

**BEFORE THE GOVERNOR FOR THE STATE OF TEXAS
AND
THE BOARD OF PARDONS AND PAROLES**

In re

ROBERT WALLACE WEST

Petitioner

**APPLICATION FOR COMMUTATION OF SENTENCE
TO LIFE IMPRISONMENT, CONDITIONAL PARDON
OF HIS DEATH SENTENCE, AND A REPRIEVE
FROM EXECUTION OF HIS DEATH SENTENCE**

Submitted by:

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ATTORNEY FOR APPLICANT

INTRODUCTION

Robert Wallace West, Jr., is innocent of capital murder. Because Harris County prosecutors Texas withheld information that would have proven that he had not stolen a necklace in the course of the predicate burglary, Mr. West was wrongfully convicted of capital murder rather than simple murder.

Although Mr. West has always admitted that he killed Deanna Klaus in a drunken and emotional rage over her involvement in the slaying of his close friend, Mr. West was unfairly and untruthfully convicted of stealing Ms. Klaus' necklace from her motel room. The State presented no physical evidence and no testimony at trial regarding the necklace. Had the State disclosed to the defense that it had no evidence of a theft of a necklace, as it was required, Mr. West would only have been found guilty of a non-capital homicide.

Mr. West's trial lawyer, who introduced no evidence at either the guilt phase or sentencing phase, despite its availability and critical importance, failed to even ask his client about the truthfulness of the theft of the necklace in Mr. West's confession. Because Mr. West's trial lawyer never appreciated the importance of the necklace and never asked his client about its truthfulness, the lawyer doomed his client to a conviction of capital murder rather than the simple murder for which Mr. West is guilty.

Although Mr. West has attempted, since his conviction, to prove his allegations that prosecutors withheld evidence, the post-conviction judge never gave him a fair opportunity to do so because the state court judge was biased. Indeed, before ruling on Mr. West's post-conviction requests to prove that the State had withheld important evidence, the judge (who

is now retired) admitted his personal friendship with West's trial attorney and the attorney's family and then vowed to see the "motherfucker fried." No Texas court has previously been presented with this post-conviction transcript proving the judge's bias, or been asked to rule on the profound consequences of this outrageous bias. However, the new Texas habeas corpus statute may prevent any evaluation of this bias by the court, despite its profound consequences on whether Mr. West lives or dies.

This Board has the power to do what the Courts have been arguably been prescribed from doing. That is, granting relief to a man who is innocent of capital murder.

STATEMENT OF FACTS

Robert Wallace West, Jr., accidentally encountered his victim, Deanna Klaus, on August 23, 1982, when they both were living at the Memorial Park Motel in Houston, Texas. He decided he needed to talk to her later that day concerning the death of Mr. West's close friend, Brett Barstow. Much later, and after he had consumed large amounts of beer and wine, everything began "going too fast for (him)". Inebriated and depressed over Brett's recent slaying, he broke into Ms. Klaus' motel room to find out whether she had, in fact, "fingered" Brett by pointing him out to his assassin. When she admitted she had fingered Brett, West "blew up" and, in a rage, strangled and killed Ms. Klaus.

Mr. West has always admitted that he killed Ms. Klaus, but the false information he provided to Houston police regarding the theft of a necklace caused the State to charge him

with capital murder in the course of a burglary by theft. In fact, Mr. West had never taken the necklace and made up the story about the necklace in order to have his roommate, Gonzalo Tagle, arrested so that Mr. West could punish Tagle for consenting to a search of West's motel room where police found incriminating evidence. Rightfully so, charges against Mr. Tagle for his involvement in a theft of a necklace were eventually dismissed. The prosecutor chose not to call Tagle as a witness at trial.

Following the filing by Mr. West of his post-conviction petition for writ of habeas corpus and his other related motions, on July 9, 1987, the parties convened for a status hearing on August 24, 1987. West's post-conviction lawyer told the Court that he wanted to make a recusal motion because he had personal information that the judge was biased. The judge refused to hear the recusal motion on August 24, 1987, but agreed to hear the motion the next day, before he ruled on the other motions.

At the recusal hearing, West's lawyer told the judge that he should have recused himself because the judge had admitted his biased relationship to West's trial lawyer several days earlier and had told West's post-conviction counsel that the only response West would get to his claims and motions would be for the judge to see the "motherfucker fry." Tr. of August 25, 1987 hearing.

Mr. West's trial lawyer presented no evidence at either the guilt or punishment phase of his client's trial. In the post-conviction proceedings, Mr. West proffered evidence which was available to present at sentencing, including a relevant sworn statement from Dr. Jerome Brown regarding West's mental problems; brain damage testimony from Dr. James

Merikangas; Will Grey, Alberta West (West's mother) and Faye Hicks (West's grandmother).

