

Statement of Elected Officials, Clergy, Civil Rights Leaders, and Legal Professionals in Support of a New, Fair Sentencing Hearing for Duane Buck

We – 102 elected officials, civil rights leaders, faith leaders, legal professionals, past ABA presidents, a former governor and concerned citizens dedicated to protecting the integrity of the criminal justice system – urge a new, fair sentencing hearing for Duane Buck free from racial bias.

Mr. Buck recently filed an appeal challenging his death sentence because it was the product of an offensive appeal to racial prejudice and because, at the time of Mr. Buck's trial, the Harris County District Attorney's Office was three times more likely to seek the death penalty against African-American defendants like Mr. Buck and Harris County juries were twice as likely to sentence African-American defendants like Mr. Buck to death. Given the gravity of the evidence of racial bias here, the State should not carry out Mr. Buck's execution while this litigation is pending. Texas must give Mr. Buck a new sentencing hearing untainted by racial discrimination.

The Harris County District Attorney's Office prosecuted the case of *State v. Duane Edward Buck* in May 1997. Mr. Buck was convicted of the murders of Debra Gardner and Kenneth Butler. A third person, Phyllis Taylor, who is a signatory to this statement, was also shot. Ms. Taylor has forgiven Mr. Buck and does not wish to see him executed. During sentencing, the prosecution elicited testimony from a psychologist, Dr. Walter Quijano, that being African-American increases the likelihood of future dangerousness. In other words, the expert testified that the color of Mr. Buck's skin increased the probability that he would commit future acts of violence. The prosecution then urged the jury during closing argument to rely on Dr. Quijano's testimony and sentence Mr. Buck to death.

In June 2000, following an exhaustive review, the Office of the Texas Attorney General identified six cases, in addition to the case of Victor Saldaño in which it had already confessed error, in which equal protection violations had occurred due to the prosecution's use of Dr. Quijano's race-based testimony. Mr. Buck's was one of those six cases. Committed to restoring the integrity of Texas's criminal justice system, then-Attorney General John Cornyn assured Texans that the Office of the Attorney General would take steps to guarantee that no death sentence would ever be carried out in which the defendant's race had been relied upon by the prosecution as evidence of future dangerousness. Texas upheld its promise in five of the six cases. In Mr. Buck's case, however, Texas failed to take corrective action. Mr. Buck is the only one of the six individuals identified by the Texas Attorney General who remains under a sentence of death based on testimony elicited by the prosecution that his race made him more dangerous.

The State of Texas cannot condone any form of racial discrimination in the courtroom. The use of race in sentencing poisons the legal process and breeds cynicism in the judiciary.

No execution should be carried out until the courts have a meaningful opportunity to address the evidence of fundamental injustice in Mr. Buck's case. A new, fair sentencing hearing for Mr. Buck is absolutely necessary to restore public confidence in the criminal justice system.

Respectfully,

Michele Alexandre, Associate Professor of Law, University of Mississippi School of Law

Representative Alma Allen, Texas State Representative, District 131

Rev. Stacy Anzick, Texas Annual Conference of the United Methodist Church

Scott Bass, Executive Director, Murder Victims' Families for Reconciliation

Mark Bennett, Past President (2008-2009), Harris County Criminal Lawyers Association

Gary Bledsoe, President, Texas NAACP

Rev. Susan Buchanan, Houston-Galveston Extension Program SMU/Perkins School of Theology

A. Bates Butler III, United States Attorney, District of Arizona (1980-1981); First Assistant United States Attorney, District of Arizona (1977-1980); Deputy Pima County (Arizona) Attorney (1970-77)

Hon. Edward N. Cahn, Judge, United States District Court for the Eastern District of Pennsylvania (1974-1998); Chief Judge (1993-1998)

Juan Cartagena, President and General Counsel of LatinoJustice PRLDEF

Eugene Cho, Senior Pastor, Quest

Richard Cizik, President, New Evangelical Partnership for the Common Good

Shane Claiborne, Founder, The Simple Way

W. J. Michael Cody, Attorney General, State of Tennessee (1984-88); United States Attorney, Western District of Tennessee (1977-1981)

