

UNITED STATES OF AMERICA
**Crying out for clemency: The case of Alexander Williams, mentally
ill child offender facing execution**

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“Taking such savage retribution against someone who was a child at the time of the crime violates bedrock principles of justice. Children are more likely to be influenced by others, and less able to understand the consequences of their actions. At no point should a minor be declared unredeemable. The rest of the world agrees. The practice of levying the death penalty against child offenders is globally condemned.” Editorial, Florida, July 2000¹

Introduction

Sixteen-year-old Aleta Carol Bunch disappeared on 4 March 1986. She was last seen alive on that day in a shopping centre in Augusta, Georgia. Eight days later, 17-year-old Alexander Edmund Williams was arrested. On 15 March his lawyer, after meeting with Williams, led police to the body of Aleta Bunch in a remote, wooded area outside Augusta. She had been abducted, robbed, raped and shot. Alexander Williams was charged with the crime. After a four-day trial in August 1986, he was sent to death row where he has been ever since.

The world has moved on since Alex Williams was sentenced to death. In the 14 years that have passed since then, the principle that children -- those under 18 at the time of the crime -- must never be subjected to the death penalty has solidified into a rule of customary international law, binding on all countries.

The USA, something of a rogue state when it comes to the death penalty, considers itself above this particular rule of international law and leads the tiny handful of countries that still flout it. Around 80 people are on death row in 16 US states for crimes committed when they were 16 or 17 (see appendix 1), and state prosecutors continue to pursue death sentences against children accused of capital crimes.² Having come within 48 hours of execution in August 2000, Alex Williams could yet become the fifth child offender put to death in the USA this year, more than in any year since six child offenders were electrocuted in Florida and Georgia in 1954.³ This year alone, the USA already accounts for as many executions of child offenders -- four -- as have been documented in the rest of the world combined since August 1993; in those seven years, the Democratic Republic of Congo, Iran, Nigeria and Pakistan is each reported to have executed one child offender (see appendix 3). In July 2000, Pakistan moved to outlaw such executions.

¹ *Putting teens to death represents barbarism.* Daytona Beach News-Journal, 15 July 2000.

² For example, on 24 August 2000, the trial of Christopher Huerstel began in Prescott, Arizona, at which the Pima County authorities were seeking the death penalty. Huerstel was 17 at the time of the crime. See Amnesty International Urgent Action 255/00, AMR 51/138/00, 25 August.

³ Nathaniel Johnson and Abraham Beard (Florida); Willie Jackson, Herman Lee Miller, Joe Lee Jones and Charles L. King (Georgia). *Death Penalty for Juveniles.* Victor Streib, Indiana University Press, 1987.

Other aspects of the case of Alex Williams, who is now 32 years old, further illustrate just how far behind world trends the USA is in its use of the death penalty, and how willing it is to violate international standards in order to kill a selection of those of its citizens it convicts of murder.⁴ Alex Williams is mentally ill and has been for many years. According to his prison records, since his arrival on death row he has been diagnosed with serious mental illness, and has at times been forcibly medicated with anti-psychotic drugs. At his 1986 trial, his lawyer failed to investigate and present evidence of Williams' mental condition and appalling childhood abuse in order to challenge the prosecutor's portrayal of the defendant as a remorseless, cold-blooded killer who must be executed. As a result, the jurors, as in so many US capital cases, never knew who they were condemning. In August 2000, five of the surviving eight jurors from the 1986 trial signed statements that they would not have sentenced Alex Williams to death if they had known then what they know now about his childhood abuse and his mental illness. All five have called for clemency.

In contrast to the USA's willingness, not just to use the death penalty, but to use it against children, the mentally impaired, and those who were denied adequate legal representation, a majority of countries have abandoned judicial killing altogether, recognizing it to be the cruel, fallible and outdated punishment that it is. One hundred and eight countries -- more than half -- have abolished the death penalty in law or practice. More than 50 of these countries have joined this list since Alex Williams was sent to Georgia's death row to await his electrocution.⁵

⁴ The USA also executes foreign nationals. In the past decade, 14 nationals of other countries have been put to death by US executioners. Many were denied their right to consular access after arrest. For example, see: *USA: Worlds Apart -- Violations of the Rights of Foreign Nationals on Death Row - Cases of Europeans*. (AMR 51/101/00, July 2000).

⁵ Since August 1986, 43 countries have abolished the death penalty in law. 1987: Haiti, Leichtenstein, German Democratic Republic. 1989: Cambodia, New Zealand, Romania, Slovenia. 1990: Andorra, Croatia, Czech and Slovak Federal Republic, Hungary, Ireland, Mozambique, Namibia, Sao Tomé and Príncipe. 1992: Angola, Paraguay, Switzerland. 1993: Greece, Guinea-Bissau, Hong Kong, Seychelles. 1994: Italy. 1995: Djibouti, Mauritius, Moldova, Spain. 1996: Belgium. 1997: Georgia, Nepal, Poland, South Africa, Bolivia, Bosnia-Herzegovina. 1998: Azerbaijan, Bulgaria, Canada, Estonia, Lithuania, United Kingdom. 1999: East Timor, Turkmenistan, Ukraine and Latvia. Since August 1986, a further nine countries have joined the list of countries considered de facto abolitionist (that is, have not carried out an execution for the past 10 years and are believed to have a policy of not carrying out executions): Burkina Faso, Central African Republic, Republic of Congo, Gambia, Grenada, Mali, Suriname, Tonga and Turkey.

The growing isolation of the USA in relation to its use of the death penalty, in particular against children, was illustrated by the international condemnation that the case generated when Alex Williams was scheduled to be executed on 24 August 2000. Two United Nations Special Rapporteurs, the European Union and the Council of Europe were among those who appealed for clemency, joining the many organizations and individuals around the world and within the USA who called for the sentence to be commuted. Before the Georgia Board of Pardons and Paroles had announced its decision as to whether to grant clemency or not, the state Supreme Court stopped the execution, pending a decision, in a separate case, as to whether Georgia's use of the electric chair is constitutional.⁶

Amnesty International believes that the Board of Pardons and Paroles should not wait for Alex Williams's case to once again emerge from the courts, but should commute his sentence now. In campaigning for clemency, Amnesty International in no way wishes to excuse the murder of Aleta Bunch or to belittle the immeasurable suffering that her untimely and violent death has caused her family and friends. It seeks only that the state find a better response than to perpetuate the cycle of violence, and in doing so that it uphold basic principles of justice and humanity in force throughout the world.

Background: The debate shifts, the cruelty continues

"The criminal acts with which we are confronted are ugly, vicious, reprehensible acts. Their sheer brutality cannot and should not be minimized... The question then is not whether we condone rape or murder, for surely we do not; it is whether capital punishment is a punishment no longer consistent with our own self-respect." US Supreme Court, 1972⁷

Alexander Williams was six months old in September 1968 when a mentally impaired African American man called William Henry Furman was sentenced to death in Georgia. In 1971, Furman's appeal reached the US Supreme Court. On 29 June 1972, in *Furman v Georgia*, the Court halted judicial killing in the USA, ruling that the arbitrary way in which the death penalty was being applied violated the US Constitution.

The *Furman* decision did not find that the death penalty was unconstitutional *per se*, however, and it was soon apparent that the country's legislators were not ready to use the

⁶ On 28 April 2000, Georgia's governor signed into law a bill that makes lethal injection the execution method for those convicted of capital crimes committed after 1 May 2000. All those sentenced for earlier crimes face death in the electric chair, unless the latter is ruled unconstitutional, in which case the method will be lethal injection. At the time of writing, the Georgia Supreme Court had still not ruled on the case of Troy Davis, who has challenged the state's continuing use of the electric chair. Amnesty International opposes all executions, regardless of the method of killing used. As Justice Katz of the Connecticut Supreme Court wrote recently, "...whether carried out by impalement or electrocution, crucifixion or the gas chamber, firing squad or hanging, lethal injection or some other method yet to be designed, the very quintessence of capital punishment is cruelty." (*State v. Webb*, 15 February 2000).

⁷ *Furman v Georgia* (1972), Justice Marshall concurring.

decision to lead the USA towards abolition. States began redrafting their capital statutes to make them consistent with the ruling. Georgia, in March 1973, was among the first to re-enact the death penalty.

Four years after **Race and the death penalty**
Furman, the US Supreme Court reviewed the new comprehensive study pointing to racial discrimination in the use of the laws. Again it was a death penalty in Georgia. The study showed that black defendants and Georgia death sentence, defendants accused of killing white victims were between four and 11 times more likely to receive the death penalty than other defendants after imposed on Troy Gregg for taking other factors into account. The Court denied Warren murder, that was central to McCleskey's appeal saying that he had not proved racism in his case, and their deliberations. On 2 that "apparent disparities in sentencing are an inevitable part of our July 1976, the Court ruled criminal justice system." Given the racist history of the US death that the laws, allowing for penalty alone, the ruling was extraordinarily complacent. Justice sentencing discretion and Powell, who wrote the majority (5 to 4) opinion, later said that he separated phases of capital regretted voting against McCleskey. trials -- one to determine guilt or innocence, and the In 1990, the independent government agency, the US General second to determine the Accounting Office, concluded that in over 80 per cent of the 28 such sentence -- were studies that it had reviewed and validated, the race of the victim constitutional. On 17 correlated with the death sentence. That is, that having taken all other January 1977, the modern the death penalty if their victim was white than if their victim was black. era of US judicial killing Alexander Williams is black. Aleta Bunch was white. Of the 23 people began with the firing squad execution of Gary Gilmore (12 black, 11 white) put to death in Georgia since it resumed executions in Utah. in 1983, 21 (91 per cent) were convicted of killing white people.