PROCEDURAL HISTORY

1. On February 3, 1983, Petitioner Robert Wallace West, Jr. was convicted of capital murder and sentenced to death in the 182nd District Court of Harris County, Texas. With Judges Onion, Teague, and Clinton dissenting, the Texas Court of Criminal Appeals affirmed Mr. West's conviction and sentence on September 17, 1986. West v. State, 720 S.W.2d 511 (Tex. Cr. App. 1986). The United States Supreme Court denied Mr. West's Petition for Writ of Certiorari on May 26, 1987. West v. Texas, 481 U.S. 1072 (1987).

2. An execution date for Mr. West was scheduled for September 2, 1987.

3. On July 9, 1987, Mr. West filed a post-conviction writ of habeas corpus in the Texas Court of Criminal Appeals, under Tex. Code Crim. P. Art. 11.07. He amended his writ on July 24, 1987. At the post-conviction status hearing on August 24, 1987, the Court agreed to hear Mr. West's recusal motion prior to ruling on his claims and motions. However, on August 25, 1987, the Court denied all of Mr. West's motions but allowed counsel to put his recusal motion, and supporting facts, on the record. Later, the court ruled on the petition, signing the State's proposed findings of fact and conclusions of law. See R.E. 11.¹

¹ For purposes of this document, the record will be cited as follows:

RECORD EXCERPTS	:	R.E. ____
RECORD OF DISTRICT COURT	:	R. ____
STATE TRIAL TRANSCRIPT:	:	Vol. ____ at ____
STATE TRIAL EXHIBITS	:	Ex. ____
STATE HABEAS PROCEEDINGS	:	S.Hab. ____

The court forwarded the case to the Texas Court of Criminal Appeals, which denied Mr. West's Petition on August 31, 1987. R.E. 12, but without any record information regarding the judge's bias, particularly a copy of the recusal transcript, which was ordered on August 25, 1987 but was not prepared until November 22, 1987. Tr. 11. Ex parte West, No. 17318-01 (Tex.Cr.App. August 31, 1987).

4. On August 31, 1987, Mr. West filed a Petition for Writ of Habeas Corpus under 28 U.S.C., Sec. 2254 in the United States District Court for the Southern District of Texas. No. H-87-2197 (S.D. Tex.). He moved for an evidentiary hearing and requested funds necessary for the presentation of his claims. Respondent filed an Answer and Motion for Summary Judgment on May 2, 1988. The Petition was referred to a Magistrate who recommended that the Petition be denied. R.E. 4. No evidentiary hearing was held. Mr. West's timely objections to the Magistrate's recommendation were overruled on October 4, 1988. On October 19, 1988, the United States District Court granted Respondent's Motion for Summary Judgment and entered judgment dismissing the Petition. R.E. 3.

5. On November 16, 1988, Mr. West filed a timely notice of appeal and application for certificate of probable cause to appeal in the district court. See R.E. 2. The District Court denied the application for certificate of probable cause on November 17, 1988. Mr. West then applied for a certificate of probable cause from this Court, which granted his application. West v. Lynaugh, No. 88-6108 (5th Cir. December 21, 1990) (per curiam).

STATE HABEAS FACTFINDING	:	S.H.Fact. ____
RECUSAL HEARING TRANSCRIPT	:	Tr. ____

6. The Fifth Circuit Court of Appeals denied Mr. West's request for relief on August 18, 1996 and dismissed his Petition for Writ of Habeas Corpus. West v. Johnson, 92 F.3d 1385 (5th Cir. 1996). The Court denied Mr. West's request for rehearing and rehearing *en banc* in an order dated September 25, 1996. West v. Johnson, No. 88-6108 (Order) (September 25, 1996).

7. On December 23, 1996, Mr. West filed his Petition for Writ of Certiorari in the United States Supreme Court. This Petition for Writ of Certiorari was denied on May 27, 1997. West v. Johnson, No. 96-7332, ___ U.S. ___ (1997).

8. A Petition for Rehearing of the Order dismissing the Petition for Writ of Certiorari was timely filed on June 23, 1997 and is pending the Court's consideration and decision.

9. Mr. West has filed in the Texas Court of Criminal Appeals on July 17, 1997, his Application for a Writ of Habeas Corpus, alleging novel facts and law in support of his application, as required. The Court has not ruled on this application. This clemency request is made at this time due to the filing requirements mandated in the Texas Administrative Code and Mr. West's scheduled execution date of July 29, 1997.

