

PUBLIC

AI Index: AMR 51/016/2006

19 January 2006

Further Information on UA 275/05 (AMR 51/168/2005, 19 October 2005) and follow-up (AMR 51/188/2005, 02 November 2005) - Death Penalty

USA (Texas)

Jaime Elizalde (m), Hispanic, aged 34

Jaime Elizalde is now scheduled to be executed on 31 January. His execution was previously scheduled for 2 November 2005, but postponed to allow time for him to be questioned about statements he had made admitting to the murder of another man, for which someone else is serving a life sentence.

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 dead 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 a clemency petition presented in 2005, 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.

The 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.

All these points will also be made in a new clemency petition that Jaime Elizalde's attorneys are now preparing, which will also include a claim that Elizalde may be mentally retarded.

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 31 January 2006;
- expressing sympathy for the family and friends of Juan Guajardo and Marcos Vasquez, 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;
- noting that Jaime Elizalde's clemency petition includes a claim of possible mental retardation and urging that this is properly considered;
- 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. AII APPEALS MUST ARRIVE BY 31 JANUARY.