

**EXTERNAL (for general distribution)**

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**EXTRA 83/93 Death Penalty**

**4 October 1993**

**USA (Texas): Robert Nelson DREW**

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Robert Nelson Drew is scheduled to be executed in Texas, USA, on 14 October 1993.

Robert Drew, white, was sentenced to death in December 1983 for the murder of Jeffrey Mays, white, in February 1983. According to his attorneys, Robert Drew has consistently maintained his innocence. He was convicted largely on the testimony of an eye witness who has since recanted his testimony. According to his attorneys, shortly after Robert Drew was convicted, a co-defendant who was sentenced to 60 years imprisonment for his part in the crime, boasted to two fellow inmates in the jail in which he was being detained that he alone had killed Mr Mays. He later signed an affidavit to this effect, allegedly stating "...I am the person who murdered Jeffrey Mays and Robert Drew is innocent".

Texas law requires that a new trial motion based on newly discovered evidence should be made within 30 days of sentence. Robert Drew's attorneys have appealed without success for a retrial based on this late evidence of innocence because it was discovered too late.

Amnesty International opposes the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment, as proclaimed in the Universal Declaration of Human Rights. Amnesty International believes that in this case, at the very least, the execution should be stayed pending a thorough review of the new evidence.

#### **BACKGROUND INFORMATION**

In January 1993 the US Supreme Court ruled in another Texas case that late claims of innocence would not normally be considered by the federal courts.

The Court held that the state executive clemency process was the proper forum to consider such claims when presented too late to be heard by the courts.

However, Amnesty International is extremely concerned that the process of executive clemency in Texas is inadequate. (Under Texas clemency rules the governor may commute a sentence of death only if she receives a favourable recommendation from a majority of the 18-member Board of Pardons and Paroles. However, she does have power to grant one 30 day reprieve in a death penalty case). The Board has refused, for example, to even hold a hearing into a late claim of innocence presented in another death penalty case. Legal arguments are at present taking place in Texas to decide whether the Board should hold a hearing into this case.

Apart from a number of commutations granted in the 1980s as the result of two key court rulings, the Board has never recommended clemency in a capital case in recent years, despite strong grounds being presented in a number of cases. It has held only one hearing in recent years.

**RECOMMENDED ACTION: Please telephone/send telegrams/telexes/faxes/express and airmail letters either in English or in your own language:**

To the Texas Board of Pardons and Paroles:

- urging the Board to hold a fair hearing into Robert Drew's innocence claim;
- urging the Board to recommend that Governor Richards grant clemency to Robert Drew on humanitarian grounds;
- urging that at the very least a stay of execution be granted to Robert Drew pending the outcome of the legal arguments currently taking place in Texas;

To Governor Richards:

- urging that at the very least she grant a 30-day reprieve to Robert Drew;
- urging her to request the Board to review the case of Robert Drew.

**APPEALS TO**

Texas Board of Pardons and Paroles  
Executive Clemency Unit  
Texas Department of Criminal Justice  
Pardons and Paroles Division  
PO Box 13401  
Austin, TX 78711, USA

**Faxes: + 1 512 467 0945**

**Tel: +1 512 406 5852**

**Salutation: Dear Board Members**

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

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**Salutation: Dear Governor**

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**PLEASE SEND APPEALS IMMEDIATELY.**