ISSUES RAISED IN THE STATE AND FEDERAL COURTS

Robert West has asserted, in the various state and federal courts, but without ever having had an evidentiary hearing to prove those claims in those courts, the numerous reasons why his conviction and sentence of death were imposed unfairly and why he is innocent of capital murder:

1. MR. WEST IS INNOCENT OF CAPITAL MURDER BECAUSE THERE WAS NO EVIDENCE IN SUPPORT OF THE BURGLARY BY THEFT WHICH WAS NECESSARY TO CONVICT MR. WEST OF CAPITAL MURDER.
2. MR. WEST IS INNOCENT OF CAPITAL MURDER BECAUSE THE PROSECUTORS WITHHELD CRITICAL AND EXCULPATORY EVIDENCE WHICH WOULD HAVE PROVEN THAT HE DID NOT COMMIT A BURGLARY BY THEFT.
3. THE POST-CONVICTION JUDGE'S BIAS AGAINST MR. WEST PRECLUDED A FAIR EVALUATION OF HIS POST-CONVICTION CLAIMS AND MOTIONS FOR EVIDENTIARY HEARING AND DISCOVERY.
4. TRIAL COUNSEL PROVIDED INEFFECTIVE ASSISTANCE OF COUNSEL THROUGHOUT MR. WEST'S TRIAL IN VARIOUS RESPECTS INCLUDING THE FACT THAT TRIAL COUNSEL NEVER DISCOVERED, EITHER PRIOR TO OR DURING TRIAL, THAT MR. WEST HAD NOT TAKEN A NECKLACE IN THE COURSE OF A BURGLARY.
5. TRIAL COUNSEL PROVIDED INEFFECTIVE ASSISTANCE OF COUNSEL TO MR. WEST AT HIS SENTENCING HEARING WHEN HE PROVIDED NO MITIGATING EVIDENCE ON HIS CLIENT'S BEHALF, EVEN THOUGH THERE WAS A SIGNIFICANT AMOUNT OF EVIDENCE TO BE PRESENTED.
6. WHETHER MR. WEST'S CAPITAL MURDER CONVICTION IS UNSUPPORTED BY SUFFICIENT EVIDENCE, IN VIOLATION OF DUE PROCESS AND THE EIGHTH AMENDMENT.
7. WHETHER THE TEXAS CAPITAL SENTENCING SPECIAL ISSUES PRECLUDED MITIGATING CONSIDERATION OF EVIDENCE, IN VIOLATION OF THE EIGHTH AND FOURTEENTH AMENDMENTS.

8. WHETHER MR. WEST WAS IMPROPERLY DENIED AN EVIDENTIARY HEARING IN THE UNITED STATES DISTRICT COURT UNDER TOWNSEND v. SAIN, 372 U.S. 293 (1963) AND 28 U.S.C., Secs. 2254(d)(1), (d)(2), (d)(3), (d)(6), (d)(7) AND (d)(8).
9. WHETHER MR. WEST WAS DENIED THE EFFECTIVE ASSISTANCE OF COUNSEL AT GUILT-INNOCENCE, SENTENCING, AND ON APPEAL, IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS.
10. WHETHER THE TEXAS SPECIAL ISSUE AGGRAVATOR ON "FUTURE DANGEROUSNESS" FAILS TO PERFORM ITS CONSTITUTIONAL FUNCTION OF NARROWING THE CLASS OF THOSE ELIGIBLE FOR DEATH IN TEXAS.
11. WHETHER MR. WEST'S CONFESSION WAS OBTAINED IN VIOLATION OF THE FIFTH AMENDMENT.
12. WHETHER MR. WEST'S CONFESSION WAS OBTAINED IN VIOLATION OF THE SIXTH AMENDMENT.
13. WHETHER THE PROSECUTOR WITHHELD MATERIAL EXCULPATORY EVIDENCE WHICH PROVED MR. WEST WAS NOT GUILTY OF CAPITAL MURDER.

VICTIM IMPACT STATEMENT

Mr. West has had no contact with the family of Ms. Klaus since the time of trial.

REASONS WHY CLEMENCY OR A 30 DAY REPRIEVE OR A CONDITIONAL PARDON SHOULD BE GRANTED TO ROBERT WEST

1. Mr. West Is Innocent of Capital Murder.

Robert West has always maintained that, although he is, at most, guilty of the offense of "murder" under Texas law (Tex. Penal Code §19.02), he is actually innocent of the greater

charge of "capital murder" of which he was convicted. See Tex. Penal Code §19.03. He is innocent, because he did not actually commit a burglary (which made the killing a capital offense) as argued by the prosecution at trial. Specifically, the prosecution maintained that Robert West was guilty of capital murder, because he had unlawfully entered the victim's habitation and while inside, supposedly took a necklace. This, the prosecution maintained, established a burglary -- unlawful entry into a habitation accompanied by this alleged theft of a necklace -- thereby establishing capital murder: murder in the course of a burglary.

