

Human Rights Watch

Children's Rights

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Human Rights Watch Letter to Governor Bush

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Human Rights Watch sent a letter to Gov. Bush requesting a stay to ensure that Graham not be put to death for a crime he committed as an adolescent. The international monitoring group also noted that fundamental questions remain about the evidence in Graham's case and the fairness of his trial.

Mr. Sankofa was convicted and sentenced to death at age seventeen. Unless you grant him a stay of execution, he will be put to death on June 22.

Consonant with the overwhelming worldwide view that the death penalty should not be imposed for crimes committed by those under the age of eighteen, you should ensure that Mr. Sankofa is not executed for a crime for which he was convicted when he was a juvenile. If the State of Texas carries out his death sentence, it will solidify its status as the worldwide leader in this abhorrent practice and reinforce the United States' position as a violator of this basic principle of international justice.

Texas has executed six juvenile offenders since the United States reinstated the death penalty in 1976. Including Mr. Sankofa, twenty-six moreover a third of the national totalsit on Texas' death row. This record places the state at the forefront of a select group that includes Iran, Nigeria, Pakistan, Saudi Arabia, and the Democratic Republic of Congo, the only countries other than the United States that are known to put juvenile offenders to death.

Death is an inhumane punishment, particularly for an adolescent offender. The reality is that children and adolescents are different from adults. They lack an adult's experience, perspective, judgment, maturity, and restraint. In recognition of these fundamental differences between children and adults, article 6(5) of the International Covenant on Civil and Political Rights forbids the imposition of capital punishment on those who were under the age of eighteen at the time of the crime for which they were convicted. Although the United States purports to reserve the right to impose capital punishment on juvenile offenders, the U.N. Human Rights Committee, charged with interpreting the Covenant, has concluded that the U.S. reservation is incompatible with the object and purpose of the treaty and has asked the United States to withdraw it..Even if Mr. Sankofa had not been a juvenile offender, his execution would raise serious concerns in light of his mistreatment by the Texas criminal justice system. Reviewing Mr. Sankofa's case in 1996, the United States Court of Appeals for the Fifth Circuit noted that he had presented "significant evidentiary support" for his claim of actual innocence. Although the court dismissed his petition for habeas corpus on the technical ground that he had not exhausted state remedies, it noted, "There is a large body of relevant evidence that has not been presented to the state court." To date, no state court has ever examined this evidence. You should direct the Board to review this evidence as part of its investigation of Mr. Sankofa's case.

You should also urge the Board to consider the quality of legal representation Mr. Sankofa received at his trial. Mr. Sankofa was convicted on the testimony of a lone eyewitness. His lead attorney failed to call a single witness in his defense, effectively preventing him from presenting evidence that may have corroborated his claim of innocence. The attorney has since been disciplined at least four times for professional misconduct in other cases; after he repeatedly mishandled one criminal case, a judge jailed him for contempt. Under these circumstances, the fundamental fairness of Mr. Sankofa's trial is called into doubt.

Finally, you should ask the Board to consider the striking racial disparities with which the death penalty is applied in Texas and elsewhere in the United States as it evaluates Mr. Sankofa's clemency application. Although whites make up 75 percent of the population of Texas, they represent only 36 percent of those on death row. An African-American defendant convicted of murdering a white victim in Texas is six times more likely to receive a death sentence than a white defendant convicted of murdering a black victim. Such discriminatory impact has the effect of restricting individuals' rights based on race, in violation of article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination.

You have stated publicly that you would consider reviewing a jury verdict in a case where the jury had not heard critical evidence. In Mr. Sankofa's case, you are offered the opportunity to stay true to your word on this point. We ask that you grant Mr. Sankofa a stay of execution and order the Board to conduct a thorough investigation of his case.

Sincerely,

Lois Whitman
Executive Director
Children's Rights Division

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