African Americans make up 27 per cent of Georgia's population and 65 per cent of its murder victims.
Since Gary Gilmore was shot, more than 650 other US prisoners have been gassed, shot, electrocuted, hanged, or lethally injected. The pace of executions has increased as prisoners have exhausted their appeals; more than 450 executions have occurred since January 1993, the month that the current US President took office. During presidential campaigning in 1992 the then Governor of Arkansas, Bill Clinton, had returned to his home state to oversee the execution of the severely mentally impaired Ricky Ray Rector. Eight years on, US politicians continue to flout international standards in pursuit of what they perceive to be a popular public policy. In August 2000, for example, Oliver Cruz and John Satterwhite, two prisoners with histories of serious mental disabilities, were executed in Texas after the state clemency board and Governor George W. Bush refused to intervene.

However, a punishment that has for so long been seen by politicians as a guaranteed vote winner has recently begun to come under more serious public scrutiny. The decision in January 2000 of the Governor of Illinois to halt all executions in his state because of its “shameful” record of wrongful convictions, has provided the impetus for increased domestic debate on capital punishment. Suddenly, it seems, people may be waking up to what many organizations and individuals have been saying for years, namely that the US capital justice system is riddled with injustice and error.⁸

The debate remains primarily focussed on the risk to the innocent in the country’s capital justice system, however. Yet this inescapable risk is only one characteristic of this cruel and brutalizing punishment. Nearly three decades after *Furman*, the US capital justice system remains a lottery: who lives and who dies depends as much on where the crime was committed, on the quality of defence counsel, and who the murder victim was, as it does on the heinousness of the crime. The debate about errors in capital cases should not only be concentrated on the conviction or execution of the innocent, but also on the fairness of a system that allows one person to live and another to die for similar crimes.

A major new study, covering the period 1973 to 1995, has concluded that US death sentences are “persistently and systematically fraught with error”.⁹ The study, begun in 1991 and released on 12 June 2000, reveals that state and federal appeal courts found serious errors -- those requiring judicial remedy -- in 68 per cent of the thousands of death sentences they reviewed. In 82 per cent of the 2,370 cases sent back for retrial, where the outcome was known to the researchers, the defendant received a new sentence of less than death, including seven per cent who were acquitted. The most common errors, the study found, were “1) egregiously incompetent defense lawyers who didn’t even look for - *and demonstrably missed* - important evidence that the defendant was innocent or did not deserve to die; and 2) police or prosecutors who *did* discover that kind of evidence but *suppressed* it, again keeping it from the jury.” The study found that in Georgia, the reversible error rate was 80 per cent, with ineffective representation the most common cause of such reversals.

⁸ A Georgia case is one that is drawing attention in the debate over the risk of executing the wrongfully convicted. In July 2000, a judge authorized DNA testing of evidence from the case of Ellis Wayne Felker, executed in Georgia in 1996 despite doubts over his guilt. It is believed to be the first time a US judge has issued such an authorization. The DNA testing is being funded by CBS News and three newspapers. For more details on the Felker case, see *USA: Death Penalty Developments in 1996*, AI Index: AMR 51/01/97, March 1997.

⁹ *A Broken System: Error Rates in Capital Cases, 1973 -1995*, James S. Liebman, Jeffrey Fagan and Valerie West. Columbia Law School, NY. The report concluded: “If what were at issue here was the fabrication of toasters, or the processing of social security claims, or the pre-takeoff inspection of commercial aircraft -- or the conduct of any other private- or public-sector activity -- neither the consuming and the taxpaying public, nor managers and investors, would for a moment tolerate the error-rates and attendant costs that dozens of states and the nation as a whole have tolerated in their capital punishment system for decades. Any system with this much error and expense would be halted immediately, examined, and either reformed or scrapped.”

The study expressed “grave doubt” as to whether the courts catch all such errors. The case of Alex Williams is just one example of why such doubt is justified. The glaring failure of Alex Williams’s defence lawyer, who effectively abandoned his teenage client at the 1986 trial, has not been remedied on appeal.

Calls for a moratorium on state and federal executions, while at least now receiving more considered responses from politicians formerly able to swat away such suggestions as the notions of a liberal minority, have yet done little to slow the pace of judicial killing. Sixty-six prisoners were executed in the first 35 weeks of 2000.

Alexander Williams was born in 1968, believed to be the first year in US history in which there were no judicial executions in his country. He is set to die in a year that may yet see the USA execute 100 prisoners in a year for the first time in almost half a century. This state killing should be condemned by all who care for human progress.

In the dark: condemned by a jury left uninformed

“Plenty of red flags existed to place any reasonably effective lawyer on notice that [Williams’] family members would be indispensable to a basic investigation... It is as unreasonable and ineffective to have omitted interviews with family members in this case as it would be for a lawyer to omit interviews with eyewitnesses to an accident in a negligence case.” Federal judge Rosemary Barkett, 1999¹⁰

Alexander Williams’ first lawyer withdrew from the case after he had led the police to Aleta Bunch’s body. Another, O.L. Collins, was appointed to represent Williams at his trial in Richmond County Superior Court in Augusta. This appointment, as much as the undoubted heinousness of the crime, appears to have sealed Alex Williams’ fate.

Even in the US death penalty’s own terms, it is not enough for the prosecution to argue that because Aleta Bunch was denied her right to life in the most brutal way, that the state automatically be allowed to kill the person found responsible. When the US Supreme Court ruled in 1976 that executions could resume, it did so on the condition that sentencing in capital cases be individualized in nature. The Court held that the jury should consider and weigh the “particularized nature of the crime and the particularized characteristics of the individual defendant.”¹¹ The jurors who sentenced Alex Williams to death heard all about the crime of which he was accused. Yet they were provided almost no clues of the “particularized characteristics” of Alex Williams, because O.L. Collins utterly failed to investigate or present them with such details.

¹⁰ Dissenting opinion, *Williams v Head*, US Court of Appeals, Eleventh Circuit, 26 August 1999.

¹¹ *Gregg v Georgia*, 1976

In 1990, the Tri-partite Committee for Indigent Defense in Richmond County decided to stop appointing Collins to represent poor criminal defendants because of his history of inadequate performance.¹² He had represented four capital defendants after Georgia re-enacted the death penalty in 1973. All four were sentenced to death. In 1993, one of them, Ernest Morrison, was granted a new sentencing hearing so that the jury could take into account the claim that he was mentally retarded, a factor which Collins had failed to investigate or present any evidence at the original trial in 1987. Indeed, Collins argued for the death penalty for Ernest Morrison because that is what his mentally impaired client instructed him to do.¹³ In an appeal hearing on another of the four cases, that of Billy Birt, Collins was asked if he could name any appeal court decision in a US criminal case. Collins could apparently name only two decisions outside of the Birt appellate ruling, one of which was a civil case.¹⁴

A US Supreme Court decision that should have been in Collins' mind when preparing to represent Alex Williams was *Eddings v Oklahoma* (1982) in which the Court ruled on the particular importance of mitigating evidence in the cases of young offenders facing death sentences (Monty Lee Eddings was 16). It held that, for a young defendant:

There can be no doubt that evidence of a turbulent family history, of beatings by a harsh father, and of severe emotional disturbance is particularly relevant.... Youth is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage.... All of this does not suggest an absence of responsibility for the crime of murder... Rather it is to say that just as the chronological age of a minor is itself a relevant mitigating factor of great weight, so must the background and mental and emotional development of a youthful defendant be duly considered in sentencing.

¹² In January 2000, the Georgia Supreme Court adopted new rules aimed at raising the quality of defence representation in the state's capital cases. One of the qualifications for lead counsel is "must be familiar with and experienced in the utilization of expert witnesses and evidence, including, but not limited to, psychiatric and forensic evidence." Another is: "must have demonstrated the necessary proficiency and commitment which exemplify the quality of representation appropriate to capital cases."

¹³ After Morrison was sentenced to death, Collins reportedly told a journalist that it was the only death penalty case that he, Collins, had ever won.

¹⁴ O.L. Collins named *Miranda v Arizona* (1966), one of the best known US Supreme Court decisions (it confers rights of suspects under police interrogation). In a pre-trial hearing in the Williams case he referred to the case as *Miranda v Maryland*. The civil case he named was *Dred Scott v Sandford* (1856).

For a lawyer to purport to defend a teenager, who was still living at home at the time of the crime, and not interview a single family member, let alone school officials or others who had come into contact with his client, cannot be described as an acceptable strategy. Yet this is how O.L. Collins sought to keep Alex Williams from the electric chair. And although there were indications that Alex Williams might be suffering from mental illness, Collins did not request a psychiatric evaluation of his client, and did no further investigation into his psychological history or condition.¹⁵ Neither did he present any argument for leniency on the basis of Williams' young age -- an element which the US Supreme Court had described in *Eddings* as a "mitigating factor of great weight".

