

BEFORE THE GOVERNOR FOR THE STATE OF TEXAS

AND

THE TEXAS BOARD OF PARDONS AND PAROLES

In re

ROBERT EARL CARTER

Applicant

**APPLICATION FOR REPRIEVE
FROM EXECUTION OF DEATH SENTENCE AND
COMMUTATION OF SENTENCE TO IMPRISONMENT FOR LIFE**

SUBMITTED BY:

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I. INTRODUCTION

The case of Robert Earl Carter is a perfect example of the system's complete and utter failure to give Texas' indigent citizens "full access to the courts." Mr. Carter sits on death row today based upon an unconstitutional sentencing process and an appellate experience which would shock even the most ardent death penalty advocate. Mr. Carter's trial was plagued by prosecutorial misconduct; his sentencing jury was unconstitutionally influenced by the prosecutor's misconduct; and his appellate rights have been horribly crippled by the state's appointment of unqualified, unethical, and irresponsible attorneys. Mr. Carter has effectively been denied access to the courts, and his case demands the intervention of the Governor and this Board.

II. STATEMENT OF THE CASE

A. Statements Required by 37 TAC §143.42:

1. Name of Applicant

Robert Earl Carter

2. Identification of Agents Presenting Application:

Bill Whitehurst, attorney for Mr. Carter

3. Copies of Indictment, Verdict, Judgment, Sentence and Execution Date:

Attached as Appendix tabs 1-5.

4. Statement of the Offense

Mr. Carter was indicted by a Burleson County grand jury for the deaths of six persons -- Bobbie Davis, Nicole Davis, Lea Erin Davis, Brittany Davis, Jason Davis, and Denitra Davis -- which occurred during a single criminal transaction in August of 1992.

Mr. Carter, who had never before been arrested or convicted of any crime, let alone a felony offense, pled not guilty.

5. Appellate History

On February 8, 1995, a jury in Bastrop County, Texas, convicted Robert Earl Carter of capital murder. (XXI R. 520).¹ Although the results of the punishment hearing that followed Mr. Carter's conviction were uncertain,² the trial court assessed punishment at death. (I R. 93-94; XXII R. 635); *see* TEX. CODE CRIM. PROC. ANN. art. 37.071, § 2(g) (Vernon Supp. 1998).

On February 28, 1994, an attorney named Walter Prentice was appointed to represent Mr. Carter in his direct state appeal. During the time in which he was representing Mr. Carter, Mr. Prentice's law license was suspended. *See* State Bar of Texas Press Release, attached as Appendix, tab 6. He did manage to file an appellate brief on Mr. Carter's behalf, which was supplemented by another brief filed by attorney Mary Hennessy, who was appointed temporarily to Mr. Carter's case when Mr. Prentice's license was suspended. However, on May 8, 1996, the Texas Court of Criminal Appeals affirmed Mr. Carter's conviction in an unpublished opinion. *See Carter v. State*, No. 71,836 (Tex. Crim. App., delivered May 8, 1996). Joel Shearer, an attorney in Bastrop, was next appointed to represent Mr. Carter on his state habeas

¹ "R" refers to the record on Carter's state trial. The Roman Numeral preceding the "R" references the volume and the number after the "R" references the page.

² The jury, in accordance with the court's instructions for if they could not agree, announced that they had reached a verdict and returned with two of the special issues blank during the punishment phase of Mr. Carter's trial. Although the result should have been the imposition of a life sentence, the trial judge rejected that result and simply told the jurors that they had "not completed [their] job," sending them back for further deliberations. XXII R. 628-31. The jury eventually "completed [their] job" to the satisfaction of the trial court by returning with all three blanks on the special issues filled in, and the trial judge assessed punishment at death in accordance with this second verdict. I R. 93-94; XXII R. 635. The constitutionality of the trial court's actions is one issue pending before the Supreme Court.

appeal. On October 6, 1997, Mr. Shearer, apparently without conducting any investigation into the facts surrounding Mr. Carter's arrest, indictment, conviction or sentencing, filed an *unsigned*, skeletal state application for writ of habeas corpus on Carter's behalf, **the substance of which consisted of only two pages** (the third page of the application consisted solely of a signature block). *See* Appendix, Tab 7. Not surprisingly, the petition was denied without written order by the Court of Criminal Appeals on November 18, 1997. *See Ex parte Carter*, Application No. 8003-A.

Mr. Carter filed his case in the United States District Court for the Northern District of Texas, Fort Worth Division, on February 2, 1998; the case was transferred to the United States District Court for the Western District of Texas, Austin Division, on February 3, 1998.

On February 18, 1998, undersigned counsel, Bill Whitehurst, was appointed to represent Mr. Carter for purposes of his federal habeas appeal. Because Mr. Whitehurst does not regularly practice criminal law, he moved for the appointment of co-counsel. This Motion was denied on June 3, 1998. On August 28, 1998, Mr. Whitehurst filed a petition for writ of habeas corpus on Mr. Carter's behalf in federal district court. On March 18, 1999, the federal district court entered its Order denying Mr. Carter's Writ of Habeas Corpus and granting Respondent's Motion for Summary Judgment. *See Carter v. Johnson*, No. A-98-CA-067 SS (W.D. Tex. Mar. 18, 1999) (opinion and order at p.1).

On April 16, 1999, Mr. Carter filed his Application for Certificate of Appealability with the district court on two appellate issues; his Notice of Appeal was timely filed on the same day. On April 26, 1999, the district court entered its Order granting Mr. Carter's request for certificate of appealability as to both of Mr. Carter's appellate issues. *See Carter v. Johnson*, No. A-98-CA-067 SS (W.D. Tex. April 26, 1999).

On June 14, 1999, Mr. Carter filed his appellate brief in the Fifth Circuit. The Fifth Circuit filed its judgment and opinion order affirming the district court's denial of Mr. Carter's writ of habeas corpus on November 2, 1999. *See Carter v. Johnson*, No. 99-50392, slip op. (5th Cir. November 2, 1999) (per curiam). Mr. Carter timely filed a Petition for Panel Rehearing, pursuant to Federal Rule of Appellate Procedure 40, which was denied on December 22, 1999. *See Carter v. Johnson*, No. 99-50392, Order (5th Cir. December 22, 1999) (per curiam). The mandate was issued in Mr. Carter's case by the Fifth Circuit on December 30, 1999. *See Carter v. Johnson*, No. 99-50392, Order (5th Cir. December 30, 1999) (per curiam).

Mr. Carter filed a Petition for Writ of Certiorari and an Application for Stay of Execution in the United States Supreme Court on March 20, 2000. Both the Petition and Application are still currently pending in the Supreme Court.

Mr. Carter's execution date is currently scheduled for May 31, 2000.

6. Statement of the Legal Issues Raised on Appeal

Mr. Carter has asserted a number of constitutional challenges to the validity of his conviction and death sentence. The major claims raised on appeal include (but are not limited to) the following:

- a. The trial court erred in failing to give a jury instruction to correct the prosecutorial misconduct which provided the jury with inaccurate parole information.
- b. The trial court erred by unconstitutionally forcing the jury to continue deliberating after it had reached a result which mandated the imposition of a life sentence.
- c. The appellate courts erred in failing to consider the circumstances and facts surrounding claims upon which a certificate of appealability had properly issued.

7. & 8. Requested Length of Duration of the Reprieve and Grounds Upon the Basis of Which the Reprieve is Requested.

Due to the facts that: (1) the Supreme Court has yet to act on Carter's Petition for Writ of Certiorari; (2) counsel for Mr. Carter will soon be filing a supplemental Petition with the Supreme Court based on an opinion recently handed down by that Court on another case which affects Mr. Carter's case; and (3) there is a possibility that the Supreme Court will enter into its summer recess before making a decision on Mr. Carter's case, undersigned counsel on behalf of Mr. Carter respectfully petitions the Board and the Honorable George Bush for a reprieve of 120 days to allow Mr. Carter sufficient time to exhaust his appellate remedies and to allow the Board to convene a hearing to consider evidence and argument in support of this application. In the alternative, Mr. Carter and his counsel would respectfully request a reprieve of 30, 60, or 90 days, which will at least increase the possibility that Mr. Carter will have the opportunity to exhaust his appellate remedies, receive a stay of execution from the Supreme Court, and/or conduct further investigation into the grounds of his clemency petition before his life is irreparably taken.

9. Victim Impact Statement

Out of respect for the Davis family's privacy, undersigned counsel has not attempted to contact them directly, and thus cannot convey in any detail the undoubtedly profound impact of their loss.

III. REASONS WHY CLEMENCY OR A REPRIEVE SHOULD BE GRANTED

A. The Inadequacy of Mr. Carter's Appointed Appellate Representation Has Denied Him Meaningful Access to the Courts.

Due to the obviously irreversible nature of the death penalty, one would think that the attorneys appointed to represent an indigent death row inmate such as Robert

Carter would be at least minimally qualified to undertake the challenging and important task of representing Mr. Carter in the fight for his life. Nothing could be further from the truth in this case. The attorney appointed to represent Mr. Carter on direct appeal, Walter Prentice, had his law license suspended for two years during the pendency of Mr. Carter's direct state appeal because he "neglected a legal matter; failed to carry out completely the obligations owed to the client; failed to keep the client reasonably informed about the status of the matter; knowingly disobeyed an obligation under the standing rules of or a ruling by a tribunal; and engaged in conduct constituting obstruction of justice." See State Bar of Texas press release, Appendix, Tab 6. Joel Shearer, Mr. Carter's appointed state habeas attorney, filed a three-page, unsigned habeas application in the state court raising superficial, inadequately-briefed claims that reflected no substantive investigation into the case, despite the fact that Mr. Carter's state habeas proceedings were his only window of opportunity for investigating and raising claims outside the trial record. For example, Mr. Shearer failed to uncover facts that a modicum of investigation would have revealed: that the jury that sentenced Robert to death did so in part because they believed -- at the prosecutor's urging -- that giving Mr. Carter a life sentence would mean he could be released in as few as seven years.³ See discussion in part III(B), *infra*. Mr. Shearer's law license is currently not in good standing with the Texas Bar. Even Mr. Carter's present counsel, the undersigned, who was appointed to represent Mr. Carter on his federal habeas appeal, does not regularly practice criminal law and has never represented a client in a habeas corpus appeal. Although present counsel requested from the federal court appointment of co-counsel more familiar with criminal appeals, this request was denied.

³ The law in effect at the time of Mr. Carter's sentencing would have required that Mr. Carter, if given a life sentence, serve at least 35 years before he was eligible for parole.

Capital inmates seeking to pursue post-conviction relief in the state courts are entitled to the appointment of "competent counsel." See TEX. CODE CRIM. PROC. Art. 11.071 Sec. 2(d). The difficulty and complexity of habeas corpus law and procedure is widely recognized. See *McFarland v. Scott*, 114 S.Ct. 2568, 2571-72 (1994). In the federal system, this recognition resulted in the standards for appointed counsel set out in 21 U.S.C. §848(q)(9), and guidelines which encourage the appointment of two attorneys in all federal capital habeas corpus appeals. See *Guide to Judiciary Policies and Procedures: Representation in Federal Capital Cases and in Death Penalty Federal Habeas Corpus Proceedings, Chapter VI, Appointment of Counsel in Capital Cases* §6.01(A). 21 U.S.C. § 848(q) also encourages the appointment of at least one attorney with "not less than three years experience in the handling of appeals in that court in felony cases."

