

EXTRA 13/02

Death pen**USA (Texas)Monty Allen Delk (m), white, aged 34**

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Monty Delk is scheduled to be executed in Texas on 28 February 2002. He was sentenced to death in 1988 for the 1986 shotgun murder of Gene Olan Allen, a white man. Monty Delk was 19 years old at the time of the crime.

Monty Delk's lawyer has raised serious doubts about his client's competency to be executed, that is whether he understands the reason for and reality of his punishment. Monty Delk's apparent mental health problems first emerged in 1989. In 1990, the prison medical authorities diagnosed him with bipolar disorder with psychotic features, and also raised the possibility that he was suffering from schizo-affective disorder, another severe mental illness. He was given anti-psychotic drugs and lithium.

Monty Delk has displayed a pattern of disturbed behaviour over his years on death row, including covering himself in faeces, and incoherent jabbering. He has repeatedly expressed delusional beliefs, such as that he is a submarine captain, a CIA or FBI agent, or a member of the military. At a court hearing in 1993, at which an earlier execution date was set, he responded to the judge in prolonged streams of unbroken gibberish. Amnesty International has received an unofficial tape recording of this hearing.

At another hearing in 1997 to determine his competency to continue with his appeals, Monty Delk was gagged and then removed from the courtroom after repeatedly interrupting the court with nonsensical utterances. He was later brought back in, but removed again when he continued to utter nonsense, such as saying to the judge "I is you"; "Will you please blow my head off"; and "I'm an FBI agent". At the hearing, a former chief mental health officer with the Texas prison system said that his review of the prison records and his own contact with Monty Delk suggested that the prisoner suffered from a severe mental illness.

Three years earlier, the prison diagnosis of Monty Delk had been changed to one of malingering - that he was feigning mental illness to avoid execution. This followed an alleged statement to this effect made by Delk to another inmate and overheard by a prison staff member. In 1999 when the state's death row was transferred from Huntsville to Livingston, medical staff at the new unit diagnosed Delk with bipolar disorder. However, after they were made aware of the 1994 re-diagnosis, the official position once again became that his mental illness was a pretence.

Monty Delk's current lawyer has represented him since 1996. He says that he has been unable to have any rational communication with his client in that time. For example, when he visited him in December 2001, Monty Delk did not acknowledge his presence, or provide any useful information. He apparently continued to believe that he was in the military and that he was in control of a large and powerful organization.

Monty Delk's lawyer is seeking a hearing on the question of his client's competency for execution under a Texas law enacted in 1999. The prosecution's position is that the execution should go forward as scheduled on the basis that he was found competent to continue his appeals in 1997.

**BACKGROUND INFORMATION**

The execution of the insane - those who do not understand the reason for or reality of their punishment - is prohibited under a 1986 US Supreme Court ruling, *Ford v. Wainwright*. Nevertheless, the minimal standards that pertain to competency determinations have meant that numerous individuals have been executed despite lingering doubts about whether they truly understood what was happening to them and why.

The United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty prohibit the execution of "persons who have become insane". In resolutions in recent years, the UN Commission on Human Rights has repeatedly called on retentionist countries not to impose or carry out the death penalty on any person suffering from "any form of mental disorder".

While the extent of Monty Delk's mental health problems remains in dispute, what is clear is that the death penalty against anyone contradicts emerging global standards of decency and justice, with 109 countries now abolitionist in law or practice, and the vast majority of executions carried out in a small number of countries, including China, Iran, Saudi Arabia and the United States of America.

Since the USA resumed executions in 1977, 759 men and women have been put to death, more than 600 of them since 1990. Texas accounts for a third of US executions, having lethally injected 260 people. Ten men have been executed in the USA so far in 2002, four of them in Texas.

Amnesty International opposes the death penalty unreservedly. It is a symptom of a culture of violence, not a solution to it. It tends to be applied in an arbitrary and discriminatory manner, it can never be free of the risk of irrevocable error, and it is inescapably cruel, both to the condemned and to their families. It is a government policy that encourages feelings of hatred and vengeance, and diverts resources and energies from constructive efforts to combat violent crime and to assist those who suffer the appalling trauma of losing a relative to murder.

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

- expressing sympathy for the family and friends of Gene Olan Allen;
- noting evidence that Monty Delk's mental health has deteriorated during his time on death row, including diagnoses of bipolar disorder;
- noting that his disturbed behaviour has continued for over a decade;
- noting continuing doubts about his legal sanity, which raise questions about the constitutionality of his execution, and noting international standards;
- calling for commutation of Monty Delk's death sentence;
- calling, at the very least for a reprieve to allow for full determination of Monty Delk's mental competency.

**APPEALS TO:**

Gerald Garrett, Chairperson, Texas Board of Pardons and Paroles  
P.O. Box 13401, Austin, Texas 78711-3401, USA  
**Fax: +1 512 463 8120**

**Salutation: Dear Mr Chairperson**

**COPIES TO:**

The Honourable Rick Perry, Governor of Texas  
State Capitol, PO Box 12428, Austin, TX 78711, USA  
**Fax: +1 512 463 1849; or + 1 512 463 0039; or +1 512 463 1932**

and to diplomatic representatives of USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**