The sentencing phase began on the morning of 29 August 1986. By the end of the afternoon, the teenager had been sentenced to death. It had taken O.L. Collins about 15 minutes to present his mitigating evidence. The transcript of the mitigation phase runs to a mere 13 pages, including cross-examination. To challenge the state's case that Alexander Williams was a cold-blooded remorseless killer who should die, Collins presented two witnesses, Williams' mother and a young friend of the defendant.

Williams' mother has said that Collins "never explained to me what was the purpose of my testimony except to say something nice". She said that the night before the sentencing, "he told me the jury was going to decide the next day whether my son was going to live or die and that I should be ready to say something nice about my son, and that I should bring anyone else with me who might say something nice about my son. That is all that he told me."¹⁶

¹⁵ Examples of odd behaviour included Williams asking Collins to bring him towels and candles in jail so that he could perform a religious ritual, and informing the lawyer that he had taken a vow of silence and was no longer allowed to talk to him. Collins later stated that the reason he did not seek a psychiatric evaluation was because Williams "is highly intelligent for his age". This would appear to have shown a basic misunderstanding of mental illness, given that mental illness and intelligence are not mutually exclusive. Collins was unaware that Williams had spent a week in a mental hospital less than a year before the crime. Meanwhile, the state had been aware from soon after the arrest that Alex Williams may have mental problems. An Assistant District Attorney signed a request that Williams be sent for a psychiatric evaluation, because there were indications that he might be experiencing visual and auditory hallucinations and being "told by God to do and not do certain things." This information was not shared with the defence lawyer. In her 1990 affidavit, Williams' mother said: "Before Alexander's trial, I told Mr Collins that I believed Alexander had psychological problems and that I thought he should have a psychiatrist look at my son because I felt Alexander had problems with his mind." In his affidavit, Alex's father said: "I watched the television coverage of the trial. Alex didn't seem at all interested in what was going on. He would rock back and forth in his chair and stare off into space. In affidavits given in August 2000 by five of the jurors from the original trial, one recalled that "during the trial Mr Williams was rocking back and forth and he appeared to be in a dream-like state. It's not surprising to me to learn now that Mr Williams suffers from an illness that causes him to be out of touch with reality." Another recalled that "I thought that Mr Williams was not right in the head but we were given no information at trial about this one way or another."

¹⁶ Affidavit, 1990.

On the witness stand, she told the jury that her son collected comic books and coins, that he had attended church and was a good child who never argued or talked back to her, and that she may have been “too firm” with him at times. The conclusion of her direct examination by Collins in court, illustrates how he had made no attempt to prepare her as a defence witness:

Q: Is there anything else that you can think of at all that you want to tell this jury about your son in order to try to get them to give him so other sentence other than the capital sentence?

A: I could think of a million and three things to tell you. I mean, are you looking for anything specific?

Q: ...I'm going to leave it up to you, ma'am.

A: Okay. Nothing more than he is my child... I don't want to see his life taken any more than anyone else wants to see their child's life taken. And I feel like his life should be spared. And, like I said before, I don't feel as if he is the person that took the life of the young lady in question today... I believe if this has taken place, which it has, we have proof that the young lady is deceased, I feel like someone else was just as much a part of that as he is. And I would feel satisfied, the same as the parents of that young lady, to know who is responsible.

While it is understandable for a mother to refuse to believe that her son was guilty of such a crime, it was not a good defence strategy at this stage of the proceedings for the jurors -- who a day earlier had found Williams guilty of abducting, raping and murdering Aleta Bunch -- to be told they had got the verdict wrong. This was repeated by the second defence witness, Alex Williams' young friend. She stated that she had known the defendant for two years, had been skating with him, and that she did not believe that he could have committed the murder.

As federal Circuit Judge Rosemary Barkett wrote in 1999, arguing for a new sentencing hearing, “this bland picture of Alex Williams, failed entirely to capture the reality of his young life.” She said that the mitigating evidence -- “easily available” from family members -- “would have painted an enormously different picture.”¹⁷ This evidence was only revealed in affidavits obtained in 1990 by Williams' appeal lawyers from his elder sister, mother and biological father, and in 1994 from his younger half-brother.

Alex Williams was born to an 18-year-old mother and a father who lived separately. His mother would disappear without warning for days or weeks, and on one occasion for a year. During such absences, Alex, known as “Smokey” within the family, lived with his paternal grandmother. She used to beat him, including with the heel of a glass slipper and tree branches. When his mother was at home, she also subjected him to repeated abuse. In her own words in 1990, she “whipped him often”. Alex's elder sister recalled:

¹⁷ Dissenting opinion, *Williams v Head*, US Court of Appeals, Eleventh Circuit, 26 August 1999.

I remember one time we went to a party and we were a little bit late coming home. Mother met us at the door and told us that we could not come in the house unless we were ready to get a whipping. She told us to stay out in the yard. Smokey said he wanted to come inside. Mom said okay, but that he would have to get a whipping. Smokey asked our mother what she would whip us with this time. Mom showed Smokey a barbell. Smokey and I decided to stay out in the yard all night instead of being whipped with a barbell. Once my mother used a hammer and screwdriver on Smokey to make him mind [respect] her. Other times she would whip Smokey with her hands or belts for not minding her.

Alex Williams' father recalled:

When Alex was still little, I have seen Pat shake him until I thought his head would come off. I have seen her whip and beat him with such anger and vehemence you would think she was possessed by the devil. When Alex was young, Patricia could become so completely enraged about anything at all, that she would throw her son out of the house in the middle of the night.

Alex's mother married another man and together they had two more sons and a daughter. As Alex's older sister recalled in 1990, "our stepfather... also whipped us from time to time. He used to kick Smokey in the small of the back for no reason when Smokey would walk by him." The older of Alex's two half-brothers said that both parents were harder on Alex than the other children, the stepfather because Alex was not his son, and the mother because she blamed Alex for the breakdown of her relationship with Alex's natural father, according to the affidavits. The half-brother recalled in his affidavit another punishment, known as "bed restriction", imposed by the stepfather, and the ill-treatment meted out by the mother:

Bed restriction meant you were not allowed out of the bed except to go to the bathroom, or to go to school if it was during the school year. Usually bed restriction lasted three days to a week. Sometimes it lasted several weeks. During bed restriction, we were only allowed one meal a day, so by the time we were allowed out of bed, we were so weak and dizzy it was hard to stand up. I remember Alex and me spending most of our summer vacations on bed restriction.

More than once, my mother stripped Alex naked and locked him out of the house in broad daylight in front of his friends. Sometimes she left him out there all night...

Even today, it makes me furious to think how she treated him. She gave Alex a lot more whippings, more than the rest of us got. Alex got whippings for having spots on his clothes, for talking too loud, for using too much electricity, anything. My mother made him strip naked, and she whipped him with extension cords or fan belts over and over again. We all got whippings, but she picked on Alex the most. I still have nightmares about those whippings. Still today I wake up and find myself trying to get away from her. The whippings left us with welts all over our bodies... My mother did other things to punish us as well. Once she got mad at Alex and she called him downstairs. She had a hammer in one hand and a screwdriver in the other. She made Smokey stand still and she pounded the screwdriver into his toes with the hammer. I was very young when that happened, but I remember it. It's not the kind of thing you forget... My mother has threatened to kill me and Alex many times. Sometimes she actually pointed a knife or gun toward us while she threatened us.

Whereas the trial jury heard the defendant's mother say that Alex was a good boy who never answered back, his sister and father could have provided the jurors with a different version of this side of his behaviour. His sister's 1990 affidavit recalled of their mother that:

She couldn't understand why Smokey was acting the way he would. The less she could understand Smokey, the more she'd put him out of the house. She made Smokey take all of his clothes off and go outside, and she told him he would have to leave the same way he came into this world, naked. She locked him out naked and he didn't come back in the house all night. Smokey was a teenager then, but he just took it. I think what my mother was looking for was some kind of reaction, like a normal kid would have. Smokey would never react to her; he wouldn't talk back or cry or yell or fight or nothing, even though he was old and big enough to help himself. He wouldn't. He'd go off to his room for hours at a time, or he'd just leave the house for weeks at a time.

Alex's father's recollection was similar:

Alex's reactions to these abuses always shocked me. He hardly reacted at all. He would never talk back or try to get away. He'd take it, like he expected it. When he was young he'd go to his room and stay there for hours. As he got older, if he wasn't thrown out, he'd disappear from the house for weeks at a time and even longer.

When he was 14, Alex Williams went to live with his father in Atlanta. During this time his father suggested to Alex's mother that their son needed psychiatric help. The mother disagreed, and eight months later, demanded the boy's return to Augusta after an incident in which Alex was stabbed in the back in a fight at school. His mother said that on his return Alex was different: "I did not even know the Alexander that was returned to me

from Atlanta.... Nothing I could do mattered to him. A curfew meant nothing to him. Whippings wouldn't make him listen. I would throw him out of the house, and he didn't seem to care. The more I tried to discipline him, the more he withdrew from me."

