

URGENT ACTION

CHILD SENTENCED TO LIFE SEEKS CLEMENCY

On 11 April the Illinois Prisoner Review Board will review the clemency application of Jacqueline Montanez, the only woman in that state serving a sentence of life imprisonment without the possibility of parole for a crime committed as a child. She has been in prison for more than half her life.

Jacqueline Montanez was convicted in 1993 of two murders committed the previous year, when she was 15 years old. She was sentenced to life imprisonment without the possibility of parole. The imposition of this sentence on anyone who was under 18 years old at the time of the crime violates international law.

Throughout her childhood Jacqueline Montanez was physically and sexually abused. From the age of nine she abused drugs and alcohol and joined a street gang. Charged with first degree murder, she was automatically tried in adult criminal court and received the sentence mandatory in Illinois, life without parole. Denial of a trial in juvenile court meant her youth, history of abuse and mental health issues, and her openness to rehabilitation were not considered. .

Jacqueline Montanez has said that during her years in prison she has reflected on her involvement in the murders and has accepted full responsibility. She has expressed great remorse for the loss experienced by the families of the two men who were killed. She believes she has grown into a very different person, has achieved a high school equivalency diploma and completed almost all available education and vocational programmes.

By May, Jacqueline Montanez will have been in prison for more than 20 years. On 26 January 2012, she submitted an application for clemency to the Illinois Prisoner Review Board. Her case will be reviewed on 11 April 2012 after which the Board will make a non-binding recommendation for or against clemency to Governor Pat Quinn. Activists are encouraged to support the "Clemency for Jacqueline Montanez" iPetition hosted by her legal team at <http://www.ipetitions.com/petition/jacquelinemontanez/>

Please write immediately in English or your own language:

- Explain that you are not suggesting that children's crimes be excused, but that the question of accountability should be addressed in a manner that reflects their immaturity and capacity for development, and that aims at maximising their potential for successful reintegration into society;
- Emphasise that a sentence of life without the possibility of parole for anyone who was under 18 years old at the time of the crime violates a principle of international human rights law respected across the globe;
- Urging the authorities to reconsider Jacqueline Montanez's sentence, so that it is no longer incompatible with principles of juvenile justice.

PLEASE SEND APPEALS BEFORE 11 APRIL 2012 TO:

Illinois Prisoner Review Board
319 East Madison Street, Suite A
Springfield, IL 62701
Fax: +1 217 524 0012
Email: clemency.prb@illinois.gov
Salutation:

Governor of Illinois, Governor Pat Quinn
Office of the Governor, 207 State House,
Springfield, IL, 62706
Email via contact form at:
<http://www2.illinois.gov/gov/Pages/ContacttheGovernor.aspx>
Salutation: Dear Governor

And copies to:

Children and Family Justice Center
Ms. Alison R. Flaum
Bluhm Legal Clinic, Northwestern University
School of Law, 357 East Chicago Avenue
Chicago, IL 60611
Email: a-flaum@law.northwestern.edu

Also send copies to diplomatic representatives accredited to your country.

Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

At the time of the crime for which she is now serving life imprisonment without the possibility of parole, Jacqueline Montanez had run away from a foster home and had not attended school since the eighth grade (**age 13-14**). She had suffered a childhood of abuse and had joined a rival street gang to her stepfather's and been abusing drugs and alcohol from the age of nine. She has said that she repeatedly ran away from home to escape abuse, which led to her being intermittently placed in the custody of social services from the age of 12.

On 12 May 1992, she drove to a park with two girls, also members of her street gang, and met with two men, Hector Reyes and James Cruz, both members of her stepfather's gang. She shot and killed Hector Reyes and gave the gun to one of the girls who then shot and killed James Cruz. She was arrested the following day, and confessed during questioning, with neither a youth officer nor her mother present. Jacqueline Montanez was granted a new trial which took place in 1999, at which she was again convicted and sentenced to life without parole, a mandatory sentence in the State of Illinois. She was transferred to adult jail on her 17th birthday and to adult prison four months later, where she was the youngest inmate in the prison system. On arrival she was placed in the mental health unit and remained there for almost three years. A mental health evaluation noted that she had flashbacks of the crimes and it recommended that she be kept in the unit to ensure her protection. She has spent more than half her life in prison.

The International Covenant on Civil and Political Rights (ICCPR), which the USA ratified in 1992, specifically acknowledges the need for special treatment of children in the criminal justice system and emphasizes the importance of their rehabilitation. Article 14(4) of the ICCPR states: "In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation". In 2006, the UN Human Rights Committee, the expert body established by the ICCPR to oversee implementation of the treaty, reminded the USA that sentencing children to life imprisonment without parole is incompatible with the ICCPR. It called on the USA to ensure that no children were subjected to this sentence.

The 193 countries which have ratified the UN Convention on the Rights of the Child (CRC) have further agreed to be bound by the principle, enshrined in Article 37(a), that no person under the age of 18 at the time of the offence should be sentenced to "life imprisonment without the possibility of release". The USA is the only country apart from Somalia not to have ratified the CRC. However, the USA has signed the Convention and as a signatory, the USA is bound under international law to do nothing which would defeat the object and purpose of the treaty. Article 37(b) of the Convention also calls upon states to use imprisonment against a child "only as a measure of last resort and for the shortest appropriate period of time."

The USA is believed to stand alone in sentencing children to life without parole. Although several countries technically permit the practice, Amnesty International knows of no cases outside the USA where such a sentence has been imposed in recent years. Amnesty International does not specify in detail what sentence is appropriate, only that it should conform to international standards.

Name: Jacqueline Montanez

Gender m/f: F

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