

For Immediate Release

November 7, 2011

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## **More than 60 Civil Rights and Faith Leaders, Elected Officials, Former Prosecutors, and Past ABA Presidents Call On Harris County D.A. To Provide Remedy in Case of Duane Buck**

**Death Penalty Case Tainted by Racial Bias Now in Hands of Texas State Officials, following Denial by U.S. Supreme Court**

*(Harris County, Texas; November 7, 2011)* Prominent individuals from Texas and across the country are calling on Harris County District Attorney Patricia Lykos to remedy the sentence in a death penalty case involving the government's reliance on the defendant's race at sentencing. Duane Buck was scheduled to be executed on September 15, 2011, when the U.S. Supreme Court intervened. Today, the Court denied Mr. Buck's petition for writ of *certiorari*.

At Mr. Buck's capital murder trial in 1997, the State relied upon evidence that African-Americans are more likely to be dangerous as a basis for asking his jury to sentence him to death. District Attorney Lykos now has the discretion to remedy this error.

Prominent Texans calling for District Attorney Lykos to provide a remedy include seven members of the Texas Legislature; former Texas Governor Mark White; former Bexar County District Attorney Sam Millsap and Harris County Assistant District Attorney Linda Geffin (who served as a prosecutor in Mr. Buck's case); seven Past Presidents of the Harris County Criminal Lawyers Association and current President Earl Musick; President of the Texas NAACP Gary Bledsoe; Archbishop Joseph A. Fiorenza of the Galveston-Houston Archdiocese; Pastor James Nash of Houston Ministers Against Crime; and Southwest Regional Director of the Anti-Defamation League Martin B. Cominsky.

In a letter delivered to District Attorney Lykos on September 28, 2011, the signatories wrote: "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."

Other distinguished signatories include John Payton, Director-Counsel of NAACP Legal Defense & Educational Fund, Inc.; Wade Henderson, President and CEO of The Leadership Conference on Civil and Human Rights; Deborah Lauter, National Civil Rights Director of the Anti-Defamation League; and past American Bar Association Presidents Philip Anderson, William Ide, Carolyn Lamm, and Roberta Ramo.

On May 5, 1997, Mr. Buck was convicted of capital murder in Harris County for the July 1995 shooting deaths of Debra Gardner and Kenneth Butler. A third person, Phyllis Taylor, was shot but survived her wound. Ms. Taylor is also a signatory to the attached letter. She has forgiven Mr. Buck and does not wish to see him executed.

During Mr. Buck's trial, the prosecutor relied on evidence from psychologist Walter Quijano that being an African-American increased the likelihood one would be dangerous in the future. In its closing argument, the government vouched for the credibility of Dr. Quijano's opinion and urged the jury to rely on it to find that Mr. Buck would be dangerous. The jury found him to be a future danger and he was sentenced to death. As Justice Sotomayor noted in her dissent from the denial of *certiorari*, "the prosecution invited the jury to consider race as a factor in sentencing."

On June 9, 2000, while Mr. Buck's case was pending on appeal, then-Attorney General of Texas John Cornyn issued a press release acknowledging error in the cases of six individuals whose death sentences had been unconstitutionally based on the government's reliance on race as a factor in sentencing. The Attorney General identified Mr. Buck's case as one of those six cases. He further stated that Texas would not contest federal appeals in those cases, and stated that if the attorneys for the identified defendants raised claims challenging the government's reliance on race at sentencing, the Attorney General would waive all procedural defenses available to it.

Despite this concession, Mr. Buck is the only defendant of the six identified by Mr. Cornyn who has not been granted a new sentencing trial free from the government's reliance on his race as a basis for requesting a death sentence.

"The use of race in sentencing poisons the legal process and breeds cynicism in the judiciary," the letter to District Attorney Lykos reads. "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."

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