Alex's sister's affidavit provides some insight: "He told me when he got back that our father had told him he was a bastard child, because our parents weren't ever married. This seemed to torment him after he came back to Augusta to live. His problems got worse and worse and this seemed to be one of the things that he really got obsessed about."

Alex Williams first came into contact with the juvenile justice system at the age of 15 when his mother complained of his leaving home without permission and not coming back when he was supposed to. His next contact followed two incidents in December 1984, one involving a fight at school, and the next when he was accused of threatening a 13-year-old boy with a knife. At his trial for the murder of Aleta Bunch, the prosecution would use these incidents to argue for a death sentence: "It is one of those situations where an individual, although he is young, has gotten on a course of conduct that has taken him step by step... into an area where no one is safe."

On 29 March 1985, the day after Alex's 17th birthday, his mother had him admitted to Georgia Regional Psychiatric Hospital for a psychiatric evaluation. He was discharged after a week with a recommendation for outpatient psychiatric care. In June 1985 he was twice treated in hospital for head injuries he received from beatings.

Also in the year before the murder, Alex Williams was held in jail for five months on a charge of theft. Family members who visited him in jail recall his odd behaviour during this time, including his belief that a light had come to him in his cell and that a voice had spoken to him from that light. His father said that one month before the murder of Aleta Bunch, Alex believed that he could communicate with other people without speaking. His father described his son as "living in a sort of dream world".

The jurors heard none of this mitigating evidence, and heard no expert testimony.

The final part of the sentencing phase before the jury retired, consisted of concluding arguments by the prosecution and the defence. The prosecutor drew a picture of an emotionless individual who was "uncaring, unremorseful and unrelenting" and who must be put to death. He encouraged the jury to diminish any concern they had about their involvement in killing a human being, and in essence urged them to take revenge for the death of Aleta Bunch.

Now I know and understand that good, decent, hard working, honest people are repulsed at the idea of killing... But you are not being asked to do anything but to follow the law... you will not be sentencing Alex Williams to death, he sentenced himself to death on March the 4th of this year.

Why should you spare his life? What has he done to deserve having his life spared? So he can go to the penitentiary, so that he can get three square hot meals a day? Aleta Bunch won't have those three hot meals. So that he can have clothing provided for him? So that he can be warm on cold winter nights? So that he can be cool on hot summer days? She won't have those benefits. So that he can be provided medical attention; dental care? His mother will still be able to come visit him. He can still visit with his friends. He can still sit before the television set on Saturdays and watch the football game. What about Aleta Carol Bunch?

The breakdown of the adversarial process in this case was complete when Collins, for his part, gave a concluding argument lacking any detail likely to convince a jury to vote for life. Nothing on the mitigating effect of youth; nothing on the defendant's deprived and abusive upbringing; no hint that his client might be suffering from psychological trauma or mental impairment. Collins' argument consisted of repeated references to God, an admission that he himself supported the death penalty, and the contention that a life sentence was worse than death because Williams would have "to get up every morning, look in the mirror and face himself".

Maybe one day his God will get to him. Maybe one day his God will make a whole man out of him again, so that when he faces his creator he will have the same chance to reach wherever he's supposed to go, wherever we're all going, in the same manner that Miss Aleta has already met hers. That's why I say to you, I think she is probably better off than he is at this point in time.

The essence of Collins' argument was that the jurors did not have to hand down a death sentence if they did not want to. Yet he gave them no concrete reason not to:

You don't have to give this man the electric chair. For any reason at all that you might have; for no reason at all... If you think he ought to go to the electric chair, you can put him there; but search your soul, search your heart, commune with your creator and see what He tells you... He's in your hands... Do what you will with him.

The jurors -- eight men and four women -- retired to deliberate. Shortly before they returned to the courtroom to announce their verdict, O.L. Collins told the judge: "I have given this man the best defense I know how to give him. When I go to bed tonight, whatever this verdict might be, I'm going to sleep soundly."

The jury's verdict: unanimity under pressure

"The fact that five jurors have changed their minds is remarkable. Because imposition of the death penalty requires a unanimous vote by the jury, it would have taken only one vote from

any of those five at the time of the trial to spare Williams from execution.” Editorial, August 2000¹⁸

It took the jury three and a half hours to return with their verdict. They found three aggravating factors in the murder: kidnapping with bodily injury; armed robbery; and rape. They had also found one mitigating circumstance, which they worded as follows: “As religious consideration was indicated in the defendant’s background, we pray God’s justice prevails.” They then handed down a sentence of death.

Given the absence of mitigating evidence presented to them, it is perhaps surprising that it had taken the jury this long to return their verdict. A clue to this lay in an incident that occurred half an hour into their deliberations. The jury returned to the courtroom because of what they saw as an impasse. The foreman of the jury explained that “one of my jurors has asked - that he would rather not decide this case. I don’t know what else to do, he said he don’t want no part of it.” The judge explained that all the jurors were under obligation to decide the case, and returned the jury to the jury room to seek unanimity.

In August 2000, five of the surviving eight jurors from the 1986 trial (four have since died) signed affidavits calling for the sentence they had passed 14 years earlier to be commuted. They had finally learned of the mitigating evidence that had not been presented to them at the trial. All five of them said that, had they known of the evidence of child abuse and mental impairment, they would not have voted for death. One of them, now a pediatric respiratory therapist, wrote in more detail about the inadequacy of Collins’s representation of Williams, and about what had happened during the jury’s deliberations on 29 August 1986:

Though I was not aware of this information at trial, I did know -- even as the trial was ongoing -- that Alex’s lawyer could not have cared less about his client, and made absolutely no effort to defend him. At first, I thought that Mr Collins was merely a buffoon who was ill-equipped to handle the task of representing Alex. But I came to see as the trial progressed that Mr Collins was more than incompetent; he was ill-willed.

Mr Collins treated Alex in a derogatory manner throughout the proceedings. I began to notice the way Mr Collins would address his client and the way he would talk to the judge about his client. It appeared to me that Mr Collins had a racist attitude towards his client. He repeatedly referred to Alex as “boy”, and it was clear from his tone that he wasn’t referring to Alex’s young age. Mr Collins used the term as an insult denoting that his client was a black male.

Because of my own profession, I am familiar with what constitutes malpractice. In my mind, Mr Collins was guilty of malpractice in this case.

¹⁸ Parole board should act to spare mentally ill man. *Atlanta Journal-Constitution*, 25 August 2000.

At the penalty phase of the trial, Mr Collins did nothing to change the prosecution's depiction of Alex as an unfeeling young man who chose to do evil... Faced with nothing to help me understand who Alex was, or how he had come to be capable of such violence, I resigned myself to accepting the prosecutor's portrayal of Alex as an evil man. Indeed, the prosecutor's portrayal was so accepted by the jury that jury members aggressively prodded a fellow juror to change his vote.

As we went around the table and each stated our vote as to sentence, there was one juror who felt very strongly that Alex Williams should be sentenced to life imprisonment and should not get the death penalty. Over the course of our subsequent deliberations, which spanned several hours, jurors increasingly ganged up on this man -- angrily arguing and cajoling -- until he finally caved in to our pressure and changed his vote. For years, I have harbored a silent regret over my role in that jury room, and that this juror had felt forced to sacrifice his convictions to a group which had lost its patience. Today, that regret is compounded with horror, as I realize for the first time that the juror I helped break was the only one who had seen through all that was not said on behalf of Alex, and into the truth of his life. As much as I regret what happened during those deliberations, I am equally as angry with Mr Collins for not providing us jurors with even one small part of the wealth of information that I now know was available, and which would have made a difference -- not only in allowing us to honor the vote of one juror who believed Alex deserved a life sentence, but also would have changed my vote so that I could have stood with him against the rest.

The jury had to return with a unanimous verdict if the death penalty was to be passed.

More than half of the surviving jurors now believe that Alex Williams's execution would be an injustice. One of them, the jury's foreman in 1986, wrote in his affidavit: "In light of Mr Williams's age at the time of the crime, the history of child abuse and his mental illness, I believe that it would be cruel, immoral, and inhuman to execute Mr Williams".

The Georgia Board of Pardons and Paroles, which was presented with the five juror affidavits on 22 August 2000, must rectify this injustice.¹⁹ For the appeal courts have provided no such remedy, and cannot be relied upon to do so.

Justice denied: No remedy on appeal

¹⁹ In March 1999, Governor Huckabee of Arkansas commuted the death sentence of Bobby Ray Fretwell. He said that he was swayed by an appeal from one of the trial jurors for Fretwell's execution to be stopped. The juror had written that he had been the only one of the 12 initially to vote for life, but had changed his vote to death because he felt intimidated and did not want to be shunned by his community.

“One preliminary matter involves the lens through which we view ineffective assistance claims. In the seminal decision on modern ineffective assistance law, the Supreme Court instructed us that “judicial scrutiny of counsel’s performance must be highly deferential.”²⁰

The claim that Collins’ defence of Alex Williams had been inadequate was first raised at a hearing on a motion for a new trial, held in trial court on 14 and 15 October 1987. The failure of this motion would place a procedural barrier in the way of any appeal court examining Collins’ performance.

