

EXTRA 73/01

Dea**USA (Texas) Emerson Edward Rudd (m), black, aged 31**

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Emerson Rudd is scheduled to be executed in Texas on 15 November 2001. He was sentenced to death in 1989 for a murder committed in 1988.

Steve Morgan, black, was shot on 2 September 1988 during a robbery of the Dallas restaurant where he worked as a manager. The assailants were four teenagers - two aged 17 and two aged 18. Emerson Rudd, who was identified as the person who shot Steve Morgan, had turned 18 the previous month. He was sentenced to death. His three co-defendants received prison terms.

At the time of the crime, Emerson Rudd was emerging from a childhood of abuse and neglect. His sister has stated in an affidavit that "our whole life was traumatic growing-up in the house with my mother and father". She added that her mother was raped by their father; that her parents "fought with themselves, friends and other family", and that "there was never any love shown in our home". She indicated that her father was a drug addict, who stole to feed his addiction, and did "God awful things in front of us". She has stated that Emerson and the other siblings were beaten with extension cords and water hoses. Emerson Rudd's cousin has also signed an affidavit testifying to the physical and mental abuse that Emerson was subjected to from an early age. The death of Emerson Rudd's elder brother in front of him is said to have been particularly traumatic.

The appeal courts have rejected claims that Emerson Rudd's trial lawyer was ineffective for not having presented to the jury the full details of his young client's abusive upbringing. The courts have responded that some of this information was presented, and that any more would simply have been cumulative and would not necessarily have changed the jury's sentencing decision. The courts have also rejected the appeal lawyer's efforts to review the state's file on the case to determine if there is any exculpatory evidence in it.

Emerson Rudd's lawyer is asking Governor Rick Perry to grant a 30-day reprieve, pending resolution of the issue of payments to lawyers for their work preparing clemency petitions to the Texas Board of Pardons and Paroles. Earlier in October, he filed a motion in a federal district court seeking either pre-payment of funds to prepare a clemency petition for Emerson Rudd or a stay of execution, pending a decision by another federal court in a separate case where this issue has been raised. The lawyer has stated that he has been financially unable to file a clemency petition on behalf of Emerson Rudd. The deadline for filing such a petition with the Board has now passed.

**BACKGROUND INFORMATION**

Amnesty International opposes the death penalty in all cases. It is a punishment that is a symptom of, not a solution to, a culture of violence. More than 100 countries have abolished the death penalty in law or practice. In contrast, the USA continues its relentless resort to an outdated punishment which is an affront to human dignity and denies the human capacity for rehabilitation and reconciliation.

The US capital justice system is characterized by arbitrariness, discrimination and error, as well as the inevitable cruelty. Who is sentenced to death is as much influenced by the quality of defence representation, the discretionary

power of prosecutors, and the race and economic status of the murder victim or defendant, as it is on the heinousness of the original crime.

There have been 56 executions in the USA this year, bringing to 739 the number of prisoners put to death in the country since 1977. Texas accounts for 253 of these executions, 14 of which have taken place this year. The last person executed in Texas was Gerald Mitchell, who was 17 years old at the time of the crime. His execution violated the international legal ban on the use of the death penalty for crimes committed by under 18-year-olds. Emerson Rudd was less than a month past 18 at the time of the crime. While this places his case outside the international legal prohibition, the principle that lies behind that ban - namely the recognition of a young person's immaturity and capacity for change - demands consideration and compassion from the clemency authorities.

In Texas, the governor can commute a death sentence if the Board of Pardons and Paroles recommends that he or she does so. The governor also has the power to grant a 30-day reprieve.

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

- expressing sympathy for the family and friends of Steve Morgan;
- noting that Emerson Rudd had just turned 18 at the time of the crime and was emerging from a childhood of abuse and neglect;
- expressing concern that the jury did not hear the full details of his background in order to be able to make a fully considered decision;
- noting that the power of executive clemency exists to compensate for the rigidity of the courts, and allows for a compassionate state response;
- expressing concern that Emerson Rudd's lawyer has been unable, due to financial constraints, to file a clemency petition with the Board of Pardons and Paroles;
- calling on the Governor to grant a 30-day reprieve to allow more time for resolution of this issue in the courts and to allow a fair opportunity for a clemency petition to be presented should the courts rule favourably;
- calling on the Governor to do all in his power and influence to stop this execution and to support clemency.

**APPEALS TO:**

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

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

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

**Salutation: Dear Governor**

**COPIES TO:**

Texas Board of Pardons and Paroles  
P.O. Box 13401, Austin, Texas 78711-3401, USA

**Fax: +1 512 463 8120**

and to diplomatic representatives of USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**