

USA (Texas) Shaka Sankofa, formerly Gary Graham, black, aged 35

Shaka Sankofa, formerly Gary Graham*, is scheduled for execution in Texas on 11 January 1999 for a murder committed when he was 17. He has spent half his life on death row and came within hours of execution in 1993. International law bans the death penalty for crimes committed by people under 18.

On 13 May 1981 Bobby Lambert, a white man, was shot by a black male in a shop car park in Houston in an apparent robbery attempt. A week later, Gary Graham was arrested on unrelated robbery and assault charges. A week after that, he was charged with Lambert's murder when he was identified by an eyewitness to the crime. Shaka Sankofa has admitted other violent offences committed around the time of the murder, but has always maintained his innocence of the killing.

At the guilt/innocence phase of the trial, the only evidence against Gary Graham was this sole eyewitness account. The witness stated that she was in her car 30-40 feet away, and that the gunman turned towards her for 'a split second, maybe, a second.' She identified Gary Graham in open court and testified that she had identified him to police, first in a photo display and then in a line-up.

Shaka Sankofa's current lawyers claim that evidence uncovered since the trial point to their client's innocence of the murder and show that his court-appointed lawyers did not give him an adequate defence, because they assumed from the outset that he was guilty. For example, the trial lawyers failed to show that the sole eyewitness testimony was unreliable. Experts in eyewitness evidence have since stated that police used suggestive identification procedures which may have led her to focus on Gary Graham. Police records show that she did not identify him from photos before the line-up, as she claimed in court.

The new lawyers claim that there were at least nine other eyewitnesses, none of whom was interviewed by the trial lawyers. They state that none has identified Gary Graham as the gunman, and that four have said he was not the man. Six have said that the gunman was shorter than Graham.

The trial lawyers did not interview or present any alibi witnesses. According to his current lawyers, five people could have testified that Gary Graham was with them several miles away at the time of the murder. One of them was present at the trial, but was not called by the defence.

A federal court ruled in 1996 that 'the issues in this case are almost exclusively factual, and the relevant factual scenario is complex, highly controverted, and in many respects unresolved.' It said it would not rule on 'the large body of relevant evidence that had not been presented to the state court', and referred the case back to state level. However, on 18 November 1998, the Texas Court of Criminal Appeals rejected Shaka Sankofa's lawyers' request for an evidentiary hearing.

*Gary Graham changed his name in 1995. He stated that Shaka was a Zulu king and Sankofa means "one must return to the past in order to move forward".

BACKGROUND INFORMATION

Amnesty International opposes the death penalty in all cases, irrespective of issues of guilt or innocence. Every death sentence is an affront to human dignity; every execution, with its message that killing is an appropriate response to killing, compounds the violence in society. For many people, the ever-present risk of wrongful conviction is reason enough to abandon the death penalty. Since 1973 in the USA, 75 innocent people have been sent to death row before being released. Many came close to execution.

Article 6(5) of the International Covenant on Civil and Political Rights (ICCPR) forbids the use of the death penalty for crimes committed when under 18. When the USA ratified the ICCPR, it reserved the right to continue to sentence to death and execute juvenile offenders. The UN Human Rights Committee has ruled that the US reservation is incompatible with the object and purpose of the ICCPR and should be withdrawn.

Eighteen juvenile offenders are known to have been executed in six countries since 1990. Half of them have been put to death in the USA. Texas has executed seven juvenile offenders since 1986, including two in 1998.

Since executions resumed in the USA in 1977, 493 people have been executed nationwide, most recently Larry Gilbert and JD Gleaton in a double execution in South Carolina on 4 December 1998. In Texas, the Governor needs a favourable recommendation from the Board of Pardons and Paroles to grant clemency, although he is not obliged to follow such a recommendation. Execution is by lethal injection.

RECOMMENDED ACTION: Please send faxes/express/airmail letters in English or your own language:

- expressing concern that Shaka Sankofa, formerly Gary Graham, is scheduled for execution (use both names in appeals);
- pointing out that the sentencing to death and execution of people for crimes committed when they were under 18 is a violation of international law with which the State of Texas is obliged to comply;
- expressing concern that disputed and unresolved evidence has never been heard in court, and that doubts remain about Shaka Sankofa/Gary Graham's guilt in the crime for which he was sentenced to death;
- urging that the Board recommend that the Governor grant clemency.

APPEALS TO:

Texas Board of Pardons and Paroles
c/o Victor Rodriguez, Chairman
209, W.14th Street, Suite 500
Austin, TX 78701, USA

Faxes: + 1 512 467 0945

Salutation: Dear Chairman

COPIES TO:

The Honorable George W. Bush
PO Box 12428, Austin, TX 78711, USA

Faxes: + 1 512 463 1849

and to diplomatic representatives of USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.