Alex Williams was represented at the 1987 hearing by another lawyer, Richard Allen. Five weeks before the hearing, the Georgia Supreme Court, seeking to have claims of ineffective representation heard “at the earliest practicable moment”, introduced a new procedure under which any evidence of ineffective assistance not raised at a hearing on a motion for a new trial would forever be barred from scrutiny by the courts. Until this ruling, Richard Allen had not intended to raise the inadequacy of Collins’ performance at the hearing for a new trial, but instead to leave it for a later appeal. When he learned of the ruling, shortly before the new trial hearing, he amended his motion to include this claim.

It seems that, whether due to a shortage of preparation time or a lack of investigative effort or skill, Allen also failed to raise much of the mitigating evidence that was available from family members. For example, he had not spoken with Williams’ father or elder sister, who only three years later would provide affidavits testifying to the abuse that Williams had suffered as a child. On 12 November 1987, the state trial court denied his motion for a new trial, holding that Collins was an experienced criminal defence lawyer who had performed adequately, and that the testimony of the additional witnesses that Allen named during the hearing, such as two priests and a community worker, would not have changed the outcome of the trial. The court blamed the teenage defendant for not having cooperated with Collins.

²⁰ *Williams v Head*, 1999, op. cit., majority opinion denying appeal, quoting *Strickland v Washington* (1984)

Amnesty International does not intend to analyse Allen's representation of Alex Williams. It believes that Collins' performance alone is enough to illustrate that the international standard that capital defendants must receive "adequate legal representation at all stages of proceedings" has not been met in this case.²¹ Notwithstanding the fact that Alex Williams' execution is illegal under international law because of his age at the time of the crime, the bottom line is that no judge or jury has considered the mitigating evidence of his background and mental condition in deciding if death is the appropriate punishment.

With the notable exception of Judge Rosemary Barkett, the appeal courts are apparently confident that justice has been served. Judge Barkett was on the three-judge panel of the US Court of Appeals for the 11th Circuit which ruled by two votes to one against Alex Williams on 26 August 1999.²² In contrast to her strongly worded dissent arguing for a new sentencing, Judge Barkett's two colleagues adopted a hardline interpretation of the 1984 US Supreme Court decision, *Strickland v Washington*, which governs claims of ineffective representation. The 11th Circuit majority opinion said: "Following the Supreme Court instructions, we will indulge a strong presumption that [Allen's] conduct falls within the wide range of reasonable professional assistance...". The majority opinion continued: "It is true, of course, that in hindsight it probably would have been better if Allen had gone further along these lines and interviewed all of Williams' siblings and his father", but held that, under *Strickland*, "every effort [must] be made to eliminate the distorting effects of hindsight..."²³

The system that has condemned Alex Williams appears to have blinded itself in its efforts to ensure that neither he, nor justice, benefit from hindsight.

Diagnosis on death row: Alex Williams' mental illness confirmed

²¹ Safeguard 5 of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty states: "Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in Article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings." The Safeguards were adopted by the United Nations in 1984, two years before Alex Williams' trial.

²² *Williams v Head*, op.cit.

²³ Judge Barkett, applying *Strickland v Washington*, reached the opposite conclusion: "Under *Strickland*, Williams must show that "there is a reasonable probability that but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." In my judgment, looking at the totality of the record I believe that there is a reasonable probability that but for Collins' and Allen's unprofessional errors, the results of the proceedings would have been different. Collins' failure to present the mitigating evidence a reasonable investigation would have unearthed undermines confidence in the outcome of the sentencing phase. Allen's subsequent failure to take the steps reasonably required to prove Collins' ineffectiveness in this regard undermines confidence in the outcome of the hearing on Williams' motion for a new trial. Allen was therefore ineffective, and Williams is entitled to a new sentencing hearing."

*“On examination he presents with numerous examples of delusional thought content, including the false belief that he had met with this examiner several years prior to the date of the examination; a belief that the dental assistant at the prison previously attended family reunions with him, and was the “leader” of some of these family reunions”.*²⁴

Another indication that O.L. Collins and Richard Allen should have dug deeper into the state of Alex Williams’ mental health at the time of the crime and the trial is that since Williams has been on death row he has been diagnosed as suffering from serious mental illness. In 1990, a psychiatrist and a psychologist evaluated Williams’ mental condition for the appeal lawyers. Both experts diagnosed Alex Williams as suffering from paranoid schizophrenia. Psychiatrists employed by the state have variously diagnosed his illness as paranoid schizophrenia and schizo-affective disorder with bipolar features. His symptoms include delusions, hallucinations and loss of touch with reality. From time to time his illness has led the prison authorities to forcibly medicate him with anti-psychotic drugs. A selection of notes from prison doctors and psychiatrists over the years is given below:

- 11 December 1986 *The test findings imply a strong likelihood of ‘crazy’, irrational behaviour... Inmate Williams shows evidence of substantial, generalized psychotic illness. [Note: This was only four months after trial, and provides further strong evidence that Collins should have arranged for a psychiatric evaluation of his client.]*
- 17 July 1989 *Placed on suicide watch. Asks to go home. Patient’s behaviour reported as “bizarre”.*
- 27 November 1989 *Mr Williams reports auditory and visual hallucinations of incomprehensible family voices and rodents.*
- 20 June 1990 *He also has been reported as spending his runaround time today crawling on his belly and looking rather like a snake according to one of the officers... When I asked him why he attacked his attorney [in May Williams had hit his lawyer in the visiting room] he said that a little red man in the attorney’s eye had something to do with it... He claims to have started seeing the little red man after he stopped seeing the green frogs.*
- 22 June 1990 *Others have described him as appearing to be responding to something that no one else is aware of... It is my impression at this time that Mr Williams is undergoing some psychotic process, most likely schizophrenia.*

²⁴ Affidavit, Barry F. Scanlon, M.D., psychiatrist and neurologist. October 1990.

- 20 July 1990 *When asked about his psychotic behaviour, Mr Williams explains, "it was on the program". He refers to the program as what the voices tell him to do.*
- 15 October 1990 *He states that he could not see the frogs and rats but the voices explained they were being beamed in...*
- 16 January 1992 *Mr Williams' behaviour has continued to be quite bizarre at times... When seen today, he said that he was hearing voices, especially those of his mother and sister.*
- 28 January 1992 *Mr Williams did not appear to have a manipulative quality about his thinking. It appears that he is suffering from a Schizophrenic process...*
- 27 January 1993 *Trouble sleeping because the voices are keeping him awake at night.*
- 5 February 1993 *It does not take much probing and questioning to realize that he is out of touch with reality.*
- 13 December 1993 *Guards have been reporting to doctor that Mr Williams is again "acting in a bizarre manner". They report that he was spending some time in his cell naked, was talking in a bizarre manner and was doing things that didn't make a lot of sense like putting toothpaste in his underwear.*
- 20 March 1995 *Mr Williams is aware that his thoughts are more psychotic and he is in fantasy/magical world where Sigourney Weaver is his God...*
- 11 October 1995 *Mr Williams is flagrantly psychotic. He described both hallucinations and delusions that seemed to be present much of his day.*
- 26 July 1996 *Mr Williams says that another inmate came into his cell in a spiritual form and took his eye out.*
- 2 July 1997 *This prisoner was seen in his cell, wearing a mask made out of a sheet, acting as if he were the Lone Ranger.*
- 11 July 1997 *He definitely has a psychotic disorder as is reflected in his psychotic thoughts about women being gods, Sigourney Weaver being the chief goddess, his eye having been taken out by insects and replaced by a shell that looks like an eye and other evidences of psychosis.*
- 20 April 1998 *Delusions are evident and increasing recently.*

- 16 December 1998 *I do not believe that this inmate can or will cooperate with us on voluntary medications due to the severe psychotic illness from which he suffers chronically. There has been a degree of improvement in his overall functioning since he has been receiving the medication on a regular basis involuntarily... I believe that should the medications be interrupted, we could reasonably expect a fairly rapid deterioration in his mental state.*
- 27 May 1999 *..this inmate continues to be a person with chronic paranoid delusions.*
- 29 December 1999 *Paranoia and psychosis continue.*

International standards prohibit the use of the death penalty against the insane.²⁵ While US constitutional law prohibits the execution of the legally insane²⁶, that is prisoners who do not understand the reason for, or reality of, their impending punishment, the minimal standards governing such cases in the United States have allowed many people whose sanity at the time of the crime or execution, was in serious doubt.

²⁵ Safeguard 3 of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, adopted by the United Nations General Assembly, without a vote, on 14 December 1984, states that the death sentence shall not be carried out “on persons who have become insane”.

