

2 June 2000

Further information on UA 139/00 (AMR 51/83/00, 26 May 2000) Death penalty

USA (Texas) Robert Earl Carter, black, aged 34 (31 May) - executed
Ricky McGinn, white, aged 43 (1 June) - reprieve
Thomas Mason, white, aged 48 (12 June)
John Burks, black, aged 44 (14 June)
Paul Nuncio, Latino, aged 31 (15 June)
Shaka Sankofa (Gary Graham), black, aged 38 (22 June)
Jessy San Miguel, Latino, aged 28 (29 June)
Caruthers Alexander, black, aged 51 (12 July)
Orien Cecil Joiner, white, aged 50 (12 July)
Oliver Cruz, Latino, aged 33 (19 July)
Juan Soria, Latino, aged 33 (26 July)
Brian Roberson, black, aged 36 (9 August)
John Satterwhite, black, aged 53 (16 August)
Richard Wayne Jones, white, aged 40 (22 August)
David Earl Gibbs, white, aged 39 (23 August)
Jeffery Caldwell, black, aged 37 (30 August)

Robert Carter, a former prison guard, was executed in Texas on 31 May. He had been sentenced to death for the August 1992 murders of his four-year-old son, Jason Davis, and five other people: Bobbie Davis, 45; Nicole Davis, 16; Denitra Davis, 9; Brittany Davis, 6; and Lea 'Erin Davis, 5.

In his final statement, Robert Carter said that he had acted alone in carrying out the killings, and that his co-defendant, Anthony Graves, was innocent. This was consistent with a statement Carter made in May claiming that he had lied at Anthony Graves's trial under pressure from the authorities and threats that they would prosecute his wife if he did not name an accomplice. Anthony Graves remains on death row.

Robert Carter becomes the 19th prisoner executed in Texas this year, out of a total of 41 executions nationwide. Texas has executed 218 out of the 639 prisoners put to death in the USA since executions resumed there in 1977.

On 1 June, 20 minutes before he was due to be executed, Ricky McGinn was granted a 30-day reprieve, so that new DNA tests could be carried out. This is the first such reprieve authorized by Governor George W Bush since he took office in January 1995, a period which has seen some 130 executions in Texas. Because Governor Bush was in California, campaigning for the US presidency, technically the decision was taken by the acting governor, Senator Rodney Ellis, after he was advised to do so by Governor Bush.

Ricky McGinn was sentenced to death for the 1993 rape and murder of his 12-year-old stepdaughter, Stephanie Flanary. DNA tests carried out at the time were incomplete, but technological advances since then allow for fuller testing, which Ricky McGinn claims will exonerate him. Defence lawyers expressed their frustration that the reprieve came only 20 minutes before the execution. Ricky McGinn had already been moved to the holding cell near the death chamber and served his "final meal".

During presidential campaigning on 26 May, Governor Bush said that he supports DNA testing if it "helps to settle a case, or erase any doubts or concerns". On 30 May, the Texas Court of Criminal Appeals denied Ricky McGinn's appeal

for a DNA test, despite a recommendation from a lower court judge that the test be granted. On 31 May, the Texas Board of Pardons and Paroles (BPP) rejected commutation of McGinn's death sentence by 18 votes to nil, and turned down his request for a 30-day reprieve by 11 votes to seven, an unusually split vote. On 31 May, during campaigning in New Mexico, Governor Bush told reporters that he "more than likely" would grant a 30-day reprieve to allow for the tests, if there was no remedy forthcoming from the courts. The reprieve came after the Fifth Circuit Court of Appeals and the US Supreme Court rejected McGinn's appeal.

Governor Bush's bid for the presidency, and his repeated assertions that all those executed under his governorship have been guilty of the crimes of which they were convicted, has led to increased scrutiny of the death penalty in Texas. On 14 May, for example, the *New York Times* ran an article detailing the cases of five Texas prisoners executed since 1997 despite serious doubts about their guilt - James Beathard, Troy Farris, David Castillo, David Spence and Odell Barnes. Following Ricky McGinn's reprieve, the defence lawyer for Jerry Lee Hogue, a Texas prisoner executed on 11 March 1998, noted that Governor Bush had denied a similar DNA-based reprieve request for his client: "We certainly begged the governor to give us the same 30 days he's now giving Mr. McGinn. If Jerry had had the good fortune to hang around for two more years until the governor was running for president, he might have gotten more serious attention."

National concern about the risk of executing the innocent remains high following the decision on 31 January 2000 by Governor Ryan of Illinois to suspend executions in his state because of its "shameful" record of wrongful capital convictions. On 11 May the *Chicago Tribune* reported that Governor Ryan had said that he did not expect "an execution will ever happen again" in Illinois while he was in office, and that he would consider supporting abolition of the death penalty in his state if that was recommended by a special panel he has appointed to examine the Illinois capital justice system.

The *Chicago Tribune* also reported that Governor Ryan, who chairs the Illinois branch of Governor Bush's presidential campaign, said that he had discussed the death penalty with his Texas counterpart: "But George told me he's confident of the system he has in place in Texas and that it works well. Now I thought our system was OK, too. But I never spent a lot of time looking at it. Maybe [students or journalists] can find a case that will make him think twice about what he is doing." This was a reference to cases like that of Anthony Porter, who came within 48 hours of execution in Illinois in 1998 after 16 years on death row, but was released from prison in 1999 after students investigated his case and found the actual murderer.

Governor Bush can only commute a sentence if he receives a recommendation to do so from his appointees on the BPP. However, as a former Texas Attorney General recently said: "There's no doubt if the governor tells the paroles board what he wants done, they do it." In any event, the Governor can grant a 30-day reprieve, and then ask the BPP to review the case.

Please continue appeals, using the above as you see fit, in English or your own language, IN YOUR OWN WORDS, protesting at the relentless use of the death penalty in Texas and calling on the Governor and the BPP to use their powers to stop all executions in Texas. You may refer to some or all of those named in this UA.