

United States Court of Appeals

FIFTH CIRCUIT

OFFICE OF THE CLERK

June 5, 1989

TEL. 504-389-4314
600 CAMP STREET
NEW ORLEANS, LA 70130

GILBERT F. GANUCHEAU
CLERK

Mr. Jesse E. Clark, Clerk
United States District Court
521 Starr St.
Corpus Christi, TX 78401

No. 88-2613 - Deluna -vs- Lynaugh
USDC# CA-C-86-234

- Enclosed to you only is a certified copy of the judgment of this Court in the above case issued as and for the mandate.
- Enclosed to you only is a certified copy of the Rule 47.6 Decision in the above case issued as and for the mandate.
- The Court having denied the motion for stay of mandate, enclosed to you only is a certified copy of the judgment of this Court in the above case issued as and for the mandate.
- Having received from the Clerk of the Supreme Court a copy of the order of that Court denying certiorari, I enclose a certified copy of the judgment of this Court in the above case, issued as and for the mandate.
- We have received a certified copy of an order of the Supreme Court denying certiorari in the above cause. This Court's judgment as mandate having already been issued to your office, no further order will be forthcoming.

Enclosed herewith are the following additional documents:

- Copy of the Court's opinion.
- Original record on appeal or review. 2 Volumes.
- Other original papers forwarded with record, 1 Envelope 1 Box.
- Bill of Costs approved by this Court. Copy enclosed to counsel.

cc: (Letter Only)
Hon. Hayden W. Head, Jr.
Mr. Richard Anderson
Mr. William C. Zapalac

Sincerely,
GILBERT F. GANUCHEAU, Clerk

FILED

By: E. B. Boudin
Deputy Clerk

OCT 27 1989

OSCAR SOLIZ, CLERK
DISTRICT COURT, NUECES COUNTY, TEXAS
By: Matt... Deputy

C R U F I L M E D - 1

rec'd 6/2/89

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 88-2613

CARLOS DELUNA

Petitioner-Appellant

versus

JAMES A. LYNAUGH, Director
Texas Department of Corrections,

Respondent-Appellee.

U.S. COURT OF APPEALS
FILED
JUN 29 1989
GILBERT E. GANUCHEAU
CLERK
closed
6-29-89/klw

Appeals from the United States District Court for the
Southern District of Texas

Before POLITZ, WILLIAMS and JONES, Circuit Judges.

BY THE COURT*

IT IS ORDERED that the motion of appellant to recall the mandate and stay the setting of an execution date pending the filing and disposition of a petition for writ of certiorari is DENIED.

*Decided by a quorum, 23 U.S.C. §46(d).

FILED

OCT 27 1989

OSCAR SOLIZ, CLERK
DISTRICT COURT, NUECES COUNTY, TEXAS
By *[Signature]* Deputy

FILED

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D. C. 20543

October 10, 1989

Mr. William C. Zapalac
Asst. Attorney General
P.O. Box 12548
Austin, TX 78711-2548

Re: Carlos DeLuna,
v. James A. Lynaugh, Director, Texas Department
of Corrections
No. 89-5442

Dear Mr. Zapalac:

The Court today entered the following order in the above
entitled case:

The petition for a writ of certiorari is denied. Justice
Brennan and Justice Marshall dissenting:

Adhering to our views that the death penalty is in all
circumstances cruel and unusual punishment prohibited by the
Eighth and Fourteenth Amendments, Gregg v. Georgia, 428 U.S.
153, 227, 231 (1976), we would grant certiorari and vacate the
death sentence in this case.

Very truly yours,

Joseph F. Spaniol, Jr.

Joseph F. Spaniol, Jr., Clerk

OCT 27 1989

OSCAR SOLIZ, CLERK
DISTRICT COURT, NUECES COUNTY, TEXAS
By *Matt...* Deputy