Yet despite the well-recognized challenges of habeas corpus litigation, Texas' own statute requiring the appointment of "competent" counsel, and the federal guidelines encouraging the appointment of two attorneys in federal habeas corpus appeals (one of which should have at least three years' experience in handling felony appeals in federal court), the state repeatedly appointed Mr. Carter inexperienced and, in the case of his state habeas attorney, wholly inadequate counsel who completely failed to protect his rights. It shocks the conscience to know that two of Mr. Carter's four appointed appellate attorneys charged with protecting the rights of Mr. Carter before the State determined that it was proper to take his life have either been disciplined by or are not in good standing with the State Bar. Because the issues which Mr. Carter could raise in his federal habeas appeal were strictly limited to the issues raised by his appellate attorneys in the state courts, these same two attorneys determined the course and limitations of Mr. Carter's entire appellate process. Mr. Carter's failure to receive

adequate appellate counsel denied him the "full access to the courts" required to ensure that inmates are not put to death without appropriate safeguards. Mr. Carter's case requires the intervention of this Board and the Honorable Governor.

B. Prosecutorial Misconduct During Carter's Trial Improperly Influenced the Jury's Deliberations.

The failures of Mr. Carter's appellate counsel -- and in particular, his state habeas counsel -- become even more egregious in light of the facts which that counsel failed to uncover during Mr. Carter's only opportunity to do so. During his federal habeas appeals, Mr. Carter has consistently raised the issue that blatant prosecutorial misconduct during the trial of his case improperly led the jurors who sentenced him to believe that if they gave him a life sentence, he would be eligible for parole in seven years (at the time of Carter's trial, persons given a life sentence for capital murder were required to serve at least 35 years before becoming eligible for parole. *See* TEX. CODE CRIM. PROC. ANN. art. 42.18 sec. 8(b)(2) (repealed 1997) (current version at TEX. GOV'T CODE ANN. § 508.145(b)). Despite the fact that it was improper for the prosecutor to even mention parole to the jurors, the prosecutor repeatedly injected inaccurate information regarding parole eligibility into Mr. Carter's trial and encouraged the jurors to consider it. (XV R. 685-86, 715, 792, 1073, 1309). The prosecutor mentioned parole to the following venirepersons, all of whom sat on the jury panel in Carter's trial:

(a) **Vernon Harvey Jensen:**

JUROR: Well, the case you've been just describing, I wouldn't have no problem with the death penalty there.

PROSECUTOR: All right.

JUROR: Because you put them in prison and in a few years they're going to be out on the street again.

PROSECUTOR: All right, sir. You understand that Texas -- that Texas is not one of those states that has life without parole?

JUROR: Right. That's what I'm saying.

PROSECUTOR: **And in other words, at some point in time every murderer that's sent to prison for life has a possibility of getting out.**

JUROR: True. (XVI R. 1073) (emphasis added).

(b) **James Frederick Zeman, Jury Foreman:**

PROSECUTOR: "In the state of Texas, just to clear up so you will understand, some states have life without parole. Texas is not one of those states. **Texas does in fact provide for parole of anyone.** There's no guarantee that that person will be paroled. However, **considering overcrowding and considering the fact the legislature could change that law at any time** as to what the parole laws would be. **But just so you understand that a person sentenced to life can be at some point paroled out in Texas and that part of it.**" (XV R. 792) (emphasis added).

(c) **Thomas Archie Whetstone:**

PROSECUTOR: "One other thing that I do need to mention to you that I think is significant and that is that in Texas law if a person does receive life there is no such thing as life without parole. There is in some states. Texas is not one of those states. **So a person that receives life in a capital murder case has a possibility of getting out at some time on parole irrespective of how long it may be.** Right now there's a certain number of years. Obviously, legislature can change that at any time. But with **prison overcrowding and this type of situation, something to take into consideration.**" (XV R. 685-86) (emphasis added).

(d) **Joe Berry Townsend:**

PROSECUTOR: "You understand also that Texas -- the alternatives in a capital murder case are either life or death. I want you to understand that **Texas parole laws do not provide for parole -- life without parole.** Texas doesn't have that. In other words, **it is possible for anyone sentenced to life in the state of Texas to get out of prison at some point in time.** You understand that?"

(JUROR nods affirmatively)

PROSECUTOR: You also understand that the Texas legislature can change the parole laws at any time?

(JUROR nods affirmatively)

PROSECUTOR: In fact, the prison overcrowding gets so bad they can change the parole laws at any time?

(JUROR nods affirmatively)

PROSECUTOR: In fact, the prison overcrowding gets so bad they can say we can parole you out after x-number of years and that's always a possibility. But just understand that is something that does exist." (XV R. 715) (emphasis added).

(e) **Jeanne Leigh Creagh:**

JUROR: Do we have life in prison in Texas?

PROSECUTOR: We have life in prison in Texas. Yes, ma'am. There are -- there are provisions in Texas, depending on the temperature of the legislature, for parole and things like that. There's not life without parole in Texas.

JUROR: That's what I meant.

PROSECUTOR: What parole means in Texas is best left undefined, because who knows. (XVII R. 1309) (emphasis added).

The federal district court, when considering the prosecutor's statements in the context of Mr. Carter's federal habeas appeal, agreed that the statements were "improper" and characterized their use as "misconduct." See *Carter v. Johnson*, No. A 98-CA-067 SS (W.D. Tex. Mar. 18, 1999)(opinion and order at p. 6)

At the conclusion of the case, Carter requested that the jury be instructed that he would have to serve a minimum of 35 years imprisonment, pursuant to TEX. CODE CRIM. PROC. ANN. art. 42.18 sec. 8(b)(2) (repealed 1997) (current version at TEX. GOV'T CODE ANN. § 508.145(b)), before he would be eligible for consideration of parole. (XXII R.

610-11). In Carter's case, this information would have informed the jury that Carter, who had no prior history of violence, would have been at least 63 years old before being eligible for parole. However, despite the prosecutor's flagrant transgressions and United States Supreme Court caselaw which shed considerable doubt upon the constitutionality of denying such an instruction,⁴ the trial court denied Carter's request. Of note is the fact that, since Mr. Carter's trial, the Texas legislature has since seen fit to pass a law requiring the trial court to give an instruction such as the one requested by Carter in all capital cases upon the request of the defendant's attorney. *See* TEXAS CODE OF CRIMINAL PROCEDURE Article 37.031 (as amended, effective September 1, 1999).

In support of Mr. Carter's claims on this issue, Mr. Carter's present counsel was able, with minimal effort, to obtain an affidavit from the man who served as the foreman of Mr. Carter's sentencing jury, James Frederick Zeman. Mr. Zeman's affidavit confirms that "the issue of parole...was extensively discussed" by the jury throughout their deliberations at the punishment phase of Mr. Carter's trial; that the jurors "believed that a life sentence would mean that Mr. Carter would serve only seven (7) years before becoming eligible for parole"; and that, because of this belief, the jury was "more inclined to answer the special issue questions in such a way that the death penalty would be imposed against Mr. Carter." *See* affidavit, attached as Appendix, Tab 8.

Despite these startling insights into the jury's confusion during Mr. Carter's sentencing proceeding, however, the federal courts have consistently declined to consider Mr. Zeman's affidavit because Mr. Carter's state habeas attorney did not

⁴ *See Gardner v. Florida*, 430 U.S. 349 (1977)(stating that due process does not allow the execution of a person "on the basis of information which he had no opportunity to deny or explain"); *Simmons v. South Carolina*, 512 U.S. 154 (1994)(holding that prosecutors "may not mislead the jury by concealing accurate information about the defendant's parole ineligibility."); *Brown v. Texas*, 118 S.Ct. 355 (1997)(four Supreme Court justices state that Texas' failure to require an instruction such as the one requested by Carter "unquestionably tips the scales in favor of a death sentence that a fully informed jury might not impose."

present the information to the state courts. *See Carter v. Johnson*, No. 99-50392, slip op. at p. 8 (5th Cir. November 2, 1999) (per curiam); *Carter v. Johnson*, No. A 98-CA-067 SS (W.D. Tex. Mar. 18, 1999)(opinion and order at p. 7). However, state caselaw also prevents Mr. Carter from bringing the affidavit back to the state courts while his federal habeas claim is pending. *See Ex Parte McNeil*, 588 S.W.2d 592 (Tex. Crim. App. 1979). Furthermore, even after Mr. Carter's federal habeas appeal has been completed, Mr. Carter may still be prevented from bringing this evidence before the state courts because state law requires that successive habeas petitions in state court must meet extremely stringent criteria before they will be considered, including a showing that the claims and issues presented in the successive petition "could not have been presented previously in a timely initial application...." *See* Tex. Code. Crim. Proc. art. 11.071 § 5. Accordingly, the complete incompetence of Mr. Carter's appointed state habeas counsel effectively nullified Mr. Carter's ability to bring this crucial piece of information before the courts. Indeed, to allow Robert Carter's execution in the face of the prosecutor's blatant misconduct and the fact that Mr. Carter's state habeas attorney so egregiously and irresponsibly hampered Mr. Carter's ability to successfully raise this misconduct claim in the courts would make a mockery of the system of justice upon which we must rely before taking another life.

CONCLUSION

Without the intervention of this Board, Mr. Carter may be put to death despite the profound questions surrounding his sentencing and the total inadequacy of his appointed appellate representation. Robert Carter has been denied access to the courts, and today, the Governor and the Board may be the only forum able to fully consider the ramifications of Mr. Carter's situation. Thus, Robert Carter respectfully requests that

this Board of Pardons and Paroles recommend, and that the Governor grant, a reprieve as requested above and commutation of his sentence of death to life imprisonment. The failures of our criminal justice system should not be the basis upon which the unconstitutional execution of Robert Carter rests.

REQUEST FOR NOTIFICATION OF HEARING

In processing this clemency application, Mr. Carter requests that the Board of Pardons and Paroles comply in all respects with the Texas Open Meetings Act, Article 6252-17. The undersigned hereby requests notification of the setting of any hearing pertaining to this matter pursuant to Texas Administrative Code, Rule 143.43(g).

Respectfully submitted,

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**APPENDIX TO PETITION FOR CLEMENCY
OF ROBERT EARL CARTER**

<u>Tab #</u>	<u>Document</u>
1	Indictment
2	Verdict
3	Trial Court Judgment
4	Sentence of Death Prior to Appeal
5	Order Setting Execution
6	State Bar of Texas Press Release regarding Walter Prentice
7	State Writ of Habeas Corpus filed on behalf of Robert Earl Carter
8	Affidavit of James Zeman

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The Grand Jurors for the County of BURLESON, State of Texas, duly selected, impaneled, sworn, charged and organized as such at the May Term, A. D. 1992, of the Twenty-First Judicial District Court of said County, upon their oaths present in and to said Court, that ROBERT EARL CARTER, on or about the 13th day of August, A. D. 1992, and before the presentment of this indictment, in said

County and State, did then and there intentionally and knowingly cause the death of an individual, namely Bobbie Joyce Davis by stabbing the said Bobbie Joyce Davis multiple times with a knife in the head, neck and breast, and did then and there intentionally and knowingly cause the death of another individual, namely, Nicole Davis by shooting the said Nicole Davis five times in the head with a firearm, and did then and there intentionally and knowingly cause the death of another individual, namely Lea'Erin Davis by stabbing the said Lea'Erin Davis with a knife in the heart, and did then and there intentionally and knowingly cause the death of another individual, namely Brittany Davis by stabbing the said Brittany Davis multiple times with a knife in the head, spleen and stomach, and did then and there cause the death of another individual, namely, Jason Davis by stabbing the said Jason Davis multiple times with a knife in the head, chest and back, and did then and there intentionally and knowingly cause the death of another individual, namely Denitra Davis by stabbing the said Denitra Davis multiple times with a knife in the head, lungs and heart, and all six murders were committed during the same criminal transaction,

AGAINST THE PEACE AND DIGNITY OF THE STATE.

