

URGENT ACTION

CONDEMNED MAN'S MENTAL HEALTH IN QUESTION

Jonathan Marcus Green, a 42-year-old man, is due to be executed in the US state of Texas on 30 June. He was sentenced to death in 2002 for the murder of a 12-year-old girl in 2000. His lawyers have claimed that he suffers from mental illness and possible 'mental retardation'.

Christina Neal, who lived with her two sisters and their father in Montgomery County, eastern Texas, went missing on 21 June 2000. On 19 July, the 12-year-old girl's partially decomposed body was found by investigators searching Jonathan Green's home. The body was in a bag behind a sofa, after having apparently been removed from a shallow grave in Green's backyard earlier that day. The medical examiner determined that the victim had been strangled to death and had likely been sexually assaulted.

On 15 July 2002, a jury convicted **Jonathan Green** of the capital murder of Christina Neal during the course of committing or attempting to commit kidnapping or sexual assault. At the sentencing phase, at which the prosecution presented evidence of previous acts of violence by the defendant, the jury concluded that there was a reasonable probability that Jonathan Green would commit future acts of criminal violence constituting a threat to society, and that there was insufficient mitigating evidence to warrant a life sentence. He was sentenced to death.

In an appeal filed in federal District Court in 2007, Jonathan Green's lawyers argued that he was suffering from a serious mental disorder and was "actively psychotic", experiencing a variety of hallucinations as well as paranoia. The appeal stated that Jonathan Green was convinced that he would be set free if only his current lawyers would present a judge with certain papers in the possession of his former lawyers. The appeal continued that "Mr Green believes that he is the victim of, or pawn in, some sort of game" involving guards and other prisoners on death row. In her decision in February 2008 upholding the death sentence, the US District Court Judge ruled that there was no categorical prohibition on the execution of people with mental illness under US law, and that the claim that Green was incompetent for execution (that he did not comprehend the reason for his punishment) could not be ruled upon until his execution was imminent. The US Court of Appeals for the Fifth Circuit later echoed this in its decision.

In 2002, the US Supreme Court prohibited the execution of offenders with mental retardation. Jonathan Green's 2007 appeal to the District Court asserted that he "exhibits clear signs of subnormal intelligence", but that he had refused to submit to a psychological or neurological assessment. The appeal drew attention to evidence of possible mental retardation – his functional illiteracy and innumeracy, his inability to hold menial jobs, and the fact that "after his mother died he was unable to maintain a household. He lived in rank squalor and could not manage basic tasks including minimal tasks of maintaining personal hygiene". The District Judge ruled against the claim.

PLEASE WRITE IMMEDIATELY in English or your own language, in your own words (include inmate No: #999421):

- Explaining that you are not seeking to excuse the murder of Christina Neal or to downplay the suffering caused;
- Opposing the execution of Jonathan Green;
- Noting claims raised by his lawyers during federal appeals that Jonathan Green suffers from mental illness, and exhibits signs of possible mental retardation;
- Calling for Jonathan Green's death sentence to be commuted, and for an end to executions in Texas;

PLEASE SEND APPEALS BEFORE 30 JUNE 2010 TO:

Clemency Section, Texas Board of Pardons and Paroles
8610 Shoal Creek Blvd. Austin, TX 78757-6814, USA
Fax (512) 467-0945

Email: bpp-pio@tdcj.state.tx.us

Salutation: Dear Board members

Copies to: diplomatic representatives of the USA accredited to your country. Check with your section office if sending appeals after the above date.

Governor Rick Perry
Office of the Governor, P.O. Box 12428
Austin, Texas 78711-2428, USA

Fax: + 1 512 463 1849

Salutation: Dear Governor

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INTERNATIONAL**



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ADDITIONAL INFORMATION

Amnesty International unconditionally opposes the death penalty, in all cases and in all countries. Some 139 countries are now abolitionist in law or practice. In contrast, the USA has carried out 1,203 executions since resuming judicial killing in 1977. Texas accounts for 454 of these executions. There have been 15 executions in the USA this year, seven of them in Texas.

Dozens of those executed in the USA since 1977 were individuals who had histories of serious mental impairment, either from before the crimes for which they were sentenced to death, or at the time of their execution. Some had mental retardation (the term for learning disability used in the USA), others suffered from mental illness, and some were diagnosed with both. In 1986, in *Ford v. Wainwright*, the US Supreme Court ruled that the execution of an insane prisoner violates the US Constitution. In practice, this ruling has offered minimal protection for people with serious mental illness at the time of their execution (see USA: The execution of mentally ill offenders, January 2006, <http://www.amnesty.org/en/library/info/AMR51/003/2006/en>). On 20 June 2002, in *Atkins v Virginia*, the US Supreme Court outlawed the execution of people with mental retardation. The Court did not define mental retardation, although it pointed to professional standards defining mental retardation as a disability, manifested before the age of 18, characterized by significantly sub-average intellectual functioning accompanied by limitations in two or more adaptive skill areas such as communication, self-care, work, and functioning in the community. The Court noted that "not all people who claim to be mentally retarded will be so impaired as to fall within the range of mentally retarded offenders about whom there is a national consensus." The Court left it to individual states to develop "appropriate ways" to comply with the ruling. Nearly eight years after the *Atkins* ruling, the Texas legislature has still not enacted a law to comply with it, and there are concerns that this may be allowing some individuals with such impairment to be executed (see USA: Too much cruelty, too little clemency: Texas nears 200th execution under current governor, 30 April 2009, <http://www.amnesty.org/en/library/info/AMR51/057/2009/en>).

Jonathan Green is African American; Christina Neal was white. Of the 1,203 people executed in the USA since 1977, seventy-eight per cent (944) were convicted of crimes involving white victims. In 26 per cent of these cases (249) the defendant was black. Of the 454 people executed in Texas since 1977, seventy-one per cent (325) were convicted of crimes involving white victims, and in 29 per cent (95) of these cases the defendant was black. Montgomery County in eastern Texas, where Jonathan Green was convicted, is a jurisdiction where 85 per cent of the population is white. Twelve of those executed in Texas since 1977 were convicted in Montgomery County. All 12 were convicted of killing white victims. One was African American – Glen McGinnis, executed in violation of international law in 2000 for a crime committed when he was 17 years old. Four other men convicted in Montgomery County, including Jonathan Green, remain on death row in Texas. All four were convicted of killing white victims. One other African American has been sentenced to death in Montgomery County since 1977: Clarence Brandley, convicted of killing a 16-year-old white girl in 1980 was released in 1990 on grounds of innocence after a judge concluded that racial discrimination had riddled his prosecution. All three African Americans sentenced to death in Montgomery County – Glen McGinnis, Clarence Brandley and Jonathan Green – were convicted by all-white juries.

In 2000, the Texas Defender Service reviewed murders in Montgomery County committed between 1 January 1995 and 31 December 1999. Of the 55 cases, 31 per cent involved non-white victims, none of which resulted in a death sentence. The arrest rate varied according to the race of the victim. In white victim cases, the arrest rate was 92 per cent, while in non-white victim cases, the rate was 58 per cent. The rate at which the cases went to trial also varied. Ninety per cent of the cases involving white victims went to trial, whereas only two cases involving non-white victims were tried.

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