As a matter of fact, however, and as Robert West would demonstrate to establish his claim, he took no necklace. In fact, to this day, the State of Texas has not shown the existence of any such necklace, nor can the State even establish what this "necklace" supposedly even looks like. The State cannot, because there was and never has been any such "necklace," and no such "necklace" was ever taken by Robert West.

In support of his claim, Robert West has attached, as *prima facie* evidence of his innocence, an Affidavit establishing that he never took any necklace from the victim's habitation and how police believed this information was true. Mr. West has never been given the opportunity by any State or Federal court, to prove that the police investigation of the case (a) never revealed the existence of any such necklace, and (b) that no such necklace exists as official evidence in this case, and (c) that Gonzalo Tagle was intentionally not called as a witness at trial, despite his presence, because his testimony would have specifically disproved the necklace theft. Since the Harris County District Attorney refuses to

disclose the truth about the necklace and since no court will grant Robert West the right to an evidentiary hearing on his innocence claim, this Board must grant appropriate relief.

2. The Unprecedented Bias of the Post-Conviction Judge Toward Mr. West Denied Him the Fair and Reasonable Opportunity to Prove His Claim in the State Court That He Was Innocent of Capital Murder.

The judge's bias is unequivocal in two respects. One, he promised to see "the motherfucker fried." Tr. 10. Two, the judge admitted that he "formed an opinion" on the merits of the petition before the judge ever considered it, having personally concluded that family friend and trial counsel Scardino "had done an excellent job in representing Mr. West." Tr. 8-9. This opinion of trial counsel's representation of Mr. West was formed prior to any review of Mr. West's support for his post-conviction claims and, accordingly, Mr. West has presented a *prima facie* case that the judge was incapable of impartially reviewing those claims.

The *prima facie* showing of the judge's bias established by the transcript of the August 25, 1987 hearing requires, at least, additional hearings and discovery for a determination whether the State court's uncontroverted promise² to see Mr. West "fry," denied him due process. Mr. West asserts that this bias denied him due process because it denied him a fair-minded judge to rule on his post-conviction claims and motion for evidentiary hearing. This

² The post-conviction judge did not disavow counsel's proffer and the State has not provided any affidavit disavowing this proffer.

bias existed at each critical step of the post-conviction process in the trial court and this bias unconstitutionally infected each ruling made by the Court.

Furthermore, in denying Mr. West a hearing, the state court's bias denied him the opportunity to present relevant evidence which supported his allegations of the ineffective assistance of his trial lawyer, the judge's friend. Though Mr. West sought to present proof in support of his claims, the State court's bias prevented him from presenting that proof and therefore did not consider the substance of such evidence.

Mr. West specifically proffered the relevant, material evidence which he wanted to present as proof of his claim. This relevant evidence included evidence from Dr. Jerome Brown, Dr. James Merikangas, Will Gray, Alberta West and Faye Hicks. R.E. 6, 7. Having proffered material evidence but having been denied the opportunity to enter the substance of that proof by a biased judge, Mr. West was not provided "both procedurally and in substance, a full and fair hearing."

The Court's bias towards Mr. West also denied him a fair hearing on his ineffective-ness claims because the state court did not hold a live hearing and instead relied exclusively on two uncorroborated, unfronted affidavits presented by the State, including family friend Scardino's affidavit. Without a live hearing, Mr. West was completely denied any opportunity to test, by cross-examination, the validity of the assertions made by the affiants. He was denied due process and a fair hearing and deserves the opportunity from this Board to prove those claims.

Because new facts establish that the state court was biased, it is appropriate and necessary for this Board to evaluate whether the biased court fairly considered these important and relevant questions *regarding the necklace* including: (1) what investigation counsel actually did and what facts counsel actually knew and why; (2) why counsel didn't investigate more; and (3) why counsel chose to litigate the case as he did. Only with these facts could the court have determined whether: (1) counsel's investigation was reasonable; (2) whether counsel's decision not to investigate further was reasonable; and (3) whether counsel's strategy was reasonable. The answers to these questions profoundly affect this Board's evaluation whether it should grant any of Mr. West's request.

At sentencing, counsel presented absolutely no mitigating evidence on Mr. West's behalf. The post-conviction judge's bias prevented a legitimate evaluation of the reasons why Mr. West's trial lawyer presented no mitigating evidence, even though ample mitigating evidence was available.

3. Robert West's Death Sentence Was Based Upon a Finding of Alleged Future Dangerousness Which, As a Matter of Fact, Is Simply Not True in Violation of Due Process and The Prohibition Against Cruel and Unusual Punishment.