7 William M. Bradder
Foreman of the Grand Jury.

THE STATE OF TEXAS

*

IN THE DISTRICT COURT

VS.

*

21ST JUDICIAL DISTRICT

ROBERT EARL CARTER

*

BASTROP COUNTY, TEXAS

FORMS OF VERDICT

We, the Jury, find the defendant, Robert Earl Carter, Not Guilty.

Presiding Juror

We, the Jury, find the defendant, Robert Earl Carter, guilty of the offense of Capital Murder as charged in the indictment.

James F. Roman

Presiding Juror

FILED 1:22P M
DATE 2-8-94
LaNelle Hibbs
District Clerk, Bastrop County

ORIGINAL

CAUSE NO. 8,003

THE STATE OF TEXAS () IN THE 21ST JUDICIAL
VS. () DISTRICT COURT OF
ROBERT EARL CARTER () BASTROP COUNTY, TEXAS.

Members of the Jury:

By your verdict returned in this case, you have found the defendant, ROBERT EARL CARTER, guilty of the offense of capital murder which was alleged to have been committed on or about the 13th day of August, 1992, in Burleson County, Texas. It is necessary, now, for you to determine, from all the evidence in the case, the answers to certain questions, called "Special Issues," in this charge. The Court instructs you further, however, as follows:

The mandatory punishment for capital murder is death or confinement in the penitentiary for life.

In determining your answers to the questions, or Special Issues, submitted to you, you shall consider all the evidence submitted to you in this whole trial, which includes that phase of the trial wherein you were called upon to determine the guilt or innocence of the defendant, and this punishment phase of the trial wherein you are now called upon to determine the answers to Special Issues submitted to you by the Court. However, in this punishment phase of the trial you should not consider the instructions given you in the first phase of trial that relate to the law

of parties and the responsibility of parties for the acts of others in the commission of offenses. You shall consider only the conduct and state of mind of this defendant in determining what your answers to the Special Issues shall be.

You shall consider all evidence submitted to you during the whole trial as to the defendant's background or character or the circumstances of the offense that militates for or mitigates against the imposition of the death penalty.

You are instructed that when you deliberate on the questions posed in the Special Issues, you are to consider all relevant mitigating circumstances, if any, supported by the evidence presented in both phases of the trial, whether presented by the State or the defendant. A mitigating circumstance may include, but is not limited to, any aspect of the defendant's character, background, record, emotional instability, intelligence or circumstances of the crime which you believe could make a death sentence inappropriate in this case. If you find that there are any mitigating circumstances in this case, you must decide how much weight they deserve, if any, and thereafter, give effect and consideration to them in assessing the defendant's personal culpability at the time you answer the Special Issue. If you determine, when giving effect to the mitigation evidence, if any, that a life sentence, as reflected by an affirmative finding to the issue under consideration, rather

than a death sentence, is an appropriate response to the personal culpability of the defendant, an affirmative finding should be given to that Special Issue under consideration.

You are further instructed that you are not to be swayed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling in considering all the evidence before you and in answering the Special Issues.

You are instructed that the defendant may testify in his own behalf if he chooses to do so, but if he elects not to do so, that fact cannot be taken by you as a circumstance against him nor prejudice him in any way. The defendant has elected not to testify in this punishment phase of trial, and you are instructed that you cannot and must not refer to or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever.

It is not required that the prosecution prove these

issues beyond all possible doubt; it is required that the prosecution's proof excludes all "reasonable doubt" concerning the defendant.

A "reasonable doubt" is a doubt based on reason and common sense after a careful and impartial consideration of all the evidence in the case. It is the kind of doubt that would make a reasonable person hesitate to act in the most important of his own affairs.

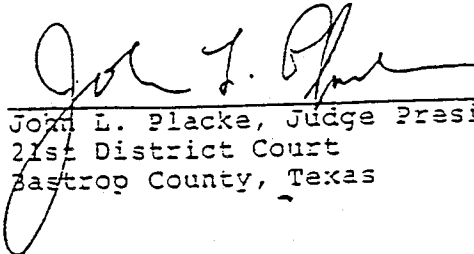
Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own affairs.

During your deliberations, you are not to consider or discuss any possible action of the Board of Pardons and Paroles Division of the Texas Department of Criminal Justice or of the Governor, or how long the defendant would be required to serve to satisfy a sentence of life imprisonment.

During your deliberations upon the following Special Issues, you must not consider, discuss, nor relate any matters not in evidence before you. You should not consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.

You are the exclusive judges of the facts proved and the credibility of the witnesses and the weight to be given to their testimony, but you are bound to receive the law

from the Court which has been given you and you are bound
thereby.


John L. Placke, Judge Presiding
21st District Court
Bastrop County, Texas

FILED 10:50 AM
DATE 2-11-94
LaNelle Hibbs
District Clerk, Bastrop County

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The burden of proof in Special Issue No. 1 rests upon the State and it must prove the affirmative of such issue beyond a reasonable doubt.

You are instructed that you may not answer Special Issue No. 1 "Yes" unless all jurors agree to such answer. Further, the jury may not answer the Special Issue "No" unless ten (10) or more jurors agree. It is not necessary that members of the jury agree on what particular evidence supports a negative answer, that is, an answer of "No", to Special Issue No. 1.

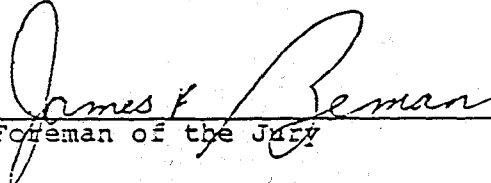
Special Issue No. 1, with forms for answers is as follows:

SPECIAL ISSUE NO. 1

Is there a probability that the defendant, ROBERT EARL CARTER, would commit criminal acts of violence that would constitute a continuing threat to society?

ANSWER

We, the jury, unanimously find and determine beyond a reasonable doubt that the answer to this Special Issue is "Yes."


James K. Beman
Foreman of the Jury

OR

We, the jury, because at least ten (10) jurors have a reasonable doubt as to the probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society, determine that the answer to

this Special Issue No. 1 is "No."

Foreman of the Jury

OR

In the event the jury is unable to agree upon an answer to Special Issue No. 1 under the conditions and instructions outlined above, the Foreman will not sign either form of answer to the Special Issue.

The burden of proof in Special Issue No. 2 rests upon the State and it must prove the affirmative of such issue beyond a reasonable doubt.

You are instructed that you may not answer Special Issue No. 2 "Yes" unless all jurors agree to such answer. Further, the jury may not answer the Special Issue "No" unless ten (10) or more jurors agree. It is not necessary that members of the jury agree on what particular evidence supports a negative answer, that is, an answer of "No" to Special Issue No. 2.

Special Issue No. 2, with forms for answers, is as follows:

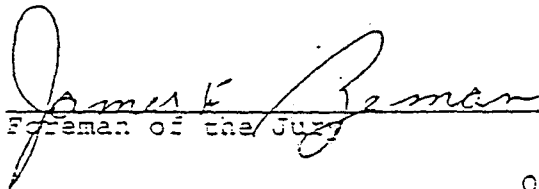
SPECIAL ISSUE NO. 2

Do you find from the evidence beyond a reasonable doubt that ROBERT EARL CARTER, the defendant himself, actually caused the death of Bobbie Joyce Davis, Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis, the deceased, on the occasion in question, or if he did not actually cause the death of Bobbie Joyce Davis,

Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis, that he intended to kill Bobbie Joyce Davis, Nicole Davis Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis or another, or that he anticipated that human lives would be taken?

ANSWER

We, the jury, unanimously find and determine beyond a reasonable doubt that the answer to this Special Issue is "Yes."


Foreman of the Jury

OR

We, the jury, because at least ten (10) jurors have a reasonable doubt that ROBERT EARL CARTER, the defendant himself, actually caused the death of Bobbie Joyce Davis, Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis, the deceased, on the occasion in question, or if he did not actually cause the death of Bobbie Joyce Davis, Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis, that he intended to kill Bobbie Joyce Davis, Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis or another, or that he anticipated that human lives would be taken, determine that the answer to this Special Issue No. 2 is

"No."

Foreman of the Jury

In the event the jury is unable to agree upon an answer to Special Issue No. 2 under the conditions and instructions outlined above, the Foreman will not sign either form of answer to the Special Issue.

If you have answered the foregoing Special Issue No. 2 "Yes" then you will answer the following Special Issue No. 3 below:

You will answer this Special Issue "Yes" or "No."

You may not answer the issue "No" unless all jurors agree to such answer and you may not answer such as "Yes" unless ten (10) or more jurors agree to such answer.

SPECIAL ISSUE NO. 3

Taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, do you find that there is sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed?

The jury, however, need not agree on what particular evidence supports an affirmative finding on this Special Issue.

ANSWER

We, the jury, unanimously find and determine that the

answer to this Special Issue is "No."

James P. Berman
Foreman of the Jury

OR

We, the jury, because at least ten (10) jurors find that there is sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed, answer this Special Issue No. 3 "Yes."

You are instructed that the term "mitigating evidence" or "mitigating circumstances" means evidence that a juror might regard as reducing the defendant's moral blameworthiness.

Foreman of the Jury

In the event that the jury is unable to agree to an answer to this Special Issue No. 3 under the conditions and instructions given herein, the Foreman will not sign either form of answer to the Special Issue.

VERDICT

We, the jury, return in open court the above answers to the Special Issues submitted to us, and the same is our verdict in this case.

James P. Berman
Foreman of the Jury

NO. 8003

THE STATE OF TEXAS) (IN THE 21ST DISTRICT COURT
VS.) (OF
ROBERT EARL CARTER.) (BASTROP COUNTY, TEXAS.

On Change of Venue from Burleson
County, Texas

JUDGMENT

On this the 2nd day of February A.D. 1994, this cause was called for trial, and the State appeared by her District Attorney, and the defendant, ROBERT EARL CARTER, appeared in person in open court, his counsel, Dain Whitworth also being present, and the said defendant having been duly arraigned, entered a plea of NOT GUILTY to the charge contained in the indictment herein, both parties announced ready for trial, and thereupon a jury was selected and seated consisting of James F. Zeman and eleven others who were duly sworn. Thereupon the indictment was read and the defendant entered his plea of NOT GUILTY to the following charge contained in the indictment and read to the jury by the State: Capital Murder.

All of the evidence was presented by both the State and the Defendant and the charge was read to the jury by the Court and thereupon the jury heard the arguments of both sides and retired in charge of the proper officer to consider of their verdict and afterward were brought into open court by the proper officer, the defendant and his counsel being present, and returned the following verdict which was received by the Court and is here now entered upon the minutes of the Court, to-wit:

FILED 3:30 P M
DATE 2-18-94
LaNelle Hibbs
District Clerk, Bastrop County

"We, the jury, find the defendant, ROBERT EARL CARTER, guilty of the offense of capital murder, as alleged in the indictment.

Signed James F. Zeman
Foreman"

And on this the 11th day of February A.D. 1994, this cause being again called, the State appeared by her District Attorney and the defendant, ROBERT EARL CARTER appeared in person, his counsel also being present, and the same jury being called to assess the punishment, evidence was presented to the same jury in the matter of assessing punishment. The same jury after hearing all the evidence presented by the State and the defendant for the purpose of assessing punishment, and after having heard argument of counsel, again retired in charge of the proper officer to consider of the verdict, and afterward were again brought into court by the proper officer, the defendant and his counsel being present, and in due form of law returned into open court the following verdict, which was received by the Court and is here now entered upon the minutes of the Court, to-wit:

"SPECIAL ISSUE NO. 1

Is there a probability that the defendant, ROBERT EARL CARTER, would commit criminal acts of violence that would constitute a continuing threat to society?

