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**HOUSTON CHRONICLE ARCHIVES****Paper:** HOUSTON CHRONICLE**Date:** TUE 10/14/86**Section:** 1**Page:** 14**Edition:** 5 STAR

## Federal judge issues stay for convicted killer *DeLuna*

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Staff

HUNTSVILLE - A federal judge in Corpus Christi today issued a stay of execution for convicted killer *Carlos DeLuna*, who was to die before dawn Wednesday for the 1983 stabbing *death* of a Corpus Christi service station clerk.

District Judge Hayden W. Head Jr. said *DeLuna*'s attorney, Richard Anderson, had raised several constitutional issues that the state, which did not contest the stay, had not had time to address.

The state Court of Criminal Appeals on Monday turned down an appeal based on the grounds that *DeLuna* received inadequate legal representation during his trial and that his *death* sentence was due to racial discrimination.

The U.S. Supreme Court on Friday, by a 7-2 decision, turned down *DeLuna*'s first federal appeal of his conviction.

*DeLuna*, 24, an electrician from Corpus Christi, was sentenced to die for the Feb. 4, 1983, robbery-slaying of clerk Wanda Jean Lopez, 24. He was on parole for car theft at the time of the crime. This is the first time he has faced an execution date.

"I'm tired of this, and I would like to know something," *DeLuna* said last week. "They have never executed anyone on their first date before, but I would hate for them to try to make an example out of me."

He had asked that the federal appeals courts declare unconstitutional the Texas capital punishment statute. *DeLuna* claims that in Texas, killers of whites receive the *death* penalty more often than those who kill blacks. Lopez was white.

*DeLuna*'s appeal is similar to a Georgia case to be argued later this week before the Supreme Court.

*DeLuna* claims another person killed Lopez and that he was not at the service station at the time of the crime.

Police said Lopez, who was married and the mother of one, was attacked minutes after she telephoned police. Her last words, urging the attacker to take the money but spare her life, were recorded by police:

"You want it. I'll give it to you. I'll give it to you. I'm not going to do nothing to you. Please."

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