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Page 14, Section 1  
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**State appeals court refuses to block Texan's execution**

By FRANK KLIMKO  
Houston Chronicle

**HUNTSVILLE** — Attorneys for convicted killer Carlos DeLuna, who is to die Wednesday for the 1980 slaying of a Corpus Christi service station clerk, today were to continue their efforts to win a stay of execution.

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.

DeLuna's attorney, Richard Anderson, said he would file another stay request with U.S. District Judge Hayden Hood of Corpus Christi. The U.S. Supreme Court on Friday, by a 7-2 decision, turned down DeLuna's first federal appeal of his conviction.

DeLuna, 34, an electrician from Corpus Christi, is to die before dawn Wed-

nesday for the Feb. 4, 1980, robbery-slaying of service station clerk Wanda Jean Lopez, 24. He was on parole on a 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 during a death row interview 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 is asking 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 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."



DeLuna

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