

EXTERNAL (for general distribution)

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12 May 1993

Further information on EXTRA 36/93 (AMR 51/33/93, 15 April 1993) and follow-up AMR 51/35/93, 16 April 1993 - Death Penalty

USA (Texas): Leonel Herrera

Leonel Herrera was executed in Texas on 12 May 1993; he was pronounced dead at 4.49 am local time.

It has been reported that just before being executed he said "I am innocent, innocent, innocent, and make no mistake about this. I owe society nothing and would like to encourage all those who stood by me to continue the struggle for those who are innocent, especially Mr [Gary] Graham. Something very wrong is taking place here. God bless you all". (Gary Graham is a juvenile offender due to be executed on 3 June 1993 in Texas, see UA 77/93, AMR 51/22/93 of 19 March 1993 and follow-ups AMR 51/29/93 of 7 April 1993, AMR 51/37/93 of 29 April 1993, AMR 51/38/93 of 6 May 1993)

Leonel Herrera, convicted of the murder of two police officers in 1982, claimed to be innocent of the murder. In 1992 his lawyers presented newly discovered evidence alleging his innocence. However, the US Supreme Court dismissed his appeal in January 1993; it held that there was no constitutional right to relief based on newly discovered evidence of actual innocence, when the defendant's original trial had been free from procedural error.

The court also held that "Executive clemency has provided the 'fail safe' in our criminal justice system", and is the historic remedy for preventing miscarriages of justice where judicial process has been exhausted". However, since the death penalty was reinstated in the 1970s, the Texas Board of Pardons and Paroles has never recommended clemency in a capital case, despite strong grounds being presented in a number of cases. Texas has also carried out more executions than any other state in recent years.

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

- expressing deep regret that Leonel Herrera was executed on 12 May 1993;
- expressing concern that the execution was carried out without Leonel Herrera having been given the opportunity to have the merits of his claim of innocence examined by any court;
- expressing concern at the apparent reluctance of the authorities in Texas to consider clemency even in cases where there have been compelling reasons

to do so.

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: + 1 409 291 6852

Telephone: + 1 512 406 5852

Salutation: Dear Board Members

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

Telegrams: Governor Richards, Austin, Texas 78711, USA

Faxes: + 1 512 463 1849

Telephone: + 1 512 463 2000

Salutation: Dear Governor

COPIES OF YOUR APPEALS TO: diplomatic representatives of the USA in your country.

PLEASE SEND APPEALS IMMEDIATELY.