
September 28, 2011

Hon. Patricia Lykos
Office of the Harris County District Attorney
1201 Franklin Street, Suite 600
Houston, Texas 77002

Dear Hon. Patricia Lykos:

We write to you today, as 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, to request that you refrain from seeking an execution date in Duane Buck's case until the parties and courts have been given adequate opportunity and time to address the troubling issues in Mr. Buck's case. We believe that no one should be executed whose death sentence was based on racially-biased evidence used by the prosecution at Mr. Buck's trial. We know that you are similarly committed to ensuring that our justice system is not tainted by considerations of race.

As you know, the previous administration of 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 letter, 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 black 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 to 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.

We, the undersigned, share a common goal of establishing racial equality and fostering public confidence in the justice system. We know that you are similarly committed to ensuring that your duty to seek justice is never tainted by considerations of race. Refraining from setting an execution date for Mr. Buck until the courts have a meaningful opportunity to address the fundamental injustice in his case will help restore public confidence in the criminal justice system.

Respectfully,

Representative Alma Allen, Texas State Representative, District 131

Philip S. Anderson, Esq., Senior Counsel, Williams & Anderson PLC

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

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

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

Chris Castillo, National Outreach Coordinator, Murder Victims' Families for Reconciliation

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

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

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 Government Organization

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

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

Anthony Graves, Texas death row exonoree

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

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Professor Paula C. Johnson, Syracuse University College of Law

David Jones, Esq., Houston

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

Carolyn B. Lamm, Esq., Partner, White & Case

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

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

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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

Professor Elizabeth H. Patterson, Georgetown University Law Center

John Payton, Director-Counsel, NAACP Legal Defense & Educational Fund, Inc.

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

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

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

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

Phyllis Taylor, Surviving victim of Mr. Buck

Representative Senfronia Thompson, Texas State Representative, District 141

Michael Traynor, Esq., Berkeley, California

Representative Sylvester Turner, Texas State Representative, District 139

Representative Armando Walle, Texas State Representative, District 140

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

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