

PUBLIC

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Death Penalty/legal concern

USA (Texas)

Jaime Elizalde (m), aged 34, Hispanic

Jaime Elizalde is scheduled to be executed in Texas on 2 November. He was sentenced to death in 1994 for the murders of two men. No physical evidence links him to the crimes, and key evidence against him has been called into question.

The two men, Juan Guajardo and Marcos Vasquez, were shot and killed on 5 November 1994, outside a bar in Houston, Texas where Jaime Elizalde and his father had been drinking. Jaime Elizalde and his father were both arrested and charged with the murders. All charges against Jaime Elizalde's father were eventually dropped and he was released after spending over two years in custody.

According to his clemency petition, no physical evidence was presented at trial linking Jaime Elizalde to the crime. The prosecution relied solely on the testimony of two eyewitnesses. One of these, in his original statements to police, denied that he knew anything about the murders, neither having seen them take place nor knowing who was responsible, but later stated at trial that he had seen Jaime Elizalde carry out the shootings; the second eyewitness claimed to have observed the murderer for 15 seconds, in the dark, and only contacted the authorities to identify Elizalde as the murderer some months after the shootings.

Jaime Elizalde's clemency petition also alleges that his trial and state appeals lawyers failed to investigate his case adequately. As a result, important evidence, including eyewitness testimony, supporting claims that he was innocent, discovered by attorneys presenting appeals to the federal courts has never been considered on its merits because it should have been raised earlier in the legal process.

BACKGROUND INFORMATION

Amnesty International opposes the death penalty unconditionally. The United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty prohibit the execution of anyone whose guilt is not based on "clear and convincing evidence leaving no room for an alternative explanation of the facts". Serious miscarriages of justice in capital cases have already occurred in the USA. Since 1973, 121 people who had been sent to US death rows have been released after they were found to be innocent. Others have gone to their deaths despite serious doubts about their guilt.

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

- expressing concern that Jaime Elizalde is scheduled to be executed on 2 November;
- expressing sympathy for the family and friends of Juan Guajardo and Marcos Vaquez, and explaining that you are not seeking to excuse the manner of their deaths or to minimize the suffering caused;
- expressing concern at reports that no physical evidence links Jaime Elizalde to the murders, that testimony given at trial by one of the prosecution's main eyewitnesses contradicted earlier statements he gave to the police, and that Jaime Elizalde's trial and state appeals attorneys failed properly to investigate important evidence which might have proved his innocence and which, for purely procedural reasons, has not been considered in any court;
- calling on the Board of Pardons and Paroles to recommend that Governor Perry grant clemency to Jaime Elizalde;
- calling on Governor Perry to grant clemency to Jaime Elizalde;

- urging that at least a stay of execution be granted to allow further investigation of the issues raised in his clemency petition.

APPEALS TO:

Rissie Owens, Presiding Officer, Board of Pardons and Paroles, 1300 11th St., Suite 520, P.O. Box 599, Huntsville, TX 77342-0599, USA.

Fax: +1 936 291 8367

Salutation: Dear Ms Owens

Governor Rick Perry, Office of the Governor, PO box 12428, Austin, TX 78711-2428, USA

Fax: +1 512 463 1849

Salutation: Dear Governor

COPIES TO: diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.