

URGENT ACTION

TEXAS EXECUTION SET FOR SHOOTINGS AT AGE 18

Clinton Young is due to be executed in Texas on 26 October. He was convicted of capital murder in 2003 in relation to two fatal shootings which occurred over the course of two days in November 2001. He was 18 at the time of the crimes. He maintains his innocence.

On 24 November 2001, Doyle Douglas was shot in the car in which he, **Clinton Young**, Mark Ray, David Page and Darnell McCoy had driven to Longview in east Texas to buy marijuana. The victim was put in the trunk of the car and taken to a creek where he was shot again. The next day, Samuel Petrey was shot dead near Midland, about 450 miles (725km) west of Longview. The trial evidence indicates that David Page and Clinton Young had earlier abducted and driven him there from Brookshire. They left the scene together in the victim's vehicle; after they separated David Page went to the police. Officers spotted Clinton Young driving Samuel Petrey's pickup truck and arrested him after a chase. A forensic firearms examiner assessed that the handgun found in the vehicle fired the two shell casings found in Doyle Douglas's car and the two others found near Samuel Petrey's body. Clinton Young was charged with the two murders, convicted on 27 March 2003 and sentenced to death on 14 April 2003.

Clinton Young is the youngest of the individuals involved in this case (18 years and four months old at the time of the shootings), and the only one who received a death sentence. Darnell McCoy was not charged. Mark Ray was charged with the capital murder of Doyle Douglas, pleaded guilty in June 2003 to second degree kidnapping, was sentenced to 15 years in prison and is now free. David Page pleaded guilty in December 2003 to aggravated kidnapping in return for a 30-year sentence. Each testified against Clinton Young.

The jury's finding that Clinton Young killed the second victim was a prerequisite for his capital conviction and death sentence. The only evidence that identified him as the person who shot Samuel Petrey was the testimony of David Page, the other person present at that shooting. He testified that Clinton Young shot Samuel Petrey from six to 10 feet (2 to 3.5 metres) away, but the victim had marks on his wounds showing he was shot at close range, from a distance of no more than two feet (0.6m). Since the trial, four people have provided sworn statements supporting Clinton Young's claim that he did not shoot Samuel Petrey. According to Clinton Young's lawyers, gunshot residue testing of a pair of gloves found at the Samuel Petrey murder scene also supports his claim of innocence.

In an affidavit in 2015, David Page said that prosecutors told him "You help us, and we'll help you". He added, "To increase my chances of getting a good plea deal, I tried to make Clint look as bad as possible". In February 2002, David Page failed a polygraph test about his level of involvement in the shootings, with his answers assessed as deceptive. The judge refused the defence team's request to admit the examiner's testimony into evidence in their efforts to impeach David Page's testimony. Upholding the death sentence in 2014, a federal court ruled that the defence's cross-examination of David Page allowed the jury to hear about inconsistencies in his version of events anyway, and meant that Clinton Young's rights were not violated by the exclusion of the polygraph examiner's testimony.

Please write immediately in English or your own language, referencing inmate #999447 in your appeals:

- Calling for clemency to be granted to Clinton Young and for his death sentence to be commuted;
- Noting continuing doubts about the reliability of his capital conviction and basis for his death sentence;
- Pointing out that Clinton Young was only 18 years old at the time of the shootings.

PLEASE SEND APPEALS BEFORE 26 OCTOBER 2017 TO:

Clemency Section, Board of Pardons and Paroles
8610 Shoal Creek Blvd., Austin, Texas 78757-6814, USA

Fax: +1 512 467 0945

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

Salutation: **Dear Board members**

Governor Greg Abbott

Office of the Governor, P.O. Box 12428

Austin, Texas 78711-2428, USA

Fax: +1 512 463 1849

Salutation: **Dear Governor**

Also send copies to diplomatic representatives accredited to your country. HIS EXCELLENCY WOODY JOHNSON, Embassy of the United States of America, 24 Grosvenor Square W1A 6AE, tel: 020 7499 9000, *There is at present no general embassy email address*
Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

Seeking a death sentence against Clinton Young, the prosecutor argued that the mitigating evidence presented by his lawyers was an effort to shift blame and responsibility away from the defendant, and called on the jurors to save their compassion for the families of the murder victims and to ensure justice for them. The jury had heard evidence of Clinton Young's diagnosis of severe Attention Deficit Hyperactivity Disorder (ADHD), and of his abusive childhood. Since the trial, further evidence of this childhood has been revealed. In 2016, a psychologist retained by his appeal lawyers concluded that Clinton Young's "childhood history was characterized by at least 9 out of 10 ACEs" [Adverse Childhood Experiences], such as verbal, physical, and sexual abuse, emotional and physical neglect, domestic violence and substance abuse. He concluded that assessment of Clinton Young's "psychological difficulties indicates the presence of posttraumatic stress disorder (PTSD)" as well as of ADHD, and that the PTSD had gone unrecognized and untreated. The psychologist also concluded that "a powerful manifestation of [Clinton Young's] maturation since his incarceration was that he spontaneously explained to this examiner that his emotions didn't drive him the way they used to when he was arrested almost 15 years ago. He asserted that in contrast to this hyperactive and impulsive behaviour he now can be more methodical when he faces difficult situations..."

About one in six of those executed in Texas since 1976, when the US Supreme Court approved new capital statutes, were convicted of crimes committed when they were teenagers – 17, 18 or 19 years old. Thirteen were put to death for crimes committed when they were 17 before the Supreme Court in 2005 banned the execution of those under 18 at the time of the crime. The Court recognized the immaturity, impulsiveness, poor judgment, underdeveloped sense of responsibility and vulnerability or susceptibility to "negative influences and outside pressures, including peer pressure", often seen in youth, as well as their potential for rehabilitation and reform. It noted that the "qualities that distinguish juveniles from adults do not disappear when an individual turns 18", and scientific research has continued to show that development of the brain and psychological and emotional maturation continues well past the age of 18. An independent expert paper issued in 2015 by the National Institute of Justice at the US Department of Justice on young adults and the justice system, for example, noted that "Young adults are developmentally distinct from older adults. Recent scientific work suggests that the human brain continues to develop well into the 20s, particularly in the prefrontal cortex region, which regulates impulse control and reasoning... Because of [the 'maturity gap'], young adults are more likely to engage in risk-seeking behaviour, have difficulty moderating their responses in emotionally charged situations, or have not fully developed a future-oriented method of decision-making." In the USA, there are efforts underway in litigation to have courts recognize this scientific research and to ban the death penalty, for example, for those under 21 at the time of the crime. In Kentucky, two judges have recently agreed to issue such orders, although their rulings will be appealed. In Texas, 31 individuals have been executed for crimes committed when they were 18 and another 44 for crimes committed at 19 (See <https://www.amnesty.org/en/documents/amr51/027/2014/en/>).

In June 2015 US Supreme Court Justice Stephen Breyer issued a landmark dissenting opinion arguing that the Court should consider the constitutionality of the death penalty per se, citing among other things, arbitrariness, and the number of errors in capital cases. Since 1973, more than 150 people have been exonerated of the crimes for which they were originally sent to death row in the USA. Clearly the US capital justice system is capable of making mistakes, and does so with alarming regularity. Amnesty International opposes the death penalty unconditionally, regardless of claims of guilt or innocence, mitigating or aggravating evidence, or the execution method. International safeguards guaranteeing protection of the rights of those facing the death penalty require that "Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts". There have been 1,460 executions in the USA since 1976. Texas accounts for 543 of these executions and five of the 18 carried out so far this year.