ANSWER

We, the jury, unanimously find and determine beyond a reasonable doubt that the answer to this Special Issue is "Yes."

Signed James F. Zeman
Foreman of the Jury

SPECIAL ISSUE NO. 2

Do you find from the evidence beyond a reasonable doubt that ROBERT EARL CARTER, the defendant himself, actually caused the death of Bobbie Joyce Davis, Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis, the deceased, on the occasion in question, or if he did not actually cause the death of Bobby Joyce Davis, Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis, that he intended to kill Bobbie Joyce Davis, Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis or another, or that he anticipated that a human life would be taken?

ANSWER

We, the jury, unanimously find and determine beyond a reasonable doubt that the answer to this Special Issue is "Yes."

Signed James F. Zeman
Foreman of the Jury

SPECIAL ISSUE NO. 3

Taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, do you find that there is sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed?

The jury, however, need not agree on what particular evidence supports an affirmative finding on this Special Issue.

ANSWER

We, the jury, unanimously find and determine that the answer to this Special Issue is "No."

Signed James F. Zeman
Foreman of the Jury

VERDICT

We, the jury, return in open court the above answers to the Special Issues submitted to us, and the same is our verdict in this case.

Signed James F. Zeman
Foreman of the Jury"

It is therefore CONSIDERED and ADJUDGED by the Court that the defendant, ROBERT EARL CARTER, is guilty of the offense of capital Murder as found by the jury, and the jury having further answered that there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society and that the defendant himself, actually caused the death of Bobbie Joyce Davis, Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis, the deceased, on the occasion in question, or that if he did not actually cause the death of Bobbie Joyce Davis, Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis, that he intended to kill Bobbie Joyce Davis, Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis or another, or that he anticipated that a human life would be taken and that taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, that there is no sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed; and the law providing that on such jury finding the Court shall assess the death penalty to the defendant;

It is, therefore, the Order of the Court that the defendant be punished by having the death penalty assessed against him.

The Defendant is now remanded to the custody of the Sheriff of Burleson County, Texas, to be transported to the Institutional Division of the Texas Department of Criminal Justice at Huntsville, Texas, there to await the action of the Court of Criminal Appeals and

the further orders of this Court.

Entered this the 18 day of Feb, 1994.

John T. P. [Signature]
Judge Presiding

NO. 8003

THE STATE OF TEXAS) (IN THE 21ST DISTRICT COURT
VS.) (OF
ROBERT EARL CARTER.) (BASTROP COUNTY, TEXAS.

SENTENCE OF DEATH PRIOR TO APPEAL

On this 11th day of February, 1994, this cause being again called, the State appeared by her District Attorney, and the Defendant, ROBERT EARL CARTER, was brought into open Court in person in the charge of the Sheriff, for the purpose of having the sentence of the law pronounced in accordance with the verdict and judgment herein rendered and entered against him, his counsel also being present. Thereupon the Defendant, ROBERT EARL CARTER, was asked by the Court whether he had anything to say why said sentence should not be pronounced against him and he answered nothing in bar thereof, whereupon the Court proceeded, in the presence of said Defendant, ROBERT EARL CARTER, to pronounce sentence against him as follows:

Whereas, the Defendant has been adjudged to be guilty of capital murder by the jury and the jury having further answered that there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society and that the defendant himself, actually caused the death of Bobbie Joyce Davis, Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis, the deceased, on the occasion in question, or that if he did not actually cause the death of Bobbie Joyce Davis, Nicole Davis, Lea'Erin Davis, Brittany Davis, Jason Davis and Denitra Davis, that he intended to kill Bobbie Joyce Davis, Nicole Davis, Lea'Erin

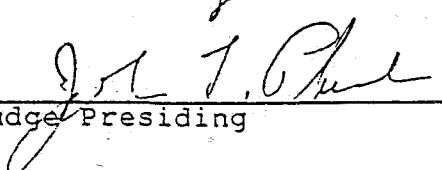
FILED 3:30 P M
DATE 2-18-94
LaNelle Hibbs
District Clerk, Bastrop County

Davis, Brittany Davis, Jason Davis and Denitra Davis or another, or that he anticipated that a human life would be taken and that taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, that there is no sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed; and the law providing that on such jury finding the Court shall sentence the defendant to death.

It is, therefore, the Order of the Court that the defendant is sentenced to death; but the law further providing for an automatic appeal to the Court of Criminal Appeals of the State of Texas, the sentence is suspended until the decision of the Court of Criminal Appeals has been received by this Court.

The Defendant is now remanded to the custody of the Sheriff of Burleson County, Texas, to be transported to the Institutional Division of the Texas Department of Criminal Justice at Huntsville, Texas, thereto await the action of the Court of Criminal Appeals and the further orders of this Court.

Entered this the 18 day of February, 1994.



Judge Presiding

NO. 8003

THE STATE OF TEXAS)	IN THE 21ST DISTRICT COURT
)	
VS.)	OF
)	
ROBERT EARL CARTER)	BASTROP COUNTY, TEXAS

AMENDED ORDER SETTING EXECUTION

The Texas Court of Criminal Appeals having affirmed the prisoner's conviction on February 11, 1994, and mandate having issued on September 30, 1996, from the Court of Criminal Appeals in the above styled and numbered cause and all prerequisites required by Art. 43.141 of the Texas Code of Criminal Procedure having been met, the court now enters the following order:

IT IS ORDERED that the prisoner, Robert Earl Carter, who has been adjudged guilty of capital murder as charged in the indictment and whose punishment has been assessed by the verdict of the jury and the judgment of the court at death, shall be kept in custody by the Director of the Institutional Division of the Texas Department of Criminal Justice at Huntsville, Texas, until Wednesday, the 31st of May, 2000, upon which day, at the Institutional Division of the Texas Department of Criminal Justice at Huntsville, Texas, at any time after the hour of 6:00 p.m., in a room arranged for the purpose of execution, the Director, acting as provided by law, is commanded to carry out this sentence of death by intravenous injection of a substance or substances in a lethal quantity sufficient to cause the death of Robert Earl Carter, and until Robert Earl Carter is dead, such procedure to be determined and supervised by the Director of the Institutional Division of the Texas Department of Criminal Justice.

FURTHER, this order sets aside and supercedes a previous order dated January 4, 2000, setting the execution date for April 26, 2000.

The clerk of this court shall issue and deliver to the Sheriff of Bastrop County, Texas, a certified copy of this order and death warrant in accordance with this order, directed to the Director of the Institutional Division of the Texas Department of Criminal Justice at Huntsville, Texas, commanding the Director to put into execution the judgment of death against Robert Earl Carter.

The Sheriff of Bastrop County, Texas, is ordered, upon receipt of the death warrant, to deliver the death warrant and a certified copy of this order to the Director of the Institutional Division of the Texas Department of Criminal Justice, Huntsville, Texas.

SIGNED AND ENTERED this 28 day of February, 2000.

John F. Phillips

JUDGE PRESIDING

FILED *Ja*
DATE 2-29-00 M
LaNelle Hibbs
District Clerk, Bastrop County

RETURN OF THE DIRECTOR OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE

Came to hand, this the _____ day of _____, 2000, and executed
the _____ day of _____, 2000, by the death of

ROBERT EARL CARTER

DISPOSITION OF BODY:

DATE: _____

TIME: _____

DIRECTOR OF TEXAS DEPARTMENT OF CRIMINAL JUSTICE

BY: _____

PRENTICE, WALTER C.; #16249400
2/06/95 - TWO YEAR SUSPENSION, FIRST SIX MONTHS ACTIVE
3/01/95 - 8/31/95; ACTIVE
9/01/95 - 2/28/97; PROBATED

On February 6, 1995, an evidentiary panel of the District 9A Grievance Committee, suspended Austin attorney Walter C. Prentice, for two years, partially probated, effective March 1, 1995. The panel found that Prentice neglected a legal matter; failed to carry out completely the obligations owed to the client; failed to keep the client reasonably informed about the status of the matter; knowingly disobeyed an obligation under the standing rules of or a ruling by a tribunal; and engaged in conduct constituting obstruction of justice.

Cause Number 8003A

Ex parte	§	In the District Court
Robert Earl Carter	§	For the 21 st Judicial District
	§	Bastrop County, Texas

**APPLICATION FOR HABEAS CORPUS
TO THE COURT OF CRIMINAL APPEALS**

COMES NOW ROBERT EARL CARTER, APPLICANT IN THE ABOVE-STYLED MATTER, THROUGH HIS PETITIONER AND ATTORNEY, AND WOULD RESPECTFULLY SHOW THE COURT AS FOLLOWS:

Applicant is restrained in his liberties as a prisoner under sentence of death at the Ellis I Unit of the Institutional Division of the Texas Department of Criminal Justice.

The sentence arises from applicant's conviction for the offense capital murder in Cause Number 8003 in this Court.

The sentence of death in this cause was is unlawful for the following reasons:

1. The Applicant was deprived of his due process rights under the Fourteenth Amendment to the Constitution of the United States of America by the trial court's refusal to instruct the jury that Applicant, if sentenced to life imprisonment for the offense, would not be eligible for parole before 35 years had passed.

Applicant adopts the discussion of this error in his brief on appeal in Court of Criminal Appeals Cause Number 71,836, points of error three and four. Applicant recognizes that the Court of Criminal Appeals rejected those points on direct appeal, and further that the Court has held that *Simmons v South Carolina*, 512 U.S. 154, 114 S.Ct. 2187, 129 L.Ed.2d 133 (1994) is not applicable to the determination of sentence in Texas.

FILED 3:00 P.M.
DATE 10-6-97

Applicant respectfully requests that the Court reconsider those holdings and recognize that without guidance on the minimum time to be served before parole eligibility, the jury may be misled into believing that a life sentence may in fact be of relatively short duration, thus predisposing them to consider only the alternative sentence of death in a capital murder case, depriving Applicant of his right to have the jury impartially consider the full range of punishment and to weigh mitigating circumstances in light thereof.

2. Article 37.071 of the Texas Code of Criminal Procedure, under which Applicant was sentenced to death, is unconstitutional in that it places the burden of persuasion on the defendant with respect to the weighing of mitigating circumstances.

Applicant adopts the argument in his brief on appeal, point of error eight, with respect to this allegation.

Applicant recognizes that the Court of Criminal Appeals has rejected the contention, but respectfully requests that they reconsider their holding and require the State to meet the burden of showing that the death sentence is appropriate in cases where it is authorized.

Upon consideration of these contentions, Applicant requests that the cause be remanded for a hearing on punishment before a new jury:

There are, to Applicant's knowledge, no unresolved questions of fact which would require a hearing in this Court prior to submission of this cause for decision by the Court of Criminal Appeals.

WHEREFORE APPLICANT PRAYS THAT THE WRIT ISSUE AND BE RETURNED TO THE TEXAS COURT OF CRIMINAL APPEALS AS PROVIDED BY V.T.C.A., CODE OF CRIMINAL PROCEDURE, ARTICLE 11.071, AND THAT THE RELIEF REQUESTED HEREIN BE GRANTED.

The undersigned petitioner swears on oath that the allegations in this petition are true and correct.

Joel Menachim Shearer
Petitioner and
Attorney for Applicant
State Bar Number 18168500
P.O. Box 1595
Bastrop, Texas 78602-1595

Subscribed and sworn to before me on this 6th day of October,
1997.