Rev. Mike Cole, General Presbyter, Presbytery of New Covenant

Representative Garnet F. Coleman, Texas State Representative, District 147

Martin B. Cominsky, Southwest Regional Director, Anti-Defamation League

Roberto L. Corrada, Professor of Law, Sturm College of Law, University of Denver

Nicole DeBorde, Past President (2010-2011), Harris County Criminal Lawyers Association

W. Thomas Dillard, United States Attorney, Northern District of Florida (1983-1986); United States Attorney, Eastern District of Tennessee (1981)

Representative Harold Dutton, Jr., Texas State Representative, District 142

Danny Easterling, Past President (1999-2000), Harris County Criminal Lawyers Association

Senator Rodney Ellis, Texas State Senator, District 13; Chairman, Senate Committee on Open Government

Representative Jessica Farrar, Texas State Representative, District 148

Robert Fickman, Past President (2006-2007), Harris County Criminal Lawyers Association

Archbishop Joseph A. Fiorenza, Archbishop Emeritus, Archdiocese of Galveston-Houston

Murray Fogler, Houston, Texas

James A. Fry, James Fry P.C. (1982-present); Assistant District Attorney, Dallas County, Texas (1980-1982); Former Chairman, Texas State Bar Grievance Committee

Linda Geffin, Former Assistant District Attorney, Harris County District Attorney's Office, and prosecutor in *Texas v. Buck* in 1997

Hon. John J. Gibbons, Judge, United States Court of Appeals for the Third Circuit (1970-1990); Chief Judge (1987-1990)

Anthony Graves, Texas death row exonoree

Vanita Gupta, ACLU Deputy Legal Director; Director, Center for Justice

Rev. Christina S. Hale, Ordained Elder of the Texas Annual Conference of the United Methodist Church

Sister Lillian Anne Healy, CCVI, Sisters of Charity of the Incarnate Word, Houston

Wade Henderson, President and CEO, The Leadership Conference on Civil and Human Rights

Cynthia Henley, Past President (2003-2004), Harris County Criminal Lawyers Association

Hon. Shirley M. Hufstedler, United States Secretary of Education (1979-1981); Judge, United States Court of Appeals for the Ninth Circuit (1968-1979)

Bishop Janice Riggle Huie, Texas Annual Conference, United Methodist Church

Joel Hunter, Senior Pastor, Northland, A Church Distributed

R. William Ide, Partner, McKenna Long & Aldridge

Benjamin Todd Jealous, President and CEO, NAACP

Howard Jefferson, National Board Member, NAACP

Rev. Robert Jefferson, Pastor, Cullen Missionary Baptist Church and Houston Ministers Against Crime

Jamila Jefferson-Jones, Assistant Professor of Law, Dwayne O. Andreas School of Law, Barry University

Representative Eric Johnson, Texas State Representative, District 100

Professor Paula C. Johnson, Syracuse University College of Law

David Jones, Houston

Grant Jones, Former District Attorney of Nueces, Kleberg, and Kenedy Counties, Texas, 1983-1991

Rabbi Samuel E. Karff, Rabbi Emeritus, Congregation Beth Israel

Charles S. Kelley, Partner, Mayer Brown, Houston, Texas

Rev. Stephen Kelly, Evangelical Lutheran Church in America, Houston

Miriam Krinsky, Assistant United States Attorney, Central District of California (1987-1988, 1990-2002) (Chief, Criminal Appellate Section (1992-2002); Chief, General Crimes Section (1991-1992)); Chair, Solicitor General's Appellate Working Group (2000-2002); Assistant United States Attorney, District of Maryland (1988-1990)

