

EXTERNAL (for general distribution)

AI Index: AMR 51/126/92  
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3 December 1992

*Please bring this action to the attention of the person responsible for outreach work in your section as appeals are particularly welcome from organizations or individuals representing minorities or who work on race issues.*

Further information on EXTRA 02/92 (AMR 51/09/92, 10 January 1992) and follow-ups AMR 51/11/92, 17 January 1992, AMR 51/13/92, 22 January 1992, AMR 51/32/92, 9 March 1992, AMR 51/40/92, 17 March 1992, AMR 51/60/92, 30 April 1992, AMR 51/72/92, 2 June 1992, 2 June 1992, AMR 51/83/92, 30 June 1992, AMR 51/100/92, 3 September 1992, AMR 51/116/92, 3 November 1992 and AMR 51/122/92, 20 November 1992 - Death Penalty

USA: (Texas)

Delma Banks

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Delma Banks, who was scheduled to be executed by the state of Texas on 1 December 1992, has had his execution date postponed to 5 January 1993. The postponement has been granted pending a hearing on the appeal filed by his attorneys. The appeal presents evidence that prosecutors in the jurisdiction where Delma Banks was tried had systematically excluded black jurors from serving on trial juries on racial grounds for at least six years prior to, and up to, the time of Banks' trial.

Delma Banks, black, was convicted in 1980 of the shooting murder of Richard Wayne Whitehead, white. He was tried and sentenced to death by an all-white jury after the prosecutor had excluded all prospective black jurors from jury service, by use of peremptory challenges (the right to exclude jurors without giving reasons).

The US Supreme Court ruled in 1986, in Batson v Kentucky, that prosecutors may not exclude jurors in any case solely on account of their race as this was contrary to the Equal Protection clause of the US Constitution. However, the Batson ruling was held not to be retroactive to past cases and Banks cannot benefit from it. However, the appeal filed by his lawyers is based on an earlier Supreme Court ruling which would allow reversal of a conviction if it can be proved that prosecutors have systematically excluded jurors on racial grounds in a particular jurisdiction.

This will be the eighth execution date scheduled for Delma Banks since January 1992, and is considered to be very serious.

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.

**RECOMMENDED ACTION: Telegrams/telephone calls/faxes/express and airmail letters in English if possible:**

- urging the Board of Pardons and Paroles to convene a clemency hearing to consider the case of Delma Banks;
- asking the board to recommend that Governor Richards grant clemency to Delma Banks;
- expressing concern about evidence of racial discrimination in the jury selection in Delma Banks' trial, and in the county where he was tried.

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**APPEALS TO**

1) Texas Board of Pardons and Paroles  
8610 Shoal Creek Boulevard, PO Box 13401  
Capitol Station  
Austin, TX 78711-3401  
USA

**Telegrams: Texas Board Pardons/Paroles, Austin, TX 78711, USA**

**NB: Please note correct telephone and fax numbers for executive clemency appeals:**

**Executive Clemency Fax: + 1 512 467 0945**

**Executive Clemency Telephone: + 1 512 406 5852**

**Salutation: Dear Board Members**

2) Mr Jack D Kyle  
Chairman  
Texas Board of Pardons and Paroles  
2503 Lake Road, Ste 9  
Huntsville, TX 77340-5737  
USA

**Telegrams: Mr Kyle, Huntsville TX 77340-5737, USA**

**Telephone: + 1 409 291 2161**

**Faxes: + 1 409 291 6852**

**Salutation: Dear Mr Kyle**

**COPIES TO:**

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and to diplomatic representatives of the USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY, TO ARRIVE BY 5 January 1993.**