

UA 25/02

Death pen**USA (Texas) Thomas Joe Miller-El, black, aged 50**

Thomas Miller-El is scheduled to be executed in Texas on 21 February 2002. He was convicted in Dallas County in 1986 of the 1985 murder of a white man, Douglas Walker, during a robbery of a Holiday Inn in Irving, near Dallas.

There is overwhelming evidence that at the time of Thomas Miller-El's trial, Dallas County prosecutors were engaging in racist jury selection tactics to exclude around 90 percent of prospective minority jurors in order to obtain all-white or almost all-white juries. At a hearing before his trial, various Dallas lawyers and judges testified that the county's prosecutors routinely excluded African Americans during jury selection.

A study conducted by the *Dallas Morning News* in 1986 revealed that Thomas Miller-El was one of 15 men sentenced to death in Dallas County between 1980 and 1986. Of the 180 jurors at their trials, only five were African American. Using peremptory strikes - the right to reject prospective jurors during jury selection without giving a reason - prosecutors dismissed 56 of the 57 other blacks qualified to serve.

Of the 15 cases, five involved black defendants. All except Miller-El were tried by all-white juries. His jury consisted of 11 whites and one black, after the prosecution used peremptory challenges to exclude 10 of the 11 African Americans qualified to serve. The only black accepted onto the jury was a man who said of execution: "It's too quick. They don't feel the pain...Pour some honey on them and stake them out over an ant bed...That's what I call punishment."

One of the two prosecutors at Thomas Miller-El's trial was subsequently found to have engaged in intentional racial discrimination during the selection of a jury at the trial of a black defendant which took place immediately before Thomas Miller-El's trial. The other prosecutor was found to have engaged in the same practice in a trial which occurred immediately after Miller-El's trial. Yet Thomas Miller-El faces imminent execution despite the compelling evidence that his trial, too, was tainted by the same prosecutors engaging in the same discriminatory tactics.

A jury-selection treatise prepared by a senior prosecutor, circulated in Dallas County in the 1960s, instructed prosecutors: "Do not take Jews, Negroes, Dagos, Mexicans or a member of any minority race on a jury". A training manual for prosecutors written by a Dallas County Assistant District Attorney in 1969 and actively used in the county into the 1980s warned against selecting jurors from minority races, people with "physical afflictions" and Jews, on the grounds that they "usually empathize with the accused". The prosecutor in charge of jury selection at Thomas Miller-El's trial, who labelled himself a "jury selection specialist", joined the Dallas County District Attorney's Office in 1973 and learned his skills at a time when this manual was routinely used as a training aid for new prosecutors.

In June 2000, the State of Texas dropped its opposition to the appeals of a Latino death row inmate, Victor Saldaño, and six other condemned Hispanic and black prisoners after it emerged that an expert witness had given racially discriminatory testimony at their capital trials. In a brief to the US Supreme Court conceding error, the State of Texas stated: "Discrimination on the basis of race, odious in all respects, is especially pernicious in the administration

of justice." In his official statement announcing the state's move, Attorney General John Cornyn said: "The people of Texas want and deserve a system that affords the same fairness to everyone. I will continue to do everything I can to assure Texans of our commitment to an equitable criminal justice system." Amnesty International believes that if the State of Texas is to be consistent, the Attorney General must now drop the state's opposition to Thomas Miller-El's appeals and support a new trial, free of discrimination.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, IN YOUR OWN WORDS:

To both addressees:

- expressing sympathy for the family and friends of Douglas Walker, and explaining that you are not seeking to excuse the manner of his death;
- expressing concern at compelling evidence that the prosecutors at Thomas Miller-El's 1986 trial engaged in discriminatory jury selection tactics, part of a pattern of such tactics in Dallas County at the time;

To Attorney General Cornyn:

- urging that the State of Texas adopt the same admirable stance that it did in the Saldaño and other cases in June 2000 after it emerged that racial discrimination - "especially pernicious in the administration of justice" - had tainted those cases;
- calling on the Attorney General to drop his opposition to Thomas Miller-El's appeals for a new trial.

To District Attorney Hill (the current head prosecutor of Dallas County):

- urging the District Attorney to grasp the opportunity to show that Dallas County has made a clean break from its history of racially discriminatory jury selection tactics;
- calling on him to publicly oppose the execution of Thomas Miller-El in the interests of fairness, equality and justice, and the reputation of Dallas County.

APPEALS TO:

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and to diplomatic representatives of USA accredited to your country.

You may write brief letters (not more than 250 words) to:

Letters to the Editor, *Dallas Morning News*, Box 655237, Dallas, Texas 75265, USA. **Fax: +1 972 263 0456. E-mail: letterstoeditor@dallasnews.com**

PLEASE SEND APPEALS IMMEDIATELY.