²⁶ *Ford v Wainwright* (1986)

The commonly held belief that the execution of the mentally impaired flouts basic standards of decency is reflected in a resolution adopted on 26 April 2000 by the UN Commission on Human Rights, in which it urged all retentionist countries “not to impose the death penalty on a person suffering from any form of mental disorder or to execute any such person.”²⁷ It is also reflected in domestic US opposition to such use of capital punishment. For example, the National Alliance for the Mentally Ill takes the position that “the death penalty is never appropriate for a defendant suffering from schizophrenia or other serious brain disorders.”²⁸

Killing child offenders: Unacceptable US exceptionalism

“The US has largely stayed silent on China’s use of the death penalty, despite Washington’s insistence that human rights remain a core element of its ties with Beijing.” Los Angeles Times, 31 July 2000²⁹

Silence can speak volumes; such as the silence that has greeted Amnesty International’s appeal to the US authorities to condemn the execution of a 14-year-old child in the Democratic Republic of Congo in January 2000.³⁰

Likewise there has been no comment from the US Government on the fact that China, the country which accounts for more judicial executions than any other, has agreed not to sentence to death or execute child offenders. In March 1997, the Chinese authorities abolished the death penalty for offenders under 18 at the time of the crime. The USA has made no such moves towards meeting its international obligations. As the US Ambassador to France, Felix Rohatyn, wrote in the US weekly journal, *Newsweek*, in May 2000, the USA’s use of the death penalty is increasingly damaging the country’s image abroad.³¹ The execution of child offenders is a prime example of an aberrant policy staining the USA’s reputation and undermining its oft-repeated claims to be a progressive force for human rights.³²

²⁷ E/CN.4/RES/2000/65.

²⁸ Governor Gilmore of Virginia commuted the death sentence of Calvin Swann in May 1999 on the grounds of mental illness. Calvin Swann has suffered from schizophrenia for over 25 years.

²⁹ *Critics Decry China’s Sweeping Use of Death Penalty*. The article continues: “Chinese officials often justify their use of capital punishment by citing its practice in the US. In talks with nations that have outlawed the death penalty and urged China to follow suit, the world’s biggest Communist country feels it’s on safe ground because of the world’s most powerful democracy.”

³⁰ *USA: An appeal to President Clinton, Vice-President Gore and Governor Bush of Texas to condemn one illegal execution and to stop another*. (AMR 51/96/00, 15 June 2000).

³¹ *The Shadow over America: How our use of the death penalty hurts our image abroad*. 29 May 2000.

³² For example, “[W]e are the leading force for human rights around the world.” President Bill Clinton, Remarks to the Democratic National Convention, Los Angeles, 14 August 2000.

Everywhere, the law recognizes that children are different. In Georgia, a person who is under 18 years of age may not vote, serve as a juror, buy alcohol, lottery tickets or cigarettes, cannot hold public office, cannot consent to most forms of medical treatment. Yet in Georgia, a 17-year-old can be killed by the state for his or her actions.

It is commonly agreed that the would-be goals of either retribution or deterrence are especially inapplicable in the case of young people, rendering their execution nothing more than acts of state-sanctioned vengeance. The principle that children, due to their immaturity and capacity for rehabilitation, should never pay for their crimes with their lives, now commands such widespread respect that it has become a principle of customary international law, binding on all countries regardless of which international instruments they have or have not ratified. The following selected chronology illustrates the progress made towards a world free from the judicial killing of child offenders:

- ◆ 1949 - Fourth Geneva Convention adopted. Article 68.4 states that “the death penalty may not be pronounced against a protected person who was under eighteen of age at the time of the offence.”
- ◆ 1955 - USA ratifies the Fourth Geneva Convention without reservation to article 68.4, thereby agreeing that in the event of war or other armed conflict in which the US may become involved, it will protect all civilian children in occupied countries from the death penalty.
- ◆ 1977 - the USA signs the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights (ACHR), thereby binding itself in good faith not to do anything which would defeat the object and purpose of the treaties, pending a decision on whether to ratify them (Vienna Convention on the Law of Treaties (1979), article 18a). Both the ICCPR and the ACHR forbid the use of the death penalty against those under 18 at the time of the crime (ICCPR, article 6.5; ACHR, article 4.5).
- ◆ 1984 - UN adopts, by consensus, the Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty. Safeguard 6 states that “persons below 18 at the time of the commission of the crime shall not be sentenced to death...”
- ◆ 1986 - *Alexander Williams is sentenced to death in Richmond County, Georgia.*
- ◆ 1987 - the Inter-American Commission on Human Rights declares that the USA violated Article 1 of the American Declaration of the Rights and Duties of Man when it executed James Terry Roach and Jay Pinkerton in 1986 for crimes committed when they were 17 years old. The Commission referred to the “emerging” principle of customary international law prohibiting the execution of child offenders.
- ◆ 1989 - the UN Convention on the Rights of the Child (CRC) is adopted by the UN General Assembly. Article 37 reiterates the ban on the execution of people who were under 18 years old at the time of the crime.
- ◆ 1992 - the USA ratifies the International Covenant on Civil and Political Rights (ICCPR) with a reservation purporting to exempt it from article 6(5)’s prohibition on the use of the death penalty against under-18-year-olds. Yet Article 4 of the ICCPR

states that there can be no derogation from article 6, even in times of emergency. Eleven countries formally object to the US reservation.

- ◆ 1994 - Yemen, one of only six countries known to have executed a child offender in the 1990s, abolishes the death penalty for those under 18 at the time of the crime.
- ◆ 1995 - the UN Human Rights Committee, the expert body which monitors countries' compliance with the ICCPR, rules that the US reservation violates the object and purpose of the treaty and should be withdrawn. The Committee "deplors" the USA's continuing use of the death penalty against child offenders.
- ◆ 1995 - the USA signs the Convention on the Rights of the Child, thereby binding itself to respect its terms in good faith.
- ◆ 1997 - China abolishes the death penalty for those under 18 at the time of the crime, to be in compliance with its obligations under the CRC, which it ratified in 1992.
- ◆ 1998 - UN Special Rapporteur on extrajudicial, summary or arbitrary executions, in the report of his 1997 mission to the USA, reiterates that the US reservation to the ICCPR should be considered void and that the use of the death penalty against child offenders violates international law.
- ◆ 1999 - 10th anniversary of the Convention on the Rights of the Child. The treaty has been ratified by 191 countries, all but the USA and the collapsed state of Somalia.
- ◆ 1999 - Montana becomes the 15th retentionist US state to forbid the use of the death penalty against those who were under 18 at the time of the crime. Given that 12 states forbid the death penalty altogether, this means that 27 US states, more than half, are now in compliance with the global ban. Children are also ineligible for the death penalty under US federal and military capital statutes.
- ◆ 1999 - the UN Sub-Commission on the Promotion and Protection of Human Rights "condemns unequivocally the imposition and execution of the death penalty on those aged under 18 at the time of the commission of the offence" and calls on countries which still allow such use of capital punishment to stop.
- ◆ 1999 - The UN High Commissioner for Human Rights appeals to the US Government and Virginia state authorities to prevent the scheduled execution of Douglas Christopher Thomas and to "reaffirm the customary international law ban on the use of the death penalty on juvenile offenders".
- ◆ 2000 - Pakistan's Juvenile Justice System Ordinance, signed by the country's President on 1 July, appears to abolish the death penalty for people under 18 at the time of the crime. There is some ambiguity in the text of the Ordinance which Amnesty International was unable to clarify at the time of writing, and which may limit its scope. Nevertheless it appears to be at least a major step towards abolition of the juvenile death penalty in Pakistan, one of the five countries known to have executed a child offender since 1994.
- ◆ 2000 - the UN Sub-Commission on the Promotion and Protection of Human Rights affirms that "the imposition of the death penalty on those aged under 18 at the time of the commission of the offence is contrary to customary international law".³³ The

³³ E/CN.4/Sub.2/2000/L.29. 14 August 2000.

Sub-Commission repeats its unequivocal condemnation of such use of the death penalty and calls upon countries that retain the death penalty for child offenders to abolish it as soon as possible and, “in the meantime, to remind their judges that the imposition of the death penalty against such offenders is in violation of international law.

- In the 10 years to July 2000, of the thousands of judicial executions worldwide, 25 were reported to have been of child offenders. Fourteen (56 per cent) of these 25 executions were carried out in the USA.
- In the five years to July 2000 the USA has accounted for eight (67 per cent) of the 12 documented executions of child offenders (see Appendix 3).

It is clear that outside of the USA, the practice of executing people for crimes they committed when they were children has almost been eradicated from the planet.

Opposition to the planned execution grows

“Imposing the death penalty on mentally ill children should be unthinkable in a civilized society. I urge you in the interest of justice and humanity to commute Mr Williams’s sentence...” Former first lady Rosalynn Carter

On 11 August 2000, an Augusta judge signed Alex Williams’ death warrant. On 22 August, the Georgia Supreme Court halted the 24 August execution, pending the Court’s decision in a separate case on the constitutionality of the electric chair. In what *The Atlanta Journal-Constitution* described as an “international furor”, the intervening 11 days had seen a massive groundswell of national and international condemnation of Georgia’s plan to execute Alex Williams. The Atlanta newspaper cited the “hundreds of letters, e-mails and petitions from around the world seeking clemency.”³⁴ The case generated media attention across the USA and beyond.

In its own letter to the Georgia Board of Pardons and Paroles, Amnesty International wrote that “the international community is watching developments in this case with deep concern, for this is an execution that virtually no other country in the world would countenance, given that Alexander Williams was a child at the time of the crime. Indeed, far from executing child offenders, 108 countries have turned their backs on the death penalty for *all* offenders. In this context, the Board’s decision will inevitably have ramifications for the international reputation of both Georgia and the USA as a whole, and we therefore urge you to consider not only how history will regard that decision, but how the rest of the world will view it today.”

Among the international appeals for clemency were two from United Nations Special Rapporteurs. The Special Rapporteur on the independence of judges and lawyers, Param

³⁴ Killer’s case goes to pardons board, 22 August 2000.

