federal court system -- "confessed error" in the US Supreme Court; that is, he admitted that the introduction of race as a factor for determining future dangerousness violated Victor Saldaño's right to equal treatment before the law. On 5 June 2000, the Supreme Court sent the case back to the Texas Court of Criminal Appeals (TCCA), which had upheld the death sentence in 1999, in order for it to give the case "further consideration in light of the confession of error".

On 13 March 2002, the TCCA again upheld the death sentence. Two of the judges dissented. One wrote: "Allowing the kind of testimony complained of here violates one of the most fundamental principles of our legal system: a citizen must be found guilty and given appropriate punishment because of what he did, not who he is." The other dissenter wrote: "I cannot condone a decision to impose the death penalty when I am uncertain whether racial prejudice was a component of that decision".

The case is now before the federal courts. In May 2002, Attorney General John Cornyn, despite the TCCA's March ruling upholding the death sentence, again confessed error. He has asked the US District Court for the Eastern District of Texas either to require the trial court to impose a life sentence, or to conduct a new sentencing hearing. The Collin County District Attorney -- whose office was responsible for the original prosecution of Victor Saldaño -- is seeking to have the death sentence upheld. Amnesty International believes that his action contravenes the United Nations Guidelines on the Role of Prosecutors which require such officials to avoid all discrimination of any kind in pursuit of justice.

BACKGROUND INFORMATION

The International Covenant on Civil and Political Rights, which the USA ratified in 1992, states: "All persons are equal before the law and are entitled without discrimination to the equal protection of the law". The International Convention on the Elimination of All Forms of Racial Discrimination, ratified by the USA

in 1994, requires that "State Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law", including the "right to equal treatment before the tribunals and all other organs administering justice". The introduction of the psychologist's testimony at Victor Saldaño's trial violated this international obligation.

The State of Texas also violated international law by failing to inform Victor Saldaño promptly upon arrest of his right to contact his embassy for assistance, as required under Article 36 of the Vienna Convention on Consular Relations.

Since the USA resumed executions in 1977, 780 men and women have been put to death, 271 of them in Texas.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

To both addressees:

- expressing sympathy for the family and friends of Paul Ray King;
- expressing deep concern that racially discriminatory testimony was introduced at the 1996 trial of Victor Saldaño, and that this testimony amounted to a slur on the Hispanic community as a whole;
- welcoming Attorney General John Cornyn's repeated confession of error on this issue, which is in line with the USA international legal obligations to eradicate racism in the criminal justice system;

To the Collin County District Attorney:

- expressing deep concern that the District Attorney continues to seek to have the verdict from this tainted sentencing upheld;
- urging him to join the Attorney General's stand against racism by also confessing error, and dropping pursuit of the death sentence in this case.

To Governor Perry:

- calling on the Governor to demonstrate that the State of Texas will not tolerate racial discrimination in the criminal justice system;
- urging him to request the Board of Pardons and Paroles to examine this case with a view to recommending a commutation of the death sentence in the interests of justice, equality, and the reputation of Texas.

APPEALS TO:

Tom O'Connell, Collin County District Attorney
Collin County Government Center
Annex A and B, 210 S. McDonald St.
McKinney, TX 75069, USA

Email: disattorney@co.collin.tx.us

Fax: + 1 972 548 4388

Salutation: Dear District Attorney

Governor Rick Perry
c/o Bill Jones, General Counsel
PO Box 12428, Austin, Texas 78711, USA

Fax: + 1 512 463 1932 (General Counsel's fax) or 463 1849 (Governor's fax).

Salutation: Dear Governor

COPIES TO:

The Honourable John Cornyn, Attorney General of Texas, PO Box 12548, Austin, Texas 78711-2548, USA. **Email: john.cornyn@oag.state.tx.us**

You may copy appeals to the following two newspapers, or send brief letters to the editor (not more than 250 words) to one of them:

Letters From Readers, *The Dallas Morning News*, Box 655237, Dallas, Texas 75265, USA **Fax: + 1 972 263 0456. E-mail: letterstoeditor@dallasnews.com**

Viewpoints, c/o *Houston Chronicle*, PO Box 4260, Houston, Texas 77210, USA **Fax: + 1 713 220 3575. E-mail: viewpoints@chron.com**

and to diplomatic representatives of USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 18 July 2002.