

NO. 83-CR-194-A

THE STATE OF TEXAS

IN THE 28TH DISTRICT

V.

COURT

CARLOS DE LUNA

NUECES COUNTY, TEXAS

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DEATH SENTENCE AFTER MANDATE

a. Synopsis Of The Judgment

Judge Presiding: ERIC BROWN Date Of Judgment: NOVEMBER 2, 1989

Attorney For State: GRANT JONES Attorney For Defendant: RICHARD ANDERSON

Offense Convicted Of: CAPITAL MURDER Degree: CAPITAL Date Offense Committed: FEBRUARY 4, 1983

Charging Instrument: INDICTMENT

Jury verdict: GUILTY Foreman: ALFRED G. MORALES

Findings On Use Of Deadly Weapon:

Punishment Assessed By: JURY

Date Sentence Imposed: NOVEMBER 2, 1989 Costs: \$

Punishment: DEATH

Time Credited: N/A DAYS Total Amount Of Restitution/Reparation: NONE

Concurrent Unless Otherwise Specified.

M I C R O F I L M E D

THE STATE OF TEXAS V. CARLOS DE LUNA  
Judgment -- 83-CR-194-A

b. T e x t O f J u d g m e n t

This case was called again on NOVEMBER 2, 1989 for purpose of sentencing the defendant. Both parties appeared. The following attorneys appeared for the State: GRANT JONES The following attorneys appeared for the defendant: RICHARD ANDERSON

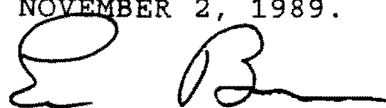
The Court of Criminal Appeals has affirmed the conviction in this case. Its mandate, dated JUNE 20, 1986, has been received by this Court.

Before pronouncing sentence, the defendant was asked if there was any reason why sentence should not be pronounced. The defendant gave no reason to prevent sentencing. In open court, in the presence of defendant and defendant's counsel, the court pronounced sentence as follows:

It is the order of the Court that the defendant, CARLOS DE LUNA, who has been adjudged to be guilty of the offense of CAPITAL MURDER, and whose punishment has been assessed at DEATH, in accordance the verdict of the jury, shall before the hour of sunrise on THURSDAY, DECEMBER 7, 1989, at the State Penitentiary at Huntsville, Texas, be caused to die by intravenous injection of a substance or substances in a lethal quantity sufficient to cause death into the body of the defendant until he is dead. The clerk is ordered to issue a death warrant in accordance with this sentence directed to the Warden of the State Penitentiary at Huntsville, Texas, and deliver such warrant to the Sheriff of Nueces County to be by him delivered to the warden, together with the defendant. The defendant is remanded to jail to await transportation to Huntsville and execution of this sentence.

Sentence was pronounced on NOVEMBER 2, 1989.

Signed and entered on this date: NOVEMBER 2, 1989.



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ERIC BROWN  
JUDGE PRESIDING

M . C R O F I L M E D

NO. 83-CR-194-A

THE STATE OF TEXAS

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CARLOS DE LUNA

NUECES COUNTY, TEXAS

WARRANT OF EXECUTION

THE STATE OF TEXAS TO THE WARDEN OF THE STATE PENITENTIARY  
AT HUNTSVILLE, WALKER COUNTY, TEXAS, GREETING:

WHEREAS:

On the 21st day of July, A.D., 1983, in the 28th District Court of Nueces County, Texas, CARLOS DE LUNA, was duly and legally convicted of the crime of Capital Murder as fully appears in the judgment of said Court entered upon the minutes of said Court as follows, to wit: "THE STATE OF TEXAS V. CARLOS DE LUNA, IN THE DISTRICT COURT OF NUECES COUNTY, NO. 83-CR-194-A, 28TH JUDICIAL DISTRICT OF TEXAS VERDICT; JUDGMENT AND SENTENCE -- CAPITAL MURDER DATE: JULY 21, 1983

"This case was called on July 5, 1983. Both parties appeared and announced ready for trial. Attorneys for the State were Steve Schiwetz and Kenneth Botary. Attorneys for the defendant were James Lawrence and Hector De Pena, Jr.

"A jury was selected and sworn.

"In the presence of the jury, the indictment was read. Defendant pleaded not guilty to the offense alleged.

"Evidence was submitted to the jury.

"The jury received the court's charge, heard the arguments of counsel, and retired to determine its verdict.

"On July 20, 1983, the jury concluded its deliberations and returned the following verdict:

**FILED**

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**M I C R O F I L M E D**

OSCAR SOLIZ, CLERK  
DISTRICT COURT, NUECES COUNTY, TEXAS  
By *Walter M. D. [Signature]* Deputy

"We, the Jury, find the Defendant, Carlos De Luna, guilty of the offense of Capital Murder, as alleged in the indictment.

/s/ALFRED G. MORALES  
FOREPERSON"

"The verdict was filed and entered of record on July 20, 1983, at 5:30 p.m.

"On the issue of punishment the jury heard evidence, received a charge by the court, heard the arguments of counsel, and retired to determine its verdict.