As the Supreme Court recognized in Jurek v. Texas, in 1976, jurors are capable of answering the factual question posed by Texas' second special issue on future dangerousness: "It is, of course, not easy to predict future behavior. The fact that such a determination is difficult, however, does not mean that it cannot be made." Later, in the Barefoot case, the

Court again recognized that "it is not impossible for even a lay person sensibly to arrive at that conclusion" about future dangerousness, as required by the second special issue.

Nevertheless, just as Jurek and Barefoot hold that jurors can make a prediction of future dangerousness, it necessarily follows that jurors can, as a matter of fact, be *absolutely wrong* in their prediction. And when the jury has made such a *factually inaccurate prediction of future dangerousness*, it is clear that any death sentence based upon this inaccurate jury factfinding is a violation of due process and the prohibition against cruel and unusual punishment under the Texas Constitution and the Eighth and Fourteenth Amendments. This is exactly the situation here, as it is clear that the jury's finding that Robert West would be dangerous in the future is *simply not true*.

For a Texas jury in a capital case to find that a criminal defendant will be criminally dangerous in the future, it seems that the jury must first unequivocally believe that the heart and soul of this capital defendant are both so significantly sick and damaged that this human being could never, in the future, experience "goodness" in himself as a part of a community, whatever that community may be. Second, since the capital defendant will never be able to experience this "goodness," the capital jury would then conclude that this capital defendant will never develop the degree of respect for himself or the members of his community (or their property) required to behave appropriately within that community. Third, without any possibility that this capital defendant could achieve both of these intertwined aspects of respect toward himself and his community, this capital jury should then rationally conclude

that this capital defendant will be criminally violent in the future which, under the Texas capital scheme, makes him eligible to be executed.

Of course, the challenge to the capital jury in Texas is to not only predict the future behavior of a human being based on what he has done in the past (including murder) but to predict this capital defendant's future behavior independent of past behavior. This is true because it is universally and statistically accepted that past behavior does not guarantee a prediction of future behavior. If this were not so, the universe would be inescapably without hope. Unfortunately, this complicated judgment required of the capital jury is often limited not by the relative depth or emptiness of the capital defendant being judged. Rather, this judgment is often and sadly limited by the enthusiasm or skill of his trial lawyer.

Robert West has spent 14 years on death row, not all of which have been as productive or righteous as others. Robert's early acceptance of responsibility for the death of Deanna Klaus (he told police the truth about his responsibility for Deanna's death shortly after his arrest and has never wavered in that responsibility), along with his intelligence and maturing insight, has, somehow, combined to produce a personal development and growing spirituality not often experienced on death row and one certainly not presented to Robert West's sentencing jury.

This personal development and spiritual growth have sparked a constructive energy and generosity which has touched the lives of scores of people worldwide as well as many on death row. See Exhibit A, attached.

While Robert is most known on death row for his honest and satirical contributions to death row publications, those others of us with whom he communicates personally on a regular basis have experienced his sensitive soul and his dynamic growth through his developing ability and talent to communicate with words.

This development includes his reconciliation of the Christian faith with his Native American heritage and its religious implications. His sober and grounded spirituality, not born of self-pity or human frailty, is succinctly noted in the Christmas card forwarded to counsel in 1993. See Exhibit B.

Surely Mr. West's jury would have appreciated, in 1983, before they judged him unsalvageable, some indication of Robert's later capacity, while suffering the daily indignities of the condemned, to wish "peace, health, happiness and love" as well as a capacity to appreciate the "secrets" and complexities of the human condition. Indeed, the jury would have appreciated knowing in 1983, before they condemned Robert to die, Robert's later capacity to express in his poetry the joy, happiness and peace of which he was capable and which his execution would silence. See Exhibit C.

Since Robert West "was sentenced on the basis of assumptions . . . which were materially untrue" and particularly since Robert West has very apparently not committed criminal acts of violence since he was condemned to death, his jury would be compelled today to find him not to be a future danger to society. Robert West, therefore, is entitled to relief from this Board from his sentence of death.

**MR. WEST REQUESTS THAT THE BOARD PROVIDE
THE FOLLOWING PROCEDURES SO THAT HE CAN
REASONABLY PRESENT FACTS IN SUPPORT
OF THIS CLEMENCY APPLICATION.**

In order for Mr. West to fully prepare for and present his reasons in support of his for clemency application, Robert West requests that he be provided the following procedures:

- A. A hearing.
- B. A hearing under the Administrative Procedures Act pursuant to Texas Government Code Sec. 2001.051, providing Mr. West the opportunity to participate in the hearing along with reasonable notice of the hearing with the opportunity to respond and present evidence and argument on each issue involved in the case;
- C. A hearing at which he would be personally present.
- D. A hearing conducted by impartial officers;
- E. The right to confront evidence and witnesses through cross-examination at the hearing;
- F. The right to present evidence and live witnesses at a hearing, secured by Board subpoena, if necessary;
- G. The right to a written summary of the findings of the decision of the hearing officer;
- H. The right to representation by counsel at the hearing;