Cumaraswamy, expressed his particular concern about the performance of O.L. Collins at the 1986 trial. He described the allegations relating to Collins's performance as "most alarming". In her urgent appeal of 16 August, the Special Rapporteur on extrajudicial, summary or arbitrary executions, Asma Jahangir, highlighted Alex Williams's age at the time of the crime and his mental illness.

The European Union and the Council of Europe both appealed for clemency. The Secretary General of the Council of Europe, Walter Schwimmer, wrote: "The Council of Europe and its member States are unequivocally opposed to the death penalty, considering it has no place in a civilized democracy. As an Observer to this Organisation, the United States of America is deemed to share the same fundamental values and principles³⁵.... I appeal to you, in the name of human decency to stop Alexander Williams's execution."

Those appealing from inside the USA included former first lady Rosalynn Carter (her husband is former President Jimmy Carter). She wrote: "As a society we traditionally have given special consideration to children who commit crimes because we recognize that they lack the maturity or the mental capacity to function as adults. Around the world, the imposition of the death penalty for juvenile offenders is considered to be an inappropriate punishment. This longstanding principle has been codified in the United Nations Convention on the Rights of the Child and has been ratified by every nation except the United States and Somalia. Mr Williams's mental illness raises additional ethical questions. The execution of mentally ill people constitutes cruel and unusual punishment, and imposing the death penalty on mentally ill children should be unthinkable in a civilized society. I urge you in the interest of justice and humanity to commute Mr Williams's sentence to life in prison."

Among the US organizations which appealed for the execution to be halted included the Children's Defense Fund. It wrote to the Chairman of the Georgia Board of Pardons and Paroles on 17 August that "the planned execution of Mr Williams will leave a permanent scar on the conscience of the state of Georgia, on your administration and on our nation." In its letter to the Board, the National Alliance for the Mentally Ill highlighted the "clear and uncontroverted evidence that Williams suffered from a severe mental illness before the crime, and that it continues to this day" and stated that his execution would "run contrary to the spirit of the Eighth Amendment [to the US Constitution], with its prohibition against cruel and unusual punishment, to international law, and to all standards of decency".

The Board of Pardons and Paroles had not announced its decision on whether to commute Alex Williams's death sentence when the Georgia Supreme Court issued the stay of execution on 22 August.³⁶ In a subsequent editorial, the *Atlanta Journal-Constitution* wrote

³⁵ For further information, see page 73 of *USA: Failing the Future: Death penalty developments, March 1998 - March 2000* (AMR 51/03/00, April 2000).

³⁶ The power to grant clemency to inmates facing execution rests solely with the state Board of Pardons and Paroles. The Board consists of five members appointed by the Governor for renewable seven-year terms subject to confirmation by the Georgia Senate. Each year the Board elects one of its members to serve as

that the Board “was wrong to use the court decision as an excuse to suspend its hearings this week on Williams’ fate. The decision merely delayed the inevitable day when the board will have to confront the difficult issues surrounding Williams’ case.... But they have an advantage in determining justice that the Williams jurors did not. They know his whole wretched story...”³⁷

Amnesty International, too, believes that the Board of Pardons and Paroles should not wait for Alex Williams’s case to re-emerge from the courts. It should act to commute his death sentence now.

Conclusion: Time for decency

chairperson. The Board needs a majority vote in order to commute a death sentence to life imprisonment. The current Board members are: Bobby Whitworth, formerly Corrections Commissioner; Dr. Eugene Walker, former Commissioner of the Department of Juvenile Justice; Garfield Hammonds, former Drug Enforcement Agency Special Agent; Walter Ray, former State Senator actively involved in criminal justice policy (Mr Ray is the current chairperson of the Board); Dr. Betty Ann Cook, former Director of Highway Safety, Deputy Commissioner of Natural Resources, and professor and department chair at Atlanta University.

³⁷ Parole Board should act to spare mentally ill man. *Atlanta Journal-Constitution*, 25 August 2000.

“Are we better off today than we were eight years ago? You bet we are... But we’re not just better off, we’re also a better country. We are today more tolerant, more decent, more humane....”. President Bill Clinton, 14 August 2000³⁸

When Alex Williams was 10 years old and in the middle of a childhood characterised by abuse, a Presidential Commission reporting on youth crime in the USA in the 1970s made the following observation: “Crimes committed by youths may be just as harmful to victims as those committed by older persons, but they deserve less punishment because adolescents may have less capacity to control their conduct and to think in long-range terms than adults. Moreover, youth crime as such is not exclusively the offender’s fault; offenses by the young also represent a failure of family, school, and the social system, which share responsibility for the development of America’s youth”.³⁹

Times changed. As far as the death penalty is concerned, human rights leadership got lost in the politics of punishment.

In 1989, the US Supreme Court, expressly rejecting the practice of other countries, ruled that “the evolving standards of decency that mark the progress of a maturing society” had not evolved in the USA to the point where the US Constitution prohibited the execution of 16 and 17-year-old offenders.⁴⁰ Already in 2000, the state authorities in Virginia and Texas, by their denial of clemency for Chris Thomas, Steve Roach, Glen McGinnis and Gary Graham, and the federal authorities, by their shameful complicity in such cases, have demonstrated an unwillingness to offer leadership out of this culture of contempt for international law and standards of justice.⁴¹

³⁸ Remarks by the President to the Democratic National Convention, Los Angeles.

³⁹ Twentieth Century Fund Task Force on Sentencing Policy Toward Young Offenders, *Confronting Youth Crime 7* (1978), cited in *Eddings v Oklahoma* (1982).

⁴⁰ *Stanford v Kentucky*.

⁴¹ The US federal authorities continue to wash their hands of such executions, maintaining that individual US states can do what they want with regards to the death penalty, subject only to the constitutional constraints imposed by the Supreme Court. However, under the Vienna Convention on the Law of Treaties, the US Government cannot use the federal system to justify a breach of international law at any level of government. Even if it believes it has no power to intervene, the US Government could at the very least publicly oppose such violations, and take steps to educate state officialdom about international standards, with a view to encouraging adherence. To their shame they continue to choose not to.

Georgia has been down this road before. On 7 December 1993, Christopher Burger was executed for a crime committed when he was 17, becoming the first, and so far only, child offender executed in Georgia since it re-enacted the death penalty in 1973. Like Alex Williams, Christopher Burger suffered a deprived, unstable, and abused childhood; he was often beaten by his mother who herself suffered chronic mental illness. According to her own testimony at an appeal hearing, she sometimes had to lock her son in a room to keep herself from harming him. He was also variously beaten and ill-treated by his father, two step-fathers, and a boyfriend of his mother with whom he was left for several months. At his capital trial, Christopher Burger was represented by an appointed lawyer who failed to investigate his client's background or present mitigating evidence at the sentencing phase. The jury was not told that Burger had a below-average IQ, that he was mentally ill and brain-damaged, that he suffered a highly disturbed, unstable upbringing, or that he had attempted suicide when he was 15 years old.⁴²

Georgia can still avoid a repetition of this injustice. It can show that its "standards of decency" have not stood still since 7 December 1993. It does not have to wait for the US Supreme Court or the federal government to recognize that the United States is on the wrong side of history on this issue. Georgia can offer an example of progressive human rights leadership by putting an end to its plan to kill Alexander Williams. To do so is not to insult the memory of Aleta Bunch or to forget the brutal way in which she died. It is to appeal to the better side of humanity.

**PLEASE APPEAL NOW TO THE GEORGIA AUTHORITIES TO STOP THIS
INTERNATIONALLY ILLEGAL EXECUTION.**

Send appeals to

The State Board of Pardons and Paroles
Floyd Veterans Memorial Building
Balcony Level, East Tower
2 Martin Luther King, Jr. Drive, S.E.
Atlanta, Georgia 30334, USA

Fax: +1 404 651 8502

E-mail: via the Board's website: www.pap.state.ga.us

Salutation: Dear Board Members

⁴² For further information, see page 16-18 of *The Death Penalty in Georgia: Racist, Arbitrary and Unfair*. AI index: AMR 51/25/96, June 1996.

Crying out for clemency: The case of Alexander Williams, mentally ill child offender facing execution 29

Amnesty International has also issued an international Urgent Action for clemency. Please contact the AI Section in your country for further details.

Appendix 1: Prisoners on death row in the USA for crimes committed when they were 16 or 17 - July 2000. Each death sentence is a violation of international law.

