

## TESTIMONY OF GOVERNOR MARK WHITE

Submitted to the Texas House of Representatives Criminal Jurisprudence Committee Regarding H.B. 2458:  
An Act Relating to Prohibiting Seeking or Imposing the Death Penalty on the Basis of a Person's Race

April 16, 2013

As the Governor of Texas from 1983 to 1987, I oversaw 19 executions. This was a solemn responsibility that I exercised with the utmost care. I believe in the death penalty and I am a longtime supporter of it. I also believe that if we are going to carry out the ultimate punishment, we must do everything in our power to make the system fair.

That is why I support the passage of House Bill 2458, the Texas Racial Justice Act, sponsored by Representative Senfronia Thompson. H. B. 2458 would prohibit the imposition of a death sentence or execution under any judgment that was sought or obtained on the basis of race. The Racial Justice Act would provide a person who has been sentenced to death (or facing a death sentence) with an opportunity to prove – by a preponderance of the evidence – that race was a significant factor in the decision to seek or impose a death sentence in the county at the time that the sentence was sought or imposed. If a court finds that race was a significant factor in the decision to seek or impose a death sentence, it shall order the death sentence not be sought or vacate the judgment and impose a sentence of life without any possibility of parole.

We must make sure that racial discrimination does not poison our death penalty decision-making. This is what happened in Duane Buck's case.

In 1997, at Mr. Buck's capital sentencing hearing in Harris County, the prosecutor elicited and relied on testimony from an expert that Mr. Buck would pose a future danger to society because he is African American. The jury then decided Mr. Buck was a future danger, and sentenced him to death. Three years later, then-Attorney General John Cornyn acknowledged that reliance on the racially discriminatory testimony was completely unacceptable. The Attorney General promised that Mr. Buck and six other similarly-situated defendants would receive new, fair sentencing hearings. The State has kept its word in every case except Mr. Buck's.

Alarming, the racially biased testimony used in Mr. Buck's case was not the only evidence of racial discrimination in Mr. Buck's case. A new study reveals that between 1992 and 1999, the Harris County D.A.'s Office was over three times more likely to seek the death penalty against African American defendants like Mr. Buck than against white defendants. Moreover, Harris County juries were more than twice as likely to impose death sentences on African American defendants like Mr. Buck.

The way we determine punishment in the United States is with a fair trial and sentencing. Duane Buck did not receive that. His case, and other cases, shows how racial discrimination can infect Texas' courtrooms. We cannot condone any form of racial discrimination in our criminal justice system and we must act to end it. The Texas Legislature should pass H.B. 2458, the Racial Justice Act.

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