Notary public for the State of
Texas

My commission expires _____

IN THE UNITED STATE DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

ROBERT EARL CARTER,	§	
Petitioner,	§	
	§	
v.	§	Civil Action No.
	§	A-98-CA-067-SS
GARY L. JOHNSON, DIRECTOR,	§	
TEXAS DEPARTMENT OF CRIMINAL	§	
JUSTICE, INSTITUTIONAL DIVISION,	§	
Respondent.	§	

AFFIDAVIT OF
JAMES FREDERICK ZEMAN

BEFORE me, the undersigned notary public, came James Frederick Zeman, and, after being administered the oath, stated the following:

1. I am James Frederick Zeman. I am over the age of 21 years and am competent to make this affidavit.

2. I served as the jury foreman in a capital murder case involving Robert Earl Carter, in Cause No. 8003, styled The State of Texas v. Robert Earl Carter.

3. The jurors had difficulty understanding the trial court's jury instructions. We, as jurors, were confused about what "life" meant, and exactly how long Mr. Carter would serve in prison before becoming eligible for parole should a life sentence be assessed. The issue of parole, in the context of a life sentence, was extensively discussed by us throughout our deliberations at the punishment phase of the trial.

4. We, as jurors, had heard and believed that a life sentence would mean that Mr. Carter would serve only seven (7) years before becoming eligible for parole. This concerned me as well as the other jurors. We did not want Mr. Carter to become eligible for parole in as few as seven years.

5. The trial court did not provide us with any information concerning the definition of a "life" sentence, or how long Mr. Carter might be required to serve before becoming parole eligible.

6. We were not aware that had Mr. Carter received a life

1 of 1 JB

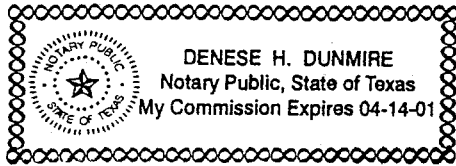
sentence, he would have had to serve a minimum of 35 years in prison before becoming parole eligible.

7. Because of the confusion we had with what constituted a "life" sentence, and our uncertainty over the issue of parole, we were more inclined to answer the special issue questions in such a way that the death penalty would be imposed against Mr. Carter. In other words, our confusion over the parole issue "tipped" the scale in favor of the death penalty.

may have had a bearing of the death penalty on our decision in favor of

James F. Zeman
JAMES FREDERICK ZEMAN

SWORN TO AND SUBSCRIBED before me, the undersigned notary public, on this 4th day of August, 1998.



Denese H. Dunmire
Notary Public, State of Texas

BEFORE THE GOVERNOR FOR THE STATE OF TEXAS

AND

THE TEXAS BOARD OF PARDONS AND PAROLES

In re

ROBERT EARL CARTER

Applicant

**SUPPLEMENTAL APPLICATION FOR REPRIEVE
FROM EXECUTION OF DEATH SENTENCE AND
COMMUTATION OF SENTENCE TO IMPRISONMENT FOR LIFE**

SUBMITTED BY:

Bill Whitehurst

Texas Bar No. 00000061

Whitehurst, Harkness, Ozmun & Archuleta

1122 Colorado, 24th floor

Austin, TX 78701

(512) 476-4346

(512) 476-4400 [fax]

COUNSEL FOR APPLICANT

SUPPLEMENTAL INFORMATION IN SUPPORT OF
ROBERT EARL CARTER'S APPLICATION FOR REPRIEVE
FROM EXECUTION OF DEATH SENTENCE AND
COMMUTATION OF SENTENCE TO IMPRISONMENT FOR LIFE

I Mr. Carter is Worthy of this Board's Mercy.

Robert Carter is 34 years old. At the time he was arrested on this case at the age of 26, he had never before been arrested or convicted of any criminal offense, let alone a felony. His prison record reflecting the time he has been on death row does not reflect a single infraction or disciplinary measure. In short, there is nothing to indicate that Mr. Carter will be a danger to anyone if this Board exercises its powers and recommends commutation of his sentence of death.

To the contrary, for the six years that Mr. Carter has lived on death row, he has been an inspiration to all those he has come in contact with, from his friends and family to his fellow inmates. Robert's positive characteristics are testified to by the numerous letters in support submitted with this Application. *See* Appendix, tab 9.¹ His strong belief in the Christian faith stands out in the minds of all who know him. Robert is a father, a husband, a brother, a son, and a friend. His worth as a human being deserves the consideration of the Governor and this Board. Texas will not benefit by his execution.

CONCLUSION

Robert Carter respectfully requests that this Board of Pardons and Paroles recommend, and that the Governor grant, a reprieve as requested in his original Application and commutation of his sentence of death to life imprisonment.

¹ The letter of Ella Carter-Sanders, Robert's sister, which was previously submitted to this Board, is incorporated herein.

Respectfully submitted,

WHITEHURST, HARKNESS, OZMUN
& ARCHULETA, P.C.

P. O. Box 1802
Austin, Texas 78767
512/476-4346
512/476-4400 FAX

By: Bill Whitehurst by Michelle
Bill Whitehurst Cheng
Texas State Bar No. 00000061 TX Bar #
Counsel for Robert Earl Carter 00796345

**APPENDIX TO SUPPLEMENTAL PETITION FOR CLEMENCY
OF ROBERT EARL CARTER**

Tab # Document

- 9 letters of Mrs. Marilyn Adkinson, Cheryl Campbell, Katrina Daniels, Estella Daniels, Lady Robinson, Jewel Maxey, and Mrs. Mary Bryan in support of Robert Earl Carter's Application for Reprieve and/or Commutation

Marilyn Adkinson
1204 Westover
College Station, TX 77840

May 11, 2000

Dear Board of Pardons,

I am writing this letter on behalf of Robert E. Carter #999091 who is scheduled to be executed on May 31, 2000. I am asking that you consider granting him some type of clemency.

I have known Robert since the early 1980's when I was his English teacher for four years. When Robert was convicted of mass murders in 1994, it was a total shock. Out of all my students, I would never have imagined such a possibility for Robert. During twenty-nine years of teaching Robert was one of my favorite students!

After his sentencing, I began to visit Robert every six weeks or so. While Robert was in the Georgetown prison, a pastor led him to saving faith in Jesus Christ. During subsequent visits I began to see a tremendous change in Robert.

Over the years our visits have taken on a new complexion. At first I was comforting/encouraging him. As Robert has spent four or five hours a day reading the Bible, he has developed into a spiritually mature man and has come to encourage me. His conversion has proved to be genuine over the past six years, and I treasure the times we have spent together.

About six weeks ago I received a call from Chaplain John Downs, a chaplain in the Houston penal system. He related to me that of all the inmates he has known, Robert has shown the greatest spiritual maturity and is having the greatest spiritual impact on his fellow prisoners. Chaplain Downs says that when he visits the inmates he likes to come to the cells unannounced and unexpected so he can see the prisoner's activities before the inmate has a chance to put up a front. Chaplain Downs says that without exception every time he has visited Robert, Robert has been studying the Bible.

Robert is at peace (and so am I) in the knowledge that God holds the keys to death and life and in His sovereignty will take Robert at His appointed time. Therefore, I

trust the judicial system to carry out its' God-ordained duty to administer justice. On the other hand, I plead for Robert's life to be spared that he might continue his ministry to the men confined in the Terrill Unit. I understand that his ministry there is quite beneficial to the atmosphere of Death Row.

Thank you for your consideration of this matter.

Sincerely,

Marilyn Adkinson

Marilyn Adkinson
(979) 696-3497

May 10, 2000

TO WHOM IT MAY CONCERN:

My name is Cheryl Campbell. I am writing this letter in regards to the execution of Robert Carter. I have known Robert all of my life because we grew up together. He was like a big brother to me. I was shocked to learn that Robert had been convicted of the crime he is scheduled to die for. Living next door to Robert all of our childhood showed me that he could never have done what he has been convicted of. All of our relatives were actually convinced that Robert would someday become a minister. When he was not doing homework for school, he was studying his bible. I know these things about him because he is not only my cousin, but he is also my friend. For those who take a life, I do believe that they should pay for their crime. But, I believe that God is the only one who has a right to take life because He gives life. I am totally against the Death Penalty.

Cheryl Campbell
1901 Holleman Dr. W
310
College Station, TX
77840
(979) 695-1387

To: Whom it may Concern

My name is Katrina Daniels. I am writing in regards to the execution of Robert Carter. I have known Robert all of my life and I know in my heart and mind that he could never have done what he has been convicted of. I know he is a very christian man and has been all of his life. I feel every person should be punished for every crime they have done. If they have actually did the crime. But I feel no man has the right to take another man's life only God has that right because he is the only one who gave us life. I am completely and totally against the Death Penalty.

Katrina Daniels
Katrina Daniels
802 Natalie Apt. D
Bryan, TX 77801
(979) 841-7345

225 Kaye St.
Somerville TX 778
979-272-1705

To: Whome it May Concern:

My name is Estella Daniels. I am writing this letter in regards to the execution of Robert Carter. I have known Robert all of my life because I am his Aunt. I was shocked to learn that Robert had been convicted of the crime he is scheduled to die for. Living next door to Robert all of my life showed me that he could never have done what he has been convicted of. All of our relatives were actually convinced that Robert would someday become a minister. When he was home he was always studying the bible. For those who take a life, I believe they should pay for the crime. But, I believe that God is the only one who has a right to take life because he gave us life. I am totally against the Death Penalty.

Estella Daniels

To Whom It May Concern:

I am writing on behalf of Robert Carter. I have known Robert for 19 years and in that time I haven't known him to be disrespectful or abusive. He was a quite young man and he played guitar for our church group. It is very hard to believe that what they have charged him with is the person that I grew up with. I know people can change but that is not Robert. I hope this letter gives you a little more insight about the person of Robert Carter.

Ms. Lady Robinson
"friend of the family"

May-8-00

To Whom it may concern.

From Jewell Mally

26021 Fm 159

Navasota, Tx. 77868

I'm writing concerning the young man
Mr. Robert Carter. who is on death-
~~note~~^{note} for a crime, that I and all who
knew him, can not believe he committed
Robert grew up up as any normal child
sure there were times he had to be
discipline nothing severe, we all were
as a teenager Robert, join the Pleasant Home
missionary Baptist church. he volunteer
his service where ever it was needed. He was
a Junior Deacon, some time he acted in the
office of a Sr Deacon. respected the elder.

member, incourage the other team
members to do likewise

He always talked about being that

perfect father that his children would
up to, and his mother and father would
proud of.

Of no way Robert just could not
have done this crime

Jewel Mapp

26021 FM 159

Navasota, TX. 77868

Ph. (409) (936) 825-7301

So when a man concern;

My name is Mrs Mary D. Bryan
I am writing this letter in regard
to Robert Earl Carter.

I have been knowing him since
the time he were born.

I do know that he is a Christian
I always told him that he was
going to be a minister.

He played and sung in the Young
People Chorus.

He was always called on to make
speeches at Church also at the
Good Hope Western association, re-
presenting the brotherhood.

After leaving his home town Clay Texas,
he married a young lady in Brenham,
Texas.

Please spare his life so that he
can teach and save some of our
Young Men.

He's needed very much in our community
and church. Phone 2728925 God Bless you.

Mrs Mary D. Bryan 501 Camel St.

