

EXTERNAL (for general distribution)

AI Index: AMR 51/29/93

Distr: UA/SC

7 April 1993

Further information on UA 77/93 (AMR 51/22/93, 19 March 1993) - Death penalty

USA (Texas): Gary GRAHAM, 17

Amnesty International has received the following information about the weak evidence on which Gary Graham was convicted, as well as on racism in the sentencing of juvenile offenders in Texas. The organization has also learned that Gary Graham went on hunger strike in Huntsville prison, Texas, a few days ago and that he reportedly intends to fast until his execution date, 29 April 1993.

According to recent information issued by Gary Graham's lawyers, Gary Graham's capital murder conviction was based **solely** on the identification testimony of a single witness. No other evidence linked Graham to the crime: the shooting in May 1981 of Bobby Grant Lambert, a white man, in a Houston parking lot. The eye-witness, Bernardine Skillern, testified that she had seen Lambert's killer for a "split second" while sitting in her car some 30 feet from the crime. About two weeks later, when 17-year-old Graham was in custody for other offences, Bernardine Skillern picked him out at a police line-up. She had earlier failed to identify him from photographs. Two other witnesses, both of whom were much nearer to Lambert's assailant, failed to identify Gary Graham. Since his conviction, four people have stated in affidavits that Gary Graham was with them at the time of the crime but the courts have refused to consider this evidence. Texas law requires that motions for a new trial based on newly discovered evidence must be made within 30 days of sentence.

Seven of the eight juvenile offenders on death row in Texas are black or Hispanic, three of them from Harris County where Gary Graham was tried. According to Gary Graham's lawyers, Harris County is notorious for its disparate treatment of African Americans in the criminal justice system, particularly young offenders. According to recent figures, 56% of those on death row from Harris County are black and 35% white; of offenders sentenced to death from Harris County who were under 21 at the age of the crime, 86% are black or Hispanic and only 14% white. African Americans make up only 12% of the general population in Texas.

All but one of the jurors in Gary Graham's case was white, as was the prosecutor.

The above evidence suggests that racial bias may have played a part in the outcome of Gary Graham's case, adding to the concerns regarding his youth and the weaknesses in the evidence on which he was convicted. Gary Graham's case has been compared in some press articles in Texas with the recent case of an 18-year-old "white supremacist", whom an all-white Texas jury sentenced to probation only after he was convicted of participating in the murder of a black

man.

Safeguards guaranteeing the protection of the rights of those facing the death penalty, adopted by the United Nations Economic and Social Council in 1984 (Ecosoc Resolution 1984/50), provide at (4) that "capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts." Amnesty International is not convinced that this standard has been met in Gary Graham's case.

Page 2 of FU 77/93

FURTHER RECOMMENDED ACTION: Please send telegrams/faxes/express and airmail letters in English if possible:

To Governor Richards:

- urging that she intervene to prevent the execution of Gary Graham on 29 April 1993;

To the Board of Pardons and Paroles:

- urging the Board to recommend that Governor Richards grant clemency to Gary Graham;

To Both:

- urging that they take into account Gary Graham's youth at the time of the crime, his poor legal representation at trial, and the weakness of the identification evidence on which he was convicted;

- expressing concern about the evidence of racism in application of the death penalty in Texas, particularly as regards young offenders, citing some of the statistics given regarding capital sentencing in Harris County.

APPEALS TO:

Texas Board of Pardons and Paroles
8610 Shoal Creek Boulevard, PO Box 13401
Capitol Station
Austin, TX 78711-3401
USA

Telegrams: Texas Board Pardons/Paroles, Austin, TX 78711, USA

Faxes: + 1 512 467 0945

Telephone: + 1 512 406 5852

The Honorable Ann Richards
Governor of Texas
Office of the Governor
PO Box 12428, Capitol Station
Austin, TX 78711, USA

Telegrams: Governor Richards, Austin, TX 78711, USA

Faxes: + 1 512 463 1849

Salutation: Dear Governor

COPIES TO;

Newspaper:

The Letters Editor
Houston Chronicle
801 Texas Avenue
Houston, TX 77002, USA
Faxes: +1 713 220 7868

and to diplomatic representatives of USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY, TO ARRIVE IN THE USA BY 29 APRIL 1993.