"On the issue of punishment the jury heard evidence, received a charge by the court, heard the arguments of counsel, and retired to determine its verdict.

"On July 21, 1983, the jury concluded its deliberations on punishment and returned the following verdict:

"SPECIAL ISSUE NO. 1

Was the conduct of the Defendant, Carlos De Luna, that caused the death of the deceased, Wanda Lopez, 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/ALFRED G. MORALES  
FOREPERSON"

"SPECIAL ISSUE NO. 2

Is there a probability that the Defendant, Carlos De Luna would commit criminal acts of violence that would constitute a continuing threat or society?

ANSWER

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

/s/ALFRED G. MORALES  
FOREPERSON"

M I C R O F I L M F D

"VERDICT

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.

/s/ALFRED G. MORALES  
FOREPERSON"

"This verdict was filed and entered of record on July 21, 1983, at 8:52 p.m.

"It is ORDERED, ADJUDGED AND DECREED by the Court that the Defendant, Carlos De Luna, is guilty of the offense of Capital Murder and that he be punished by death in accordance with the jury's verdict.

"The Court further finds that the offense alleged in the indictment was committed on February 4, 1983.

"Before pronouncing sentence, the Defendant was asked whether he had anything to say why the sentence should not be pronounced against him. He answered he did not.

"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 Nueces County, Texas, to be transported to the Texas Department of Corrections at Huntsville, Texas, there to await the action of the Court of Criminal Appeals and the further orders of this Court.

"This judgment replaces the judgment in this case which was signed on July 22, 1983, and is made for the purpose of correcting the date on which the punishment verdict was returned. Due to a clerical error, that date was incorrectly stated as "April 21, 1983."

"This judgment is signed on the 27th day of July, 1983, but shall be treated as if signed on July 22, 1983.

/s/WALLACE MOORE  
WALLACE MOORE  
JUDGE PRESIDING"

... M F D

AND

WHEREAS, on the 2ND day of NOVEMBER, A.D., 1989, the said Court pronounced sentence upon the said CARLOS DE LUNA, in accordance with said judgment fixing the time of the execution of the said CARLOS DE LUNA for before the hour of sunrise on THURSDAY, the 7TH day of DECEMBER, A.D., 1989 as fully appears in the sentence of the Court entered upon the minutes of said Court as follows, to wit:

NO. 83-CR-194-A

"THE STATE OF TEXAS

IN THE 28TH DISTRICT

V.

COURT

CARLOS DE LUNA

NUECES COUNTY, TEXAS

"This case was called again on NOVEMBER 2, 1989 for purpose of sentencing the defendant. Both parties appeared. The following attorneys appeared for the State: GRANT JONES The following attorneys appeared for the defendant: RICHARD ANDERSON

"The Court of Criminal Appeals has affirmed the conviction in this case. Its mandate, dated JUNE 20, 1986, has been received by this Court.

"Before pronouncing sentence, the defendant was asked if there was any reason why sentence should not be pronounced. The defendant gave no reason to prevent sentencing. In open court, in the presence of defendant and defendant's counsel, the court pronounced sentence as follows:

"It is the order of the Court that the defendant, CARLOS DE LUNA, who has been adjudged to be guilty of the offense of CAPITAL MURDER, and whose punishment has been assessed at DEATH, in accordance the verdict of the jury, shall before the hour of sunrise on THURSDAY, DECEMBER 7, 1989, at the State Penitentiary at Huntsville, Texas, be caused to die by intravenous injection of a substance or substances in a lethal quantity sufficient to cause death into the body of the defendant until he is dead. The clerk is ordered to issue a death warrant in accordance with this sentence directed to the Warden of the State Penitentiary at Huntsville, Texas, and deliver such warrant to the Sheriff of Nueces County to be by him delivered to the warden, together with the defendant. The defendant is remanded to

jail to await transportation to Huntsville and execution of this sentence.

Sentence was pronounced on NOVEMBER 2, 1989

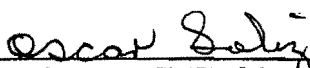
Signed and entered on this date: NOVEMBER 2, 1989

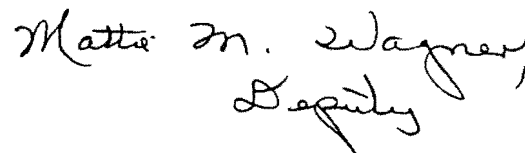


ERIC BROWN  
JUDGE PRESIDING"

These are therefore to command you to execute the aforesaid judgment and sentence at any time before the hour of sunrise on THURSDAY, the 7TH day of DECEMBER, A.D., 1989 at the State Penitentiary at Huntsville in the room arranged for that purpose by the intravenous injection of a substance or substances in a lethal quantity, sufficient to cause death, into the body of the said CARLOS DE LUNA until he is dead.

HEREIN fail not, and due return make hereof in accordance with law witness my signature and seal of office on this the 2ND day of NOVEMBER, 1989.

  
CLERK OF THE 28TH DISTRICT COURT  
NUECES COUNTY, TEXAS

By:   
Deputy

M I C R O F I L M E D