

EXTERNAL (for general distribution)

AI Index: AMR 51/26/94
Distr: UA/SC

27 April 1994

Further information on UA 77/93 (AMR 51/48/93, 19 March 1993, 19 March 1993) - and follow-up(s): AMR 51/29/93, 7 April 1993, AMR 51/37/93, 29 April 1993, AMR 51/38/93, 6 May 1993, AMR 51/43/93, 19 May 1993, AMR 51/47/93, 3 June 1993, AMR 51/48/93, 4 June 1993, AMR 51/63/93, 7 July 1993, AMR 51/76/93, 10 August 1993, AMR 51/77/93, 16 August 1993, AMR 51/78/93, 17 August 1993 and AMR 51/92/93, 14 October 1993 - Death Penalty

USA (Texas): Gary GRAHAM

On 20 April 1994 the Texas Court of Criminal Appeals (CCA) ruled by 5 votes to 4 that Gary Graham is entitled to present his claims of innocence to the state courts. According to newspaper reports, the CCA said it was reversing several of its previous decisions in order to create an entirely new mechanism for hearing late claims of innocence in Texas. Previously, Texas law required that motions for a new trial based on newly discovered evidence must be made within 30 days of sentence. The Texas Board of Pardons and Paroles has consistently refused to hold a hearing into Gary Graham's claims of innocence.

The ruling, however, set a high standard for proving a claim of innocence in order to deter what the CCA stated could be "frivolous" claims. According to newspaper reports, at least one of the judges said that the CCA's ruling set an impossibly high threshold for proving innocence and expressed concern that "...it will be impossible by definition for any applicant to meet the test, regardless of how compelling his newly discovered evidence".

Gary Graham had previously been granted a stay of execution by a lower state court which ordered the Texas Board of Pardons and Paroles to hold a hearing into his innocence claim. The state appealed against this ruling, and while this appeal was still pending, the Texas Court of Criminal Appeals unexpectedly took Gary Graham's case back into its jurisdiction in November 1993.

A separate appeal that Gary Graham received inadequate legal representation at trial is currently being considered in federal court. If his federal appeals fail, the new ruling means that he can now go back to the state courts. Gary Graham is therefore out of any imminent danger of execution.