I. The right to have the hearing transcribed by a court reporter;

and

J. The right to adequately prepare for the hearing.

CONCLUSION

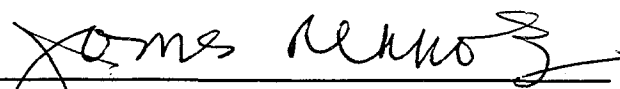
The Board of Pardons and Paroles has a duty to carefully scrutinize Mr. West's clemency application. However, while this Board seldom holds clemency hearings and has apparently not even met to discuss the application of more than 20 individuals who have applied for relief during 1997, a hearing on Mr. West's application is necessary given the information presented in this document and the information which would be presented at any hearing provided by this Board.

Mr. West can and will prove that he is innocent of capital murder should he be provided a live hearing and the right to present evidence in support of this claim. The new procedural barriers created by the State of Texas and Congress have prevented thorough litigation of Mr. West's claim that he is not guilty of capital murder in the courts. Therefore, this Board and the Governor's Office have a profoundly increased responsibility to hear evidence in support of any applicant's meritorious claims, and particularly Mr. West's claim that he is innocent of capital murder.

Accordingly, Mr. West requests a hearing including the procedures described above and a grant of commutation, conditional pardon or reprieve.

Dated at Milwaukee, Wisconsin, this 18th day of July, 1997.

REBHOLZ, AUBERRY & MALONE

By: 
JAMES REBHOLZ
Attorney for Robert Wallace West

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ROBERT WALLACE WEST
Letters in Support of Clemency*

U.S.A.:

A. Ferguson	Lame Deer, MT
<i>Northern Cheyanne Tribal Council</i>	Portland, OR
Wendy Brown	Portland, OR
Jason Kebler	Los Angeles, CA
Steve Fram	Holland, PA
Jane Winifred Hardy Peters	Atlanta, GA
Mary E. Howard	Monticello, IN
Ryan Amptmeyer	Salem, OR
Kathleen Pugh	Old Town, ME
Helen Pajama	
Bobby H. West	
<i>Heartbeat Prison Ministries</i>	Roanoke, VA
<i>The Catholic Worker</i>	New York, NY
Don Timmerman	
<i>Amnesty International U.S.A.</i>	Milwaukee, WI
Barak Epstein	Chevy Chase, MD
Reba Latimer	Dallas, TX
Sharyl Tarantino	Milwaukee, WI
Gretchen Ney Laugier	New Hope, PA
November West	New York, NY
Marta Glass	
<i>ACLU of Texas</i>	Houston, TX
Gloria Calcina del Vecchio	Newtown, PA
Daniel Prather	
Sheldah Holmes	
Deborah Jean Stone	Anchorage, AK
Jeanne Ercej	Milwaukee, WI
Pat Tompkins	Bakersville, NC

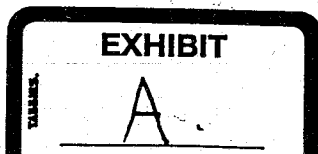
Ireland:

Marie Altziner
Eugene J. Doyle
Audrey S. Kaufman
Laurie Mulligan

Germany:

Karen Weitzemkamp
Klaus and Rena Lubberger
Maren Wandt
Karl H. Rodenberg

* Letters from these organizations and individuals have previously been forwarded to the Board and Governor Bush.



*We have seen his star
in the east,
and are come to worship him.*
MATTHEW 2:2

Tim -

Another year of tests, trials & growth. My hopes & wishes are that we have many more and that we one day learn the secrets. In the mean time I wish you lots of Peace, Health, Happiness & Love.

I recieved the article and your note last month, my delay in responding came from all of the work on the 15th issue of the paper as well as the

God rest you merry, gentlemen;
Let nothing you dismay,
Remember Christ, our Saviour,
Was born on Christmas Day,
To save us all from Satan's pow'r
When we were gone astray.

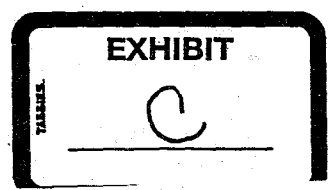
O tidings of comfort and joy!