Alabama

Renaldo Adams
Roy Burgess
Willie Burgess, Jr.
Taurus Carroll
Timothy Davis
Mark Duke
Trace Duncan
Gary Hart
James Hyde
William Knotts
Kenny Loggins
John Neal
Marcus Pressley
Nathon Slaton
Shaber Wimberly
Gregory Wynn

Arizona

Martin Soto-Fong
Levi Jackson
Kenneth Laird

Arkansas

Damond Sanford

Florida

James Bonifay
Rodrick Ferrell
Cleo LeCroy
Ronald Lee Bell

Georgia

Exzavious Gibson
Jose Martinez High
Larry Jenkins
Alexander Williams

Kentucky

Kevin Stanford
Larry Osborne

Louisiana

Dale Craig
Cedric Howard
Lawrence Jacobs

Mississippi

David Blue
Kelvin Dycus
Ronald Foster
William Holley
Stephen McGilberry

Missouri

Antonio Richardson
Christopher Simmons

Nevada

Michael Domingues
Robert Servin

North Carolina

Kevin Golphin

Oklahoma

Scott Hain

Pennsylvania

Derrick Harvey
Kevin Hughes
Percy Lee

South Carolina

Robert Conyers
Herman Hughes
William Kelly
Ted Powers

Texas

Steven Alvarado
Randy Arroyo
Mark Arthur

Mauro Barraza

Napoleon Beazley
Johnnie Bernal
Edward Capetillo
Raymond Cobb
John Dewberry
Justin Dinkins
Anthony Dixon
Derek Guillen
Eddie Johnson
Anzel Jones
T.J. Jones
Leo Little
Michael Lopez
Miguel Martinez
Gerald Mitchell
Jose Monterrubio
Toronto Patterson
Efrian Perez
Christopher Solomon
Oswaldo Soriano
Raul Villareal
Bruce Williams
Nanon Williams
Geno Wilson

Virginia

Shermaine Johnson

Appendix 2: Child offenders executed in the USA since 1977, with background information on the eight put to death since 1998.

“America is killing the economically deprived, those of the lower socioeconomic strata, killing the insane, killing the retarded, killing illiterates, killing the emotionally crippled, killing the socially disenfranchised and the politically powerless of our society, killing those so criminally abused as children that they never had a chance to develop normally to a well-balanced human being”. Ronald Spivey, death row, Georgia⁴³

Charles Rumbaugh (Texas, 1985)
James Roach (South Carolina, 1986)
Jay Pinkerton (Texas, 1986)
Dalton Prejean (Louisiana, 1990)
Johnny Garrett (Texas, 1992)
Curtis Harris (Texas, 1993)
Frederick Lashley (Missouri, 1993)
Ruben Cantu (Texas, 1993)
Christopher Burger (Georgia, 1993)
Joseph Cannon (Texas, 1998)
Robert Carter (Texas, 1998)
Dwayne Wright (Virginia, 1998)
Sean Sellers (Oklahoma, 1999)
Chris Thomas (Virginia, 2000)
Steve Roach (Virginia, 2000)
Glen McGinnis (Texas, 2000)
Gary Graham (Texas, 2000)

Joseph Cannon [Texas]. At the age of four, hit by a truck and left hyperactive, with a head injury and a speech impediment. Expelled from school at the age of seven. From the age of 10, diagnosed as suffering from organic brain damage, severe depression (attempted suicide at age 15), schizophrenia and borderline mental retardation. From seven to 17, he suffered repeated and severe sexual abuse from male relatives. Learned to read and write on death row. Executed on 22 April 1998 for the shooting of Ann Walsh in 1977.

Sean Sellers [Oklahoma]. Sentenced to death for shooting a shopkeeper, as well as his own mother and stepfather. Born to

Robert Carter [Texas]. One of six children in very poor family. The mother and stepfather whipped and beat the children with belts and electric cords. Suffered serious, untreated, childhood head injuries. Shortly before the 1981 shooting of Sylvia Reyes for which he was sentenced to die, Robert Carter was shot in the head by his brother. He afterwards suffered seizures and fainting spells. The jury, not invited to consider in mitigation his age, borderline mental retardation, brain damage or childhood abuse, took 10 minutes to sentence him. Executed on 18 May 1998.

Dwayne Wright [Virginia]. Grew up in a poor family in a deprived neighbourhood rife with criminal drugs activity, where he witnessed habitual gun violence and murder. From the age of four, lost his father to prison. When he was 10, his half-brother, to whom he was very close, was murdered. Developed serious emotional problems, and did poorly at school. Treated for mental illness. Mental capacity evaluated as borderline retarded, verbal ability as retarded. Executed on 14 October 1998 for the shooting of Saba Tekle in 1989.

16-year-old mother, and raised by various relatives. Exposure to violence and physical abuse from an early age, and became involved

⁴³ *Welcome to Hell. Letters and Writings from Death Row.* Edited by Jan Arriens. Northeastern University Press, 1991. Ron Spivey, now aged 60, has been on Georgia's death row since 1977.

with drugs and satanism. In post-conviction examinations, found to be chronically psychotic and to have symptoms of paranoid schizophrenia and other major mood disorders. Diagnosed with multiple personality disorder in 1992. Executed 4 February 1999.

Chris Thomas [Virginia]. After his adoptive parents died when he was 12, Chris Thomas became involved in petty offending and drug abuse. Psychological reports described him as an isolated, angry, depressed, alienated teenager. His intense relationship with 14-year-old Jessica Wiseman culminated in their plan to kill her parents. Without an adult present, while still under the effects of alcohol and drugs, and having slept for only two hours in the previous 40, Thomas confessed to both murders. He later said he had not fired the second fatal shot at the mother, whose killing resulted in Chris Thomas' death sentence (he received a life sentence for the murder of the father). The jury never heard evidence that Jessica may have fired this shot. She was released in 1997 at the age of 21. Executed on 10 January 2000.

Steve Roach [Virginia]. Sentenced to death for the 1993 shooting of Mary Ann Hughes, his only recorded act of violence. Born into a family with frequently absent parents, Roach dropped out of school at 14 because they wanted him to do chores. An expert testified at trial that Roach had poor impulse control and was particularly immature as a result of the lack of structure in his home life. Arguing that Roach was a future danger, the prosecution cited his parole violation in possessing a shotgun as a sign of his future dangerousness, despite the fact that no adult, including the police, had seen fit to remove it from him. Executed on 13 January 2000.

Glen McGinnis [Texas]. Born to a mother who was addicted to crack cocaine and who worked out of their one-bedroom flat as a

prostitute, Glen Maginnis, black, suffered repeated physical abuse at the hands of her and his stepfather, who raped him when he was nine or 10. Ran away from home at the age of 11 and lived on the streets, where he engaged in shoplifting and car theft. He was sentenced to death by an all-white jury for the shooting of Leta Ann Wilkerson, white, during a robbery in 1990. Various juvenile correctional officials testified that he was non-aggressive even in the face of taunting about his homosexuality from other inmates, and had the capacity to flourish in the structured environment of prison. Executed on 25 January 2000.

Gary Graham [Texas]. Born to a mentally ill mother and alcoholic father, he was exposed to violence from an early age in the poor neighbourhood of Houston where he grew up. Gary Graham (aka Shaka Sankofa) became involved in drug and alcohol abuse and by the age of 15 had a juvenile record for thefts. In 1981, age 17, he was under arrest for a string of armed robberies and aggravated assaults, when he was charged with the murder of Bobby Lambert, white, the crime for which a jury of 11 whites and one black sentenced him to die. He was represented by lawyers too busy or unmotivated to defend a client they apparently assumed was guilty because of the other crimes to which he admitted. Their failure meant that Gary Graham was convicted on the testimony of a single eyewitness whose credibility they never scrutinized. They failed to question suggestive police techniques used in obtaining her identification of Graham. They neglected to interview other, better placed, witnesses, none of whom identified him as the gunman, several of whom said he was not the gunman. No physical evidence linked Gary Graham to the shooting. The jury never heard forensic evidence that a gun found on him at the time of his arrest could not have fired the fatal bullet. No hearing was ever held in to whether Graham's 19-year claim of innocence was supported by such evidence. Two of the trial jurors signed

affidavits that they would not have voted for death if they had been presented with such evidence. Executed on 22 June 2000.

Appendix 3: Reported executions of child offenders worldwide, January 1990 - August 2000

Country	Name of prisoner	Age at crime (C), sentence (S), or execution (E)	Date of execution
Democratic Republic of Congo	Kasongo	14 (C/E)	15 January 2000
Iran	Kazem Shirafkan	17 (E)	1990
	Male (name unknown)	16 (E)	29 September 1992
	Male (name unknown)	17 (E)	29 September 1992
	Male (name unknown)	17 (E)	29 September 1992
	Ebrahim Qorbanzadeh	17 (E)	24 October 1999
Nigeria	Chiebore Onuoha	15/17 (C/E)	31 July 1997
Pakistan	Name unknown	17 (E)	15 November 1992
	Shamun Masih	14 (C)	30 September 1997
Saudi Arabia	Sadeq Mal-Allah	17 (S)	3 September 1992
USA	Dalton Prejean	17 (C)	18 May 1990
	Johnny Garrett	17 (C)	11 February 1992
	Curtis Harris	17 (C)	1 July 1993
	Frederick Lashley	17 (C)	28 July 1993
	Ruben Cantu	17 (C)	24 August 1993
	Christopher Burger	17 (C)	7 December 1993
	Joseph Cannon	17 (C)	22 April 1998
	Robert Carter	17 (C)	18 May 1998
	Dwayne Wright	17 (C)	14 October 1998
	Sean Sellers	16 (C)	4 February 1999
	Chris Thomas	17 (C)	10 January 2000
	Steve Roach	17 (C)	13 January 2000
	Glen McGinnis	17 (C)	25 January 2000
Gary Graham	17 (C)	22 June 2000	
Yemen	Nasser Munir Nasser al'Kirbi	13 (E)	21 July 1993