FILE COPY

**WHITEHURST, HARKNESS,
OZMUN & ARCHULETA**

WILLIAM O. WHITEHURST, JR.*
THOMAS R. HARKNESS*
SCOTT OZMUN*+
MICHAEL E. J. ARCHULETA
CYNTHIA K. STEWART
SALLY STARNES METCALFE
MICHELLE M. CHENG
SYLVIA H. IMHOFF
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May 16, 2000
VIA FACSIMILE
512/467-0945

BOARD CERTIFIED-PERSONAL INJURY TRIAL LAW*
BOARD CERTIFIED - CIVIL APPELLATE LAW*
TEXAS BOARD OF LEGAL SPECIALIZATION

ATTN: Maria Ramirez
Executive Clemency Section
Texas Board of Pardons and Paroles
8610 Shoal Creek Blvd.
P.O. Box 13401
Austin, TX 78711

RE: Robert Earl Carter, TDC #999091


Dear Ms. Ramirez:

Attached please find letters to the Board from Mr. Hezekiah Carter, Sr. and Mrs. Barbara Carter, Robert's parents; Warren Williams, Robert's nephew; Yolanda Blake, Robert's niece; Mr. John Pool, Robert's uncle; and Mrs. Debra Sprague, friend of the family.

Although the Supreme Court denied certiorari on this case yesterday, Mr. Carter will be filing a petition for rehearing with the Court based on a recent Supreme Court case (handed down since Mr. Carter filed his petition for writ of certiorari) which changes the appellate court's standard of review in cases such as Mr. Carter's. Because the Fifth Circuit clearly used the wrong standard of review in deciding Mr. Carter's case, **I think Mr. Carter's petition for rehearing will have a good chance of being granted. Mr. Carter's petition for rehearing is due twenty-five days from the date of the Court's order denying certiorari, which falls on June 9, 2000 (nine days after Mr. Carter is scheduled to be executed).** If Mr. Carter's federal appellate remedies are unsuccessful, he would still have a right to file a subsequent habeas petition in state court. Accordingly, on behalf of Mr. Carter, I respectfully request that this Board grant a reprieve or commutation as requested in our original Application.

Thank you for your assistance with this matter.

Sincerely,



Bill Whitehurst

Enclosures

① To whom it Concerns

I am the mother of Robert Carter the young man that is schedule to be executed on May 31st. I had written a letter earlier but after spending one of the toughest days in my life was Mother's day the thought of possible not having one of my children with me is heart breaking I cant explain it. My heart goes out for the victims of this horrible crime but I know that my son had nothing to do with it. My husband and I raised my four children in the best way known we gave them love and support and all that a parent can give a child in the right way to bring him up. I know that Robert loves his children and is a good father. A great son he was raised up in the church and preach some and was loved and respected by so many people. even in the condition he is at now he is trying to console other

inmates. As I travel and visit with
him in prison. I met many people there
who no my son by their love one there
and they all have good things to say
about him. Even Ministers who visit comment
on how a remarkable young man he is.
and how the crime just dont fit this man.
I know it doesnt fit him because he didnt
do it. He does not have that kind of Act him.
and for what child support! he was already
paying this. Please somebody look at the evidence
with open eyes and see my son is innocent.
I believe that you should be punish for crimes
but no-one deserves death no one. Only God
should be the judge of that so many people
in death row so many are innocent to so sad
of this country. The bible also says death
to the liars and thieves because the wage of sin
is death but we dont go around killing people
the state do we. Only God should take what only
God can give. If you can give life back
to the prisoners that you take it from
maybe just maybe you could justify this
because when you find out you're wrong

you could give it back. Even then this is still wrong. but if you can't return an innocent person's life. what do you say to his family? There is nothing you can say or do. Please spare my son's life my hope and dream to see him home safe & sound with his family. My son is innocent and free even if you keep him where he is because God is in control of his life. and if he dies he goes home to him. My son is ready because he doesn't believe you'll stop his execution by looking at the number that has taken place. I'm not ready to see my son leave us. My husband doesn't know what to do. He's walking around in limbo. We don't understand what happened so that things were done wrong all from the beginning by his first lawyer. Witness not call, evidence not introduced. So many things that were done wrong the trial was like a night mare

I Couldn't believe what was happening
before my eyes. But we stand steadfast
and firm behind Robert. Knowing he is
innocent and wrongly accused.

Robert is a good man and he is willing
to take responsibility for what someone else
has done to put and end to the hurt and
to protect his family from the harmful threats
out. I don't want him to do this because
we trust God to take care of us. and I'm
asking and begging on behalf of my son
Robert Earl Carter and his son and his
father and I and on behalf of his family
to spare his life from and unjust crime
May God Guide you into doing what
is right by him. Thank you

Mr. & Mrs. Barbara Carter

Carter

409-272-8331

Mother + father

273 Kaye St.

Somerville TX. 77839

TO WHOM IT CONCERNS

I AM WRITING ON BEHALF OF OUR SON , ROBERT EARL CARTER#999091 WHO IS SCHEDULE FOR EXECUTION ON MAY 31 ST . FOR A CRIME HE DID NOT COMMIT. HIS FATHER AND I ARE AT A LOST FOR WORDS AT THE THOUGHT OF LOSING OUR SON. WE RAISED OUR CHILDREN TO BE GODLY MEN AND WOMEN. I KNOW THAT KNOW THAT NO ONE IS PERFECT BUT WE COULDNT ASK FOR BETTER CHILDREN. WE LOVE OUR CHILDREN AND WE KNOW THAT THEY LOVE AND RESPECT US . ROBERT HAS ALWAYS BEEN AND OUTSTANDING YOUNG MAN AND WILLIING TO GO OUT OF HIS WAY TO HELP OTHERS WE KNOW THAT ROBERT IS INNOCENT OF THIS HORRIBLE CRIME AND THAT HE COULD NEVER DO ANY THING CLOSE TO THIS.FAMILY MEANS ALOT TO THIS FAMILY.. AND OUR CHILDREN AND GRAND CHILDREN IS OUR FUTURE. I BELIEVE THAT THERE WAS NOT ENOUGH INVESTIGATION IN THIS CASE ON OTHER LEADS THAT IS MORE THAN LIKELY WAS THE RESULT TO THIS HEART BREAKING DISASTER. NOT ONLY FOR THE VICTIMS AND THEIR FAMILY BUT TO ALL THE INNOCENT WHO ARE ACCUSED FOR THIS CRIME. PLEASE PLEASE TAKE MERCY ON BEHALF OF ROBERT TO SPARE HIS LIFE SO THAT ONE DAY SOON IT WILL BE BROUGHT TO THE LIGHT THAT HE WAS WRONGLY ACCUSED SO THAT HE MAY HAVE THE CHANCE LIKE CLARENCE BRANDLY HAD I KNEW HIS MOTHER NOW I KNOW WHAT SHE WAS GOING THROUGH. PLEASE LET US ALSO REJOICE INTO THE NEAR FUTURE OF OUR SON PROVEN INNOCENT AND SENT HOME TO BE WITH HIS DFAMILY WHILE HE STILL A YOUNG MAN . THANK YOU FOR LISTENING YO OUR PLEA PLEASE SPARE HIS LIFE .

HEZEKIAH CARTER SR- FATHER
BARBARA CARTER - MOTHER
223 KAYE ST
SOMERVILLE TX 77879
409-272-8331

05-09-00

To whom it concerns

Robert Earl Center is my Uncle, whom I love very much. Robert is one of the nicest man you could meet. I know what he is accused of but I know that this is all wrong because he's not that type of person. He has always been a good role model for me and my brothers. Our family has always been close and filled with love. He was a constant help to the children in our neighborhood. Work with us at church and at home, he taught us a lot. These past few years I have miss a lot of time with Robert he wasn't able to attend my graduation a few years ago. Along with the family I missed him terribly. Please save him from this horrible punishment that he's not guilty of. Robert is a wonderful person loving and caring. If you talk to him you could see this for yourselves. Talking to him and being around him you can't help but see the love of God in him. Robert is a wonderful father who loved his children and they loved him. His son is going to need him more as he needs his son. If you take his life you will be taking a wonderful light from this family that could never be replaced and will die this

family forever.

My parents are doing all they can along with all my other family members. to help save Robert from this terrible injustice. I pray that one day soon that real guilty parties are caught. So my uncle can come home to us soon. To fill this empty void that has been missing since 8-92: now I also ask when the guilty is caught spare their lives punish them but not with their lives. Only God has the right to take what he only can give.

Robert Earl Carter # 999091 is my uncle that we love very much and is not a threat to society. He has very much to offer to his family and friends and yes to society. Please don't take his life give us time to prove he's innocent. Please on behalf of myself and my family and for

Ryan Carter Robert's son and for Mr + Mrs Carter Roberts Parents

Please save Robert from this great injustice. Thank You

15110 Bellaire Blvd #310 - Address

Houston, Texas 77083

713-783-6153

— Phone

Warren Williams

— Name

Warren Williams

— Signature

My uncle Robert Earl Carter, who is a well
retained, respectable, caring, loving, giving,
talented, easygoing, fast learner, God-fearing
well rounded man I know!!! He has
been there for me since I was born. Robert
has care for me by watching, sitting,
teaching me how to play with other children.
Maybe some of these words seem foolish,
not in heart, so I'm just going to tell
you thing and how my uncle Robert Earl
Carter will and is a great use for our
world. He's a grandfather, who care for all
his children. Robert, a dad who cook the
home cook meals in the house, the one who
stay with the children when they were sick.
He helps them with their homework, play
games with the children. Man who has never
harm children or adults let alone kill anyone
not even an animals. He is a good respectable
father. No child or children should grow up
without a father in today society. So don't
kill an innocent man. I plead with
you don't Do!!!

Nylonda Blake

kinko's

Express Yourself™

fax cover sheet

1605 NE 7th Ave, Portland OR • Telephone: (503) 284-2129 • Fax: (503) 287-5130 • E-mail: usa5139@kinkos.com

Date 5-16-2000

Number of pages _____ (including cover page)

to: Name ROBERT E. CARTER

from: Name JOHN POOL

Company _____

Company NONE

Telephone _____

Telephone 503-257-7842

Fax 512 476 4400

Comments I HAVE KNOWN THIS YOUNG MAN FOR A LONG TIME MR ROBERT E. CARTER I DON'T THINK HE IS CAPABLE OF THE CRIME HE IS ACCUSE OFF

More than 900 locations worldwide. For the location nearest you, call 1-800-2-KINKOS. Visit our Web site at www.kinkos.com.

Dear Sirs.

Robert Earl Carter #999091 is schedule for execution on May 31st. Sirs please find in your hearts to save him from this fate. Robert is truly missed by his Family and Friends - Robert is truly an outstanding young man. I got to know him through his sister. Seeing this family together while going through these trying times has made me see the real power of love.

Robert although quiet, is every wise young man and seeing how he grows stronger thru the years even in times of adversity is amazing. His Parents standing by him and his siblings are constant support for him. Robert is a great help to those who like him are facing death and is a comfort and joy as describe by so many who meet and talk with him.

He knows whether the execution takes place or not he is going to a better place, and is ready for what God lays before him. But I ask on his behalf to save his life from this fate. Robert's work is not finished and he's a great help to all paths he crosses. Robert does not deserve this punishment but will take it quietly if given. His trust is in God, well my trust also is in God and praying that he will lead you to make the decision to save his life for it is well deserving to be saved. This man has a lot still to add to society and to share with his family please STOP this execution.

