

# Will Texas Execute a Man for Being Black?

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Duane Buck is guilty of murder. Of that, there is no question. In 1995 he shot and killed his then-girlfriend as well as her male companion in her Houston, Texas, apartment. Not surprisingly, in execution-prone Texas, Buck was sentenced to [the death penalty](#) for his crime.

What seems on the surface to be an open-and-shut murder conviction, however, has become one of the most racially explosive cases of the past several decades—unveiling evidence of systemic racial discrimination in Texas’s criminal justice system.

The problem with Buck’s case is this: During the penalty phase of the trial, Harris County prosecutors benefitted from the testimony of controversial psychologist Walter Quijano.

Asked in open court if “[the race factor, black](#)” increased Buck’s risk of reoffending, Quijano answered “yes.” The so-called expert went on to testify that being either African American or Latino “increases the future dangerousness for various complicated reasons.”

In Texas, “future dangerousness” is one of the key factors in determining whether a person is eligible for capital punishment. By allowing Quijano’s testimony to stand, Harris County has established that race can be used as a significant justification for meting out the death penalty.

“This is a flagrant use of race in a capital case,” says Christina Swarns, Director of the Criminal Justice Practice [at the NAACP Legal Defense and Educational Fund](#). “We litigate race cases all the time, and you just don’t see this explicit pandering to racial fear.”

“Mr. Buck is looking for a sentencing hearing that does not invoke his race. He knows he’s looking at life in prison, and he’s fine with that.”

For a while, the state of Texas appeared to agree with Swarns. In 2000, then-Texas Attorney General John Cornyn reviewed seven cases where Quijano had presented racially biased expert testimony—including Buck’s—and determined that all were in need of resentencing.

Six of those cases were indeed resentenced. Buck’s was the only one that was not. His execution could be scheduled to take place at any moment, and Texas authorities have shown no signs of backing down and living up to Cornyn’s promise.

“It sets a very uncomfortable precedent for what the state can get away with,” says Swarns. “This is a death case. If the state can get away with relying on overt racism, admit their error, and then go back on their efforts to remedy the situations, it means there are no limits. It not only sets a dangerous precedent for people of color, that their race can be used against them, but for everyone.”

On Wednesday, March 13, Buck’s attorney’s filed a habeus petition to reverse his execution sentence, [challenging the capital punishment](#) ruling on constitutional grounds.

“Mr. Buck is looking for a sentencing hearing that does not invoke his race,” says Kate Black, an attorney for Buck. “He knows he’s looking at life in prison, and he’s fine with that.”

Black and her legal team will make use of a new study from University of Maryland professor Raymond Paternoster, who revealed a pattern of racial discrimination in capital cases in Harris County. Of the 21 cases most similar to Buck’s in Harris County, 70 percent of African American men faced the death penalty, while only 20 percent of white men did.

“The discrimination Mr. Buck faced did not occur in a vacuum,” says Black.

Whether that argument will find sway in the Texas appeals process remains to be seen. The issue may very well head to the Supreme Court, which granted Buck a previous 11th hour stay back in September of 2011, 90 minutes before he was set to be executed.

Swarns says she hopes it won’t come to that again: “It isn’t the ’30s. Where we are now in our society, this case shouldn’t be a big lift. It’s outrageous to anybody who you explain it too. And yet, here we are.”

**Should Duane Buck be granted a new sentencing hearing? Explain why or why not in [COMMENTS](#).**

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