

Appeals from Mexican citizens to relevant officials/embassies in your own countries urging them to appeal to the Texas authorities on Fierro's behalf would be particularly welcome.

EXTERNAL (for general distribution)

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EXTRA 44/94

Death Penalty

3 August 1994

USA (Texas)

Cesar R FIERRO, Mexican national

Cesar Fierro is scheduled to be executed in Texas on 10 August 1994.

Cesar Fierro was sentenced to death in February 1980 for the murder of Nicolas Castanon, a white taxi driver, in El Paso (one mile from the Mexican border) in February 1979. Fierro was convicted on the testimony of an allegedly mentally impaired juvenile who claimed that he accompanied Fierro in the taxi on the night of the murder, and Fierro's own confession, which was obtained under duress. According to his attorneys, no evidence linking Fierro to the crime was presented at trial. Cesar Fierro has exhausted all avenues of appeal, and although Amnesty International does not have access to the complete record of the case, it fears that the execution may go ahead despite new evidence suggesting that important information relating to his confession was suppressed by police at trial. Fierro's attorneys are currently trying to present this evidence in state courts; it has never been heard before in a court of law.

Cesar Fierro, who comes from Ciudad Juárez (Juárez) in Mexico, was interrogated by US police investigating the crime five months after the murder, following a statement implicating him in the crime by the eye-witness, who claimed Fierro had shot Castanon.

According to Fierro's attorneys, in the early hours of the morning following the eye-witness' statement, Juárez police (who were working in collaboration with US police to establish Fierro's whereabouts) raided the home of Cesar Fierro in Juárez and arrested his mother and step-father, taking two letters from their home. After driving them to an isolated mountain area, they were taken to a police station and interrogated for several hours. At trial Fierro's step-father testified that Juárez police threatened to attach a cattle prod to his genitals unless he gave them the information they were looking for. Two hours after the family's detention, Juárez police informed the US police that Fierro was being detained in an El Paso jail, on an unrelated matter.

Fierro's attorneys are appealing in state courts on the basis of new evidence indicating that the US police suppressed information at trial that they knew about the detention of Fierro's family, and used this to coerce his confession.

This includes a police report dated 1 August 1979, signed by the chief investigating officer in the case, which indicates that he was aware of the detention at the time of Fierro's interrogation, although at the time of the trial he denied this. A recent affidavit from the same officer, and another affidavit from a former police officer also indicate that the chief investigating officer knew of the detention.

According to the appeal, at a pre-trial suppression hearing (a hearing which challenges the admissibility of a piece of evidence before trial), Fierro testified that while he was being interrogated about the crime the chief investigating officer told him that his family would be detained by the Juárez police unless he signed the confession. (According to the appeal, at the time of Fierro's arrest, Juárez police had a well documented reputation for

corruption, torture and other human rights violations). The pre-trial suppression hearing, according to the appeal, also showed that Fierro was shown the letters taken from his mother to convince him that his family was in the custody of the Juárez police, and that the chief investigating officer arranged for Fierro to call the Juárez police. Immediately after speaking with them, Fierro signed a confession. His mother and step-father were released hours later.

A recent affidavit from the prosecutor at Fierro's trial states that although he argued that the arrest of Fierro's family was irrelevant to the case because the US police did not know about it, given the new evidence it was in fact *"highly relevant"* and that he believes the police concealed this information from him. He goes on to say *"I am familiar with the reputation of the Juárez police for engaging in torture...I believe that [the investigating officer] and [the Juárez police] colluded to coerce Fierro's confession"*, and that had he known about this information previously *"...I would have joined in a motion to suppress the confession. Had the confession been suppressed, I would have moved to dismiss the case unless I could have corroborated [the eye-witness'] testimony. My experience as a prosecutor indicates that the judge would have granted the motion as a matter of course."*

According to Fierro's attorneys, all of the Juarez police officers who took part in the detention of his family have been fired or have resigned after widespread allegations of torture and inhumane treatment of detainees.

BACKGROUND INFORMATION

In Texas the governor may commute a sentence of death only if she receives a favourable recommendation from the Board of Pardons and Paroles. The Board consistently refuses to hold full clemency hearings in death penalty cases, and 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 any death penalty case in recent years. (see also EXTRA 03/94, AMR 51/09/94, 21 January 1994).

RECOMMENDED ACTION: Please send telegrams/faxes/express letters or phone:

Appeals to the Board of Pardons and Paroles: - urging the Board to recommend that Governor Richards grant clemency to Cesar Fierro;

Appeals to Governor Richards: - urging Governor Richards to grant a 30-day reprieve to Cesar Fierro in order to allow Texas courts to decide whether to hear the new evidence;

Appeals to both: - expressing deep concern that Cesar Fierro is scheduled to be executed in Texas on 10 August;

- expressing concern that Cesar Fierro's confession was made under duress, referring to the new evidence in the case relating to the circumstances of his confession, and expressing concern that Cesar Fierro may be executed before this evidence has been given a fair hearing in a court of law;

- referring to the recent statement by the prosecutor at the time of Fierro's trial.

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

Telephone: +1 512 406 5852
Salutation: Dear Board Members

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

Salutation: Dear Governor

Faxes: +1 512 463 1849

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

PLEASE SEND APPEALS IMMEDIATELY.