Carolyn B. Lamm, Partner, White & Case

Deborah M. Lauter, National Civil Rights Director, Anti-Defamation League

Rev. William A. Lawson, Pastor Emeritus, Wheeler Avenue Baptist Church

Denny LeBoeuf, Director, ACLU Capital Punishment Project

Lauren Sudeall Lucas, Staff Attorney, Southern Center for Human Rights

Neal S. Manne, Partner, Susman Godfrey LLP, Houston, Texas

Justin Marceau, Professor of Law, Sturm College of Law, University of Denver

Jim Marcus, Capital Punishment Clinic, University of Texas School of Law

Johnny Mata, Greater Houston Coalition for Justice

W. Troy McKinney, Past President (2002-2003), Harris County Criminal Lawyers Association

Rev. Marilyn Meeker-Williams, Senior Pastor, St. Mark's United Methodist Church

Kris Miccio, Professor of Law Sturm College of Law, University of Denver

Sam D. Millsap, Jr., Former District Attorney of Bexar County, Texas

Earl Musick, President, Harris County Criminal Lawyers Association

JoAnne Musick, Past President (2009-2010), Harris County Criminal Lawyers Association

Pastor James Nash, Houston Ministers Against Crime

Professor Kenneth B. Nunn, Professor of Law, Levin College of Law, University of Florida

Michol O'Connor, Justice, Court of Appeals, First District of Texas, 1988 - 2000, AUSA, SDTX

Jerome F. O'Neill, United States Attorney, District of Vermont (1981)

Professor Charles Ogletree, Jesse Climenko Professor of Law and Director, Charles Hamilton Houston Institute for Race and Justice

Hon. Stephen M. Orlofsky, Judge, United States District Court for the District of New Jersey (1995-2003); Magistrate Judge, United States District Court for the District of New Jersey (1976-1980)

Robert C. Owen, Capital Punishment Clinic, University of Texas School of Law

Dennis Parker, Director, ACLU Racial Justice Project

Professor Elizabeth H. Patterson, Georgetown University Law Center

H. James Pickerstein, United States Attorney, District of Connecticut (1974); Chief Assistant United States Attorney, District of Connecticut (1974-1986)

Carla D. Pratt, Associate Dean of Academic Affairs, Professor of Law, Penn State University, Dickinson School of Law

Roberta Cooper Ramo, Shareholder, Modrall Sperling

Mary Ramos, Chief of Staff, Texas LULAC

L. Song Richardson, Associate Professor Washington College of Law, American University

Bishop Michael Rinehart, Texas-Louisiana Gulf Coast Synod, Evangelical Lutheran Church in America

Ceil Roeger, OP, Promoter of Justice, Peace and Care of Creation, Dominican Sisters of Houston

Pastor David A. Roschke, Salem Evangelical Lutheran Church

Carolyn Scantlebury, Texas State NAACP Executive Committee

Stanley Schneider, Former court-appointed federal habeas counsel for Mr. Buck

Ron Sider, Founder, Evangelicals for Social Action

Catherine E. Smith, Associate Dean of Institutional Diversity and Inclusiveness; Associate Professor, Sturm College of Law, University of Denver

Neal R. Sonnett, Past President, American Judicature Society; Past President, National Association of Criminal Defense Lawyers

Jordan Steiker, Professor of Law, University of Texas School of Law

Phyllis Taylor, Surviving victim of Mr. Buck

Representative Senfronia Thompson, Texas State Representative, District 141

Michael Traynor, Berkeley, California

Representative Sylvester Turner, Texas State Representative, District 139

Reverend Richard Wahl, CSB, Roman Catholic Priest of the Congregation of St. Basil

Representative Armando Walle, Texas State Representative, District 140

James J. West, United States Attorney, Middle District of Pennsylvania (1985-1993)

Mark White, Governor of Texas, 1983-1987; Attorney General of Texas, 1979-1983; Secretary of State of Texas, 1973-1977; Assistant Attorney General of Texas, 1965-1969

Evelyn L. Wilson, Institute for Civil Rights and Justice, Southern University Law Center

Representative Gene Wu, Texas State Representative, District 173

Rev. Dr. John Wurster, Pastor, St. Philip Presbyterian Church, Houston

Ana Yáñez-Correa, Ph.D., Executive Director, Texas Criminal Justice Coalition