Mrs Debra Sprague 7545 Cook Rd
281 530 2165 Houston Tx

FILE COPY

**WHITEHURST, HARKNESS,
OZMUN & ARCHULETA**

WILLIAM O. WHITEHURST, JR.*
THOMAS R. HARKNESS*
SCOTT OZMUN**
MICHAEL E. J. ARCHULETA
CYNTHIA K. STEWART
SALLY STARNES METCALFE
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May 17, 2000
VIA FACSIMILE
512/467-0945

BOARD CERTIFIED-PERSONAL INJURY TRIAL LAW*
BOARD CERTIFIED - CIVIL APPELLATE LAW*
TEXAS BOARD OF LEGAL SPECIALIZATION

ATTN: Maria Ramirez
Executive Clemency Section
Texas Board of Pardons and Paroles
8610 Shoal Creek Blvd.
P.O. Box 13401
Austin, TX 78711

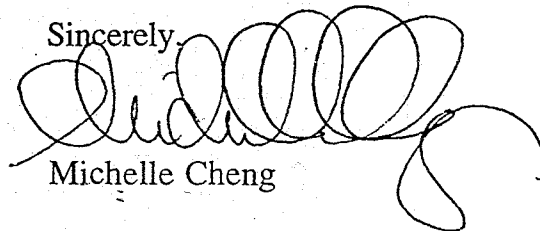
RE: Robert Earl Carter, TDC #999091

Dear Ms. Ramirez:

Attached please find letters to the Board from Ryan Carter, Robert's son; Theresa Carter, Robert's wife; Mr. Robert Pool, Sr., Robert's uncle; Lt. Hezekiah Carter, Jr., Robert's brother (two letters); Michael Sanders, Robert's brother-in-law; Kevin Ray, Robert's brother-in-law; Reverend John and Edna Hudson; Tanisma Neal, Eddie Blake, Jr., Hezekiah Carter Jr. III, Christopher Neal, Courtney Carter, and Daphne Carter, Robert's nephews and nieces; Birdianne Carter, Robert's aunt; Beverly, Helen, and Rodney Davis, Robert's aunts and uncle; Alice Martin, the cousin of Robert's mother; Patrick Blake, Robert's nephew; Isaac Butler, a friend; and a joint letter from sixty-eight of Robert's friends and family members.

Thank you for your assistance with this matter.

Sincerely,



Michelle Cheng

Enclosures

my name is Ryan. Robert
Carter is my daddy. I miss
him very very much. They
say mean things about
him. I use to buy all the
the time my daddy said its
going to be all right. Now
I cry a little. My mommie
and dad pray every
night for my daddy because
he did nothing bad. I love my
daddy he loves me too. please
let my daddy come home we
need him very very much
dont kill my daddy please
he did nothing wrong so
dont hurt him I love my
daddy

May 16, 2000

To Whom It May Concern:

My name is Theresa Carter, wife of Robert Carter. I am writing this letter to speak on the well being of my husband. Robert is a God fearing man who patterns himself in the footsteps of our Lord and Savior Jesus Christ. He is a man who has a love for his family as well as other people. He is a humble person, who not only reads the Holy Bible but also follows its every word. He is a wonderful husband, father, son, and friend. He is friendly with everyone whom he would meet, and always has a smile on his face. He has always been active in the church, and always willing to share the Good News of Jesus with every stranger, family member and friend. Most of all he is loving. He has a huge heart that is filled with love that he shared with everyone.

Sincerely
Theresa Carter

3400 States Oil Co. Rd.
Shreveport, La. 71119
May 15, 2000

To whom It May concern:
I am writing on behalf of
Robert Carter, who is currently on
death row.

This young man comes from a
Christian family and has always
been a good person while growing
up, everyone thought he would be
a minister because he always did
the right thing.

I wish you would consider
sparingly his life.

May God bless you.

Robert Pool Sr.

FAX 512 476-4400

To who it may concern:

5/17/00

I am writing in regards to the execution of my brother Robert G. Carter #999091. I realize we must have law and order to govern our society. But must we continue to kill or take a life for a life. I really feel the pain that the victim's family feels because my parents are suffering everyday since this happened. I asked that you spare his life. There is much more to this case than the motive that was discussed. We need to get to the bottom of this horrible crime. I know he's not a saint but I know my brother isn't a murderer or capable of killing so many innocent people. I don't make since. I ask again please spare his life so that we can get to the bottom of this terrible and senseless tragedy.

Sincerely

H. Carter Jr



TO. WHOM IT CONCERNS

I AM WRITING IN REFERENCE TO (ROBERT EARL CARTER) WHO JUST HAPPENS TO BE MY BROTHER. THIS IS ONE OF THE HARDEST THING THAT OUR FAMILY HAS EVER BEEN UP AGAINST. WE BEEN UP AGAINST DEATH BEFORE DUE TO ILLNESS OR ACCIDENTS FIRST LET ME SAY ROBERT IS NOT A MURDERER!! ALSO HE COULD NEVER EVER HURT A CHILD ESPECIALLY HIS WE AS WELL AS HE ARE NOT PERFECT / BUT EVER DOING ANYTHING THAT WOULD HARM A LIFE NEVER WE WERE RAISED TO WORK AND PROVIDE FOR OUR FAMILIES. OUR PARENTS SHOW US LOVE AND TAUGHT US LOVE NEVER ANY TYPE OF ABUSE NONE WHAT SO EVER. SO WHERE WOULD YOU THINK HE COULD THINK UP SUCH A HORRIBLE WAY NOT TO PAY CHILD SUPPORT IT JUST DOES NOT ADD UP. AS A LAW ENFORCEMENT OFFICER WE ARE TRAINED TO LOOK AT CERTAIN ASPECT AT CRIME. THIS DID NOT FIT ROBERT BUT I DIDNT NEED THAT TO TELL ME THAT BECAUSE MY BROTHER ANDSISTER AND I ARE VERY CLOSE VERY GOOD FRIENDS WE HAVE COME FROM A FAMILY FILLED WITH ONE TYPE OF LAW ENFORCMENT OR ANOTHER. THAT DOESNOT MEAN THAT IF YOU ARE AN OFFICER YOU DONT COMMIT CRIMES. BECAUSE WE SEE EVERY DAY IN THE NEWA BAD COPS LAWYERS, JUDGES,DA'S THIS IS TO LET YOU KNOW THAT EVERY DAY MY LIFE IS PUT ON THE LINE I DONT WANT TOO HAVE TO HURT ANYONE IM HERE TO PROTECT AND SERVE. WE WERE RAISED TO HELP ONE ANOTHER AND OTHERS NEVER TO TAKE WHAT WASNT YOURS TO LOVE AND RESPECT LIFE. THERE IS NO WAY ROBERT COULD HAVE COMMITTED THESE MURDERS ARE HAVE ANTHING TO DO WITH THEM. HE WAS NEVER GIVEN A CHANCE FROM THE FIRST ARREST AND I LOVE THE LAW AND TO SEE IT ABUSED BY THOSE JUST TO GET A CONVICTION IS DEVESTATING!!! ROBERT IS INNOCENT THERE IS NO DOUBT AND TO TAKE ALIFE THAT IS INNOCENT IS A CRIME. MY MIND IS STILL NOT UNDERSTANDING AT THE TRIAL WHEN THE JURY CAME BACK WITH THERE DECISION WHY THE JUDGE TOLD THEM TO KEEP GOING BACK OVER AND OVER AGAIN UNTIL THEY CAME BACK WITH DEATH NO MAN OR WOMAN SHOULD BE SENTENCE TO DEATH BECAUSE THE PUNISHMENT DOESNOT CARRY ENOUGH YEARSTHEY FILL HE NEEDED TO BE PUNISH. SOMETHING IS WRONG WITH OUR SYSTEM. IVE READ STATMENT FROM THE JURY FORMAN WHO SAID THAT IF THEY HAD BETTER INFORMATION THAT WITH OUT A DOUBT THE OUT COME OF THE PUNISNISMMENT WOULD HAVE NOT BEEN DEATH. PLEASE LOOK INTO MY BROTHER DOES NOT DESERVE TO PAY FOR A CRIME HE DIDNT AND COULDNT COMMIT ROBERT IS STILL THE SWEET, CARING ,LOVING,AND FUNNY BROTHER THAT I HAVE ALWAYS KNOWN.

**LT. HEZEKIAH CARTER JR.
409-272-2325**

TO THE BOARD OF PARDONS AND PAROLE
OR TO WHOM IT CONCERNS

IM WRITING ON BEHALF OF ROBERT EARL CARTER MY BROTHER INLAW WHO IS MORE OF
A BROTHER THAN ANYTHING. IVE KNOWN A LOT OF GOOD PEOPLE IN MY LIFE BUT THE
FAMILY IVE MARRIED INTO WORDS CANT DESCRIBE THE LOVE AND AFFECTION THIS
FAMILY HAVE FOR ONE ANOTHER. THERE PARENTS RAISED THEM THE RIGH WAY AND
IM PROUD TO BE PART OF THIS FAMILY I COULD NOT ASK FOR BETTER BROTHERS.
ROBERT HAS ALWAYS BEEN A GOOD FATHER AND HUSBAND A GREAT SON.

I KNOW THIS SOUNDS LIKE A FAIRY TALE WHERE THEY ALL LIVED HAPPILY EVER
AFTER AND NEVER MADE MISTAKES. BUT WE ALL HAVE MADE MISTAKES AND SAID OR
DID SOMETHING TO BE ASHAME OF. SO THAT MAKES US NOT PERFECT. ROBERT WAS NOT
PERFECT AND HE IS NOT A KILLER AND THERE IS NOWAY HE COMMITED ANYTYPE OF
CRIMINAL ACTIVIES LET ALONE MURDER. HE DID NOT HAVE A GOOD LAWYER FROM THE
START AND THE ONE THEY GOT TOOK THE FAMILIES MONEY AND WAS ASKED OFF THE
CASE. WE STILL DONT KNOW TO THIS DAY WHY ?ANYWAY ROBERT LOVES HIS CHILDREN
AND COULD NEVER HURT ONE!!! PLEASE STOP THIS EXECUTION AND SAVE MY BROTHER
HIS PRESENCE IS GREATLY NEEDED IN THIS FAMILY. !!THERE CONTINUE'S TO BE A-VOID
IN THIS FAMILY UNTIL HE IS RETURN SAFE WITH OUT HARM. THANK YOU FOR HEARING
THE DESPERATE PLEA OF THE CARTER FAMILY AND FRIENDS !!!

MICHAEL SANDERS

713-466-4103-WK 713-782-7490-HM

May 16, 2000

To Whom It May Concern:

I am writing this letter on behalf of my brother in law, Mr. Robert E. Carter. Robert is a person who is a strong man of God. Although he was not active in the community, he is a hard worker and a very devout Christian. Church is his life. Other than working and spending time with his family, he would take time out of his busy schedule, and concentrate on the Word of God. Robert is very optimistic, and very friendly. Every time you see him, he has a smile and always giving a kind word to people whom he has met. I feel that Robert would not be a threat to society, for the simple reason that this man is loving, caring, and family oriented. He was raised to help those in need, and to always treat people with love, honor, and respect. Something that was instilled in him from birth, and something that is still within him today.

Sincerely
Kevin D. Ray

REV JOHN & EDNA HUDSON

**TO WHOM IT CONCERNS EXECUSE THIS LETTER IM GOING TO THE POINT
WE DONT HAVE MUCH TIME. PLEASE SAVE ROBERT CARTER FROM
EXECUTION. THIS MAN IS INNOCENT HE IS A MAN OF GOD IVE WORKED WITH
HIM MANY TIMES IN CHURCH AND WATCH HIM GROW TO A GREAT MAN
HUSBAND AND FATHER HE COULD NEVER DO THIS CRIME NOMATTER IT LOOKS
LIKE EVERY THING ISNOT ALWAYS AS IT SEEMS. I USE TO MINISTER YO A
WOMAN SON WHO WAS ON DEATHROW AND NOW HE'S OUT CLARENCE
BRANTLY SO IT LOOK LIKE HE DID IT BUT THAT WASNT TRUE AND MANY
PEOPLE KNEW IT AND SET ON THE TRUTH ITS THE SAME WITH ROBERT
I PRAY THAT HE IS STILL ALIVE WHEN THE TRUTH COMES OUT. PLEASE SAVE
THIS YOUNG MAN HE IS INNOCENT**

REV&EDNA HUDSON -409-272-8014

TO WHOM IT CONCERNS

FROM THE NIECES & NEPHEWS OF ROBERT EARL CARTER

WE COME TOGETHER AS A HOLD TO ASK FOR MERCY FOR OUR UNCLE. TIME IS PASSING
FAST AND WE THOUGHT WE HAD MORE TIME LIKE PEOPLE IN PRISON ON DEATH ROW. :-
FOR YEARS OUR UNCLE ONLY HAD 5 YRS AND NOW THEY WANT TO TAKE HIM OUT. WE BELIEVE
IN PUNISHMENT FOR THE GUILTY BUT NOT DEATH. WE WERE TAUGHT TO VALUE LIFE.