EXHIBIT

B

GHOST SHIP
From the beach I see
a moonlit patch of water
from 1936
lost in time
black & white
faded off color yellow
and on the water
floats a luxury liner
long ago gone
to its watery grave
a ghost ship,
a ship of lovers
forever on deck
dancing
alive in their dreams
because dreams are forever
Dancing, they whisper
knowing that I'm looking
from 1996
looking through times window
because its me
that brings them alive
Ghost lovers
they are my dream
alive only when I look
down the alley of moonlight
that all lovers see
caressing the surface
from the horizon
to the shore
I hear the big bands playing
from the depths of the ship
music soothing me
my ghost dancers
their ghost ship
that ship of dreams
The Glen Miller Band
from the Starlight Ballroom
in my ship
playing "In The Mood"
until the liner passes
out of the moonlight
out of the magic patch of water
and out of existence
until the dream returns
I wonder if the lovers dance
if the music still plays
and if my dream continues
after I quit dreaming it?
Aren't dreams forever?

Robert West #731, Ellis 1 Unit, Huntsville Texas, 77343-0001, U.S.A.



REQUIRED EXHIBITS

Robert West has been unable to obtain certified copies of the indictment, verdict, judgment and sentence due to the shortage of time between his execution date and the filing deadlines for the clemency petition. Mr. West requests that the Board consider these uncertified copies to substantially comply with 37 TAC Sec. 143/42(3). Uncertified copies of the indictment, verdict, judgment and sentence are attached. He is aware that the Board has considered uncertified copies in prior clemency applications.

INDICTMENT

FILED: OCTOBER 5, 1982

THE STATE OF TEXAS
VS.

REV. 5/80

ROBERT WALLACE WEST, JR. aka SPN: 12-22-61
ROBERT WALLACE HICKS WM DOB: 12-22-61

DATE PREPARED: 10-1-82 BY: blh DA NO.: CWR
AGENCY: HPD O/R NO.: 52376982
NCIC CODE: 0907 10 07 ARREST DATE: 8-24-82
RELATED CASES:

FELONY CHARGE:

CAPITAL MURDER

262nd 61

CAUSE NO.: 362661
HARRIS COUNTY DISTRICT COURT NO.: 182ND

BAIL \$ NO BOND Vol 103 Page 712 AX GM
PRIOR CAUSE NO.:

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

The duly organized Grand Jury of Harris County, Texas, presents in the District Court of Harris County, Texas, that in Harris County, Texas,

ROBERT WALLACE WEST, JR. aka ROBERT WALLACE HICKS

hereafter styled the Defendant, heretofore on or about
then and there unlawfully

AUGUST 24, 1982

while in the course of committing and attempting to commit burglary of a habitation owned by DEANNA KLAUS, intentionally cause the death of DEANNA KLAUS, hereafter styled the Complainant, by strangling the Complainant with his hands and by strangling the Complainant with a belt and by strangling the Complainant with a sheet and by suffocating the Complainant with a hand towel and by stabbing the Complainant with a piece of wood.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Roy A Washington

FOREMAN OF THE GRAND JURY

FILED

OCT 5 2 51 PM '82

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H. Brown



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The Special Issues, with forms for your answers, are as follows:

SPECIAL ISSUE NO. 1

Whether the conduct of the defendant, Robert Wallace West, Jr., that caused the death of the deceased, Deanna Klaus, was committed deliberately and with the reasonable expectation that the death of the deceased or another would result?

ANSWER

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

F I L E D

RAY HARDY
District Clerk

FEB - 3 1983

Time: 5:00 P.M.
Harris County, Texas
By [Signature]
Deputy

[Signature]
FOREMAN OF THE JURY

OR

We, the Jury, because at least ten (10) jurors have a reasonable doubt as to the matter inquired about in this Special Issue, find and determine that the answer to this Special Issue is "No."

FOREMAN OF THE JURY

SPECIAL ISSUE NO. 2

Whether there is a probability that the Defendant,
Robert Wallace West, Jr., 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."

F I L E D

RAY HARDY
District Clerk

FEB - 3 1983

Time: 5:00 P.M.

Harris County, Texas

By J. E. Dudge
Deputy

[Signature]
FOREMAN OF THE JURY

OR

We, the Jury, because at least ten (10) jurors have a
reasonable doubt as to the matter inquired about in this Special
Issue, find and determine that the answer to this Special Issue
is "No."

FOREMAN OF THE JURY

FILED: FEB 3 1983
Date

[Signature]
DONALD K. SHIPLEY, Judge Presiding
182nd District Court
Harris County, Texas

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

[Signature]
FOREMAN OF THE JURY

Thereupon, the jury, in accordance with law, heard further evidence, and having been again charged by the Court, the jury retired in charge of the proper officer and returned into open Court on the 3rd day of February 1983, the following verdict, which was received by the Court and is here entered of record upon the minutes:

SPECIAL ISSUE NO. 1

Whether the conduct of the defendant, Robert Wallace West, Jr. that caused the death of the deceased, Deanna Klaus, was committed deliberately and with the reasonable expectation that the death of the deceased or another would result?