ALL THIS BECAUSE BECAUSE ROBERT IS INNOCENT OF THIS CRIME HE WAS CONVICTED OF SO
PLEASE SPARE HIS LIFE BECAUSE ONLY GOD SHOULD TAKE IT NOT MAN.

PLEASE SAVE HIM FROM THIS EXECUTION ALL PRISONERS FROM DEATH THERE GOT TO BE A
BETTER WAY BECAUSE THIS ONE IS NOT IT THANK YOU FROM ALL OF US

TANISHA NEAL EDDIE BLAKE JR. HEZEKIAH CARTER JR III
CHRISTOPHER NEAL COURTNEY CARTER DAPHNE CARTER

Bryan, Texas
5-14-00

To whom it may concern
I am ^{writing} this letter on behalf of
Robert Carter. I am a true believer
when it comes to right and I do not believe
in death row nor do I believe
in illin execution. Do please
reconsider and let him live
and be with his wife and son
and rest of his family. I do
pray for that.

Birdina Carter
1219 W. 18th St.
Bryan, Texas 77803

TO WHOM IT CONCERNS

I AM WRITING ON BEHALF OF INMATE "ROBERT EARL CARTER"
ON MAY 31ST IF THIS MAN IS EXECUTED. IT WILL BE A SAD
DAY, NOT JUST FOR THIS MAN LOSING HIS LIFE NOT JUST FOR
THE FAMILY THAT STANDS BESIDE HIM, BUT FOR THE UNJUST
OF THE JUSTICE SYSTEM. THE SYSTEM HAS FAIL NOT ONLY FOR THIS MAN
BUT FOR SO MANY MORE BEFORE HIM AND AFTER HIM.

THERE ARE TOO MANY PRISONS BUILT TODAY TOO MANY PEOPLE ON
DEATHROW. THIS SENTENCE IS HARSH AND THERE IS NO WAY OF
UNDOING ONCE THE SENTENCE IS CARRIED OUT. WE SAY VIOLENCE
BEGAT VIOLENCE. IF ABUSED YOU WILL ABUSE. DEATH PENALTY IS
A VIOLENT ACT AND DOES NOT DETAIN ANYONE FROM KILLING.
SINCE IT AFFECTS THERE ARE MORE PEOPLE ON DEATHROW THAN
EVER. AS WE SAY VIOLENCE BEGAT VIOLENCE. SO WE MUST FIRST
EDUCATE OUR PRISON STAFF THEN EDUCATE OUR PRISONERS SOME
HAVE BEEN TREATED LIKE ANIMALS ALL THEIR LIVES SO WHEN
YOU THROW THEM IN AND TREAT THEM LIKE DOGS. THATS WHAT
THEY ARE USE TO. IF WE TREAT THEM FOR WHAT AND WHO THEY
ARE . YOU JUST MIGHT GET RE-ADJUSTED MEN AND WOMEN WHO
WOULD BE ABLE TO RETURN TO SOCIETY AND LIVE AND FUNCTION
AND ABLE TO HELP OTHERS THAT ARE ON THAT ROAD TO DESTRUCTION
SO PLEASE SAVE THIS YOUNG MANS LIFE AS WELL AS THE LIFE
OF ALL THE OTHERS . GIVE HIM A CHANCE TO LIVE !!!!!!!
THANK YOU FOR TAKING TIME OUT TO LISTEN TO THE PLEA
FROM THE FAMILY AND MANY FRIENDS. MAY GOD GUIDE YOUR
DECISION. AND SAVE AN INNOCENT MAN FROM DEATH!!!!!!!!!!!!!!

BEVERLY AND HELEN DAVIS
RODNEY DAVIS (317-266-4009)

TO WHOM IT CONCERNS

**MY NAME IS ALICE MARTIN, I.M
COUSIN TO ROBERT'S MOTHER AND HIM
ROBERT WAS RAISED BY HIS PARENT
NEXT DOOR TO ME THEY TAUGHT HIM
VERY WELL AND HE WORK IN THE
CHURCH AND TAUGHT THE CHILDREN.,
IVE WATCH HIM GROW FROM ASWEET
YOUNG MAN TO A VERY STRONG MAN
OF GOD WHO COULD NEVER DO THE
CRIMES WHICH HE IS ACUSSED.
ROBERT LOVES HIS FAMILY AND THEY
LOVE HIM. HE NOWS LOVE AND GIVES
LOVE THIS HAS BEEN A CHILD FROM
EARLY AGE TO PREACH GODS WORD
AND SATAN IS TRYING TO GET RID OF
HIM. I DONT KNOW IF YOU BELIEVE IN
GOD BUT HE IS REAL AND ROBERT IS
INNONCENCE MAY GOD GUIDE YOU TO
SAVE THIS YOUNG MAN FROM DEATH
MRS ALICE MARTIN
408-272-8397**

To whom it may concern I'm writing
on the behalf of Robert Carter. Robert
Carter is a good man who would never
do anything to anyone. He is a loving
husband to his wife also a loving father
to his two children and a wonderful Uncle.
Robert has no problems with people.
He's a real nice guy with a funny sense
of humor. I'm begging you don't kill him
because you will be killing an innocent
man. Please spare his life because
we love him so much and we need him
home with his family.

Patrick Blake
713-783-653

5/17/00

To whom It may concern.

I Have known the Coner family for over 20 years
They are a very close Christian family. Robert who is
much younger than I, Has never been in trouble with the
Law until this charge of ~~murder~~ capital murder he had never
had a traffic ticket. I don't understand the whole case.
I do know there should be an investigation into these
murders. How do you go from being a law abiding citizen
to a monster. I just doesn't happen over night. Please I
beg you to let him live. May God keep you and bless
is my prayer.

Thank you

Isaac Butler

979-361-4568

TO WHOM IT CONCERNS

WE ARE WRITING ON THE BEHALF OF ROBERT EARL CARTER WHO IS SCHEDULE FOR EXECUTION ON MAY 1ST. THIS MAN IS INNOCENCE OF ALL THAT HE HAS BEEN ACCUSED OF. WE'VE KNOWN THIS MAN ALL OF HIS LIFE AND HIS FAMILY TOO. WE'VE SEEN HIM WITH HIS FAMILY HIS WIFE AND CHILDREN AND THERE IS NO DOUBT THAT HE LOVES THEM AND THEY LOVE HIM. TOO SEE HIM WITH HIS SON IS LIKE SEEING HIS FATHER CARING FOR HIS CHILDREN. THIS IS A MAN OF GOD AND YOUR TRYING TO TAKE HIS LIFE FOR SOMETHING HE DIDNT AND COULDN'T DO. PLEASE FIND IT IN YOUR HEARTS TO GIVE THIS MAN HIS LIFE BACK TO HIM. PLEASE GIVE ROBERT THE SAME CHANCE AND TIME LIKE CLARENCE BRANDLY AND JOYCE BROWN AND SO MANY OTHERS THAT WERE ON DEATHROW FOR ABOUT 9 TO 11 YRS. AND THEY FINALLY PROVED THEIR INNOCENCE AND NOW THEY ARE SAFELY AT HOME WITH THEIR FAMILIES THE UNDERSIGN ARE ASKING YOU TO SAVE THIS MAN FROM AN UNDESERVING FATE. AND LET HIM LIVE SO THAT HE AND HIS FAMILY WILL NOT BECOME VICTIMS TO SUCH AN UNGODLY ACT GOD GIVES LIFE! ONLY GOD SHOULD BE ABLE TO TAKE IT.

**JAMES POOL --- CHAIRMAN DEACON BOARD---UNCLE
SURREY POOL SR--- DEACON---GRANDFATHER
HILMON POOL ---DEACON---UNCLE
MARGARET POOL-----AUNT
RUBY POOL-----AUNT
BETTY POOL---AUNT
ENNIS POOL---UNCLE
CECIL---POOL---UNCLE
EDDIE POOL---UNCLE
DEBRA POOL---AUNT
JAMES FLOWERS JR. (JIMMY) FAMILY FRIEND
AGNES FLOWERS - CLASS MATE
LEOLA ROBINSON - CLASSMATE
FAM MARTIN -- COUSIN TDC OFFICER
SHERYL CARTER--- SISTER -INLAW
DELDRES JOHNSON-- COUSIN
ROOSEVELT CARTER-- UNCLE
CATHERINE CARTER- ADAMS---AUNT
DEBRA CARTER- COUSIN
THADEUS (TED) POOL -- COUSIN-- KPD OFFICER
LOUISE HEARD-- FAMILY FRIEND
WALTERINE HEARD---FAMILY FRIEND
CLARENCE HEARD--- FAMILY FRIEND
LORINE HEARD-- FAMILY FRIEND
EDDIE POOL JR- COUSIN
MARTHA POOL---AUNT
OLLIE POOL-- UNCLE
ALDA POOL---AUNT
CHRISTOPHER POOL- COUSIN
DAMERIS POOL---COUSIN
WILLIE EMA CARTER-(FAMILY FRIEND)
TASS WILLIE JOHNSON--FAMILY FRIEND
MELTON FINLEY--FAMILY FRIEND
ANANIAS MARTIN---COUSIN
SHARON MARTIN-- COUSIN---TDC OFFICER
ESTER WILSON --FAMILY FRIEND
LAWRENCE---WILSON---FAMILY FRIEND**

CONTINUED

RUBY ROBINSON--FAMILY FRIEND
DOROTHY FLOWERS-- FAMILY FRIEND
GUENDOLYN BARNES-- CLASS MATE AND FRIEND OF AMILY
RUBIE LEE HEARD-- FAMILY FRIEND
PERRY BARNES-- COUSININLAW
DOTHORY BUTLER--FAMILY FRIEND
ELLEN PHILLIPS--COUSIN
ALICE MARTIN --- COUSIN
IOLA CHESTER---COUSIN---609-825-6278
DAPHNE CARTER--SISTERINLAW TEACHER
MONIQUE CARTER-NIECE
JAY CARTER--NEPHEW
LATASHA POOL--COUSIN CLASSMATE AND FRIEND
TIFFANY DANIELS-COUSIN
MICHELLE POOL-COUSIN
MRS REESE MOORE- FRIEND OF FAMILY-STATEBOARD COSMETOLOGY
EARL MUNSUN--UNCLE OFFICER
ERIC JOHNSON--COUSIN
JOHN POOL- EX OFFICER UNCLE
VERA POOL--AUNT -OFFICER
ALBERT POOL--EX OFFICER
ANN POOL--SCHOOL TEACHER
MARSHALL NEAL-- EX BROTHERINLAW (THIS A GOOD MAN NOT CAPABLE OF WHATS
BEEN SAID)
LEE STEVENS--EX CO -WORKER
ROBBIE POOL-COUSIN
GARY CARTER--COUSIN-NAVALOFFICER
SHARON ADAMS--COUSIN
PATRICK CARTER--OFFICER/COUSIN
JOHN EDWARD ADAMS--COUSIN
CALVIN HEARD--CLASSMATE AND FRIEND
DORIS HEARD-ALLEN