ANSWER

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

/s/ Basil Cervas
FOREMAN OF THE JURY

SPECIAL ISSUE NO.2

Whether there is a probability that the Defendant, Robert Wallace West, Jr., 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" .

/s/ Basil Cervas
FORMAN OF THE JURY

or

We, the Jury, because at least ten (10) jurors have a reasonable doubt as to the matter inquired about in this Special Issue, find and determine that the answer to this Special Issue is "No".

FOREMAN OF THE JURY

LED: February 3, 1983
date

/s/ Donald K. Shipley
DONALD K. SHIPLEY, Judge Presiding
182nd District Court
Harris County, Texas

" We, the Jury, return in open Court the above answers as our answers to the Special Issues submitted to us, and the same is our verdict this case.

/s/ Basil Cervas
FOREMAN OF THE JURY

MINUTES OF THE 182nd DISTRICT COURT OF HARRIS COUNTY, TEXAS

AT THE November TERM, A. D. 19 82

JUDGMENT

O. 362661

THE STATE OF TEXAS

Date January 11 19 83

Robert Wallace West Jr. aka Robert Wallace Hicks on motion of the
~~and the Court order the defendant's name changed to Robert Wallace West~~
Jr.

Attorney for State : Asst. Dist. Atty. Carl Hobbs

Attorney for Defendant : Robert Scardino and Roy Ashe

Offense : CAPITAL MURDER

Date of Offense : August 24, 1982 A. D. 19

Plea : Not Guilty

Count and/or Paragraph : 1st count 1st paragraph

Plea to Enhancement :
Findings on Enhancement : n/a

Punishment : Death

The Defendant having been indicted in the above entitled and numbered cause for the felony offense indicated above and this cause being this day called for trial, the State appeared by her District Attorney as named above and the Defendant named above appeared in person with Counsel as named above, and both parties announced ready for trial.

A Jury composed of Basil Cervas and eleven others was selected, impanelled, and sworn. The indictment was read to the Jury and the Defendant, entered a plea of not guilty thereto, after having heard the evidence submitted; and having been charged by the Court as to their duty to determine the guilt or innocence of the Defendant and the argument of counsel, the Jury retired in charge of the proper officer and returned into open court on the

2nd day of February, 1983, the following verdict, which was received by the Court and is here entered of record upon the minutes:

" We, the Jury, find the Defendant, ROBERT WALLACE WEST, JR. GUILTY OF CAPITAL MURDER AS CHARGED IN THE INDICTMENT.

/s/ Basil Cervas

FOREMAN OR FORDLADY OF THE JURY"

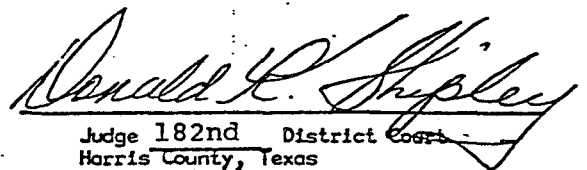
It is therefore considered, ordered, and adjudged by the Court that the Defendant is guilty of the offense indicated above, a felony, as found by the verdict of the jury, and that the said Defendant committed the said offense on the date indicated above, and that he be punished, as has been determined by the Jury, by death, and that Defendant be remanded to Jail to await further orders of this court.

And thereupon, the said Defendant was asked by the Court whether he had anything to say why sentence should not be pronounced against him, and he answered nothing in bar thereof.

Whereupon the Court proceeded, in presence of said Defendant to pronounce sentence against him as follows, to wit, "It is the order of the Court that the Defendant named above, who has been adjudged to be guilty of the offense indicated above and whose punishment has been assessed by the verdict of the jury and the judgment of the Court at Death, shall be delivered by the Sheriff of Harris County, Texas immediately to the Director of Corrections of the State of Texas, or any other person legally authorized to receive such convicts, and said Defendant shall be confined in said Department of Corrections in accordance with the provisions of the law governing the Texas Department of Corrections until a date of execution of the said Defendant is imposed by this Court after receipt in this Court of mandate of affirmance by the Court of Criminal Appeals of the State of Texas.

The said Defendant is remanded to jail until said Sheriff can obey the directions of this sentence. From which sentence an appeal is taken as a matter of law to the Court of Criminal Appeals of the State of Texas, Austin, Texas.

Signed and entered on this the 3rd day of February 19 83.


Judge 182nd District Court
Harris County, Texas

COPY TO TDC 2-3-83

To which action of the Court the Defendant then and there, in open Court, excepted and gave notice of appeal to the Court of Criminal Appeals of the State of Texas, Austin, Texas. And inasmuch as said Defendant has given notice of appeal herein, execution of the sentence is deferred to await the judgment and order of our Court of Criminal Appeals in this behalf. No bond allowed.
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