



USA - Clemency for Jacqueline Montanez: Sentenced as a juvenile to Life without parole

Action October 2014



Jacqueline Montanez is the only woman the State of Illinois has sentenced to life imprisonment without the possibility of parole for a crime committed as a child of 15. The imposition of this sentence on

anyone under 18 years old at the time of the crime violates international law.

The Convention on the Rights of the Child was adopted by the UN on November 20 1989 It is an international treaty which, shockingly, the USA has signed but never ratified.

Photo: Jacqueline Montanez with a service dog ©2009 private

Background

"I did what they said I did, I'm not who they say I am." **Jacqueline Montanez**

In 1992, along with two other young women, Jacqueline Montanez shot and killed two young men, Hector Reyes and James Cruz, members of a rival street gang. On arrest, she made a confession during an interrogation, which took place with neither a youth officer nor her mother present.

At trial she pleaded not guilty to the murder of Hector Reyes. However, during her years in prison she has reflected on her involvement in the murders and has accepted full responsibility; saying: *"Not a day goes by that I don't wish it were me. They were human, they were somebody's father, they were somebody's child".* .

Jacqueline Montanez was 15 years old at the time of the crime but, due to the severity of the charges, she was automatically tried in the adult criminal system, was convicted of the two murders and received a mandatory sentence of life imprisonment without the possibility of parole. Factors such as her young age, history of abuse, mental health issues, difficult home environment or amenability to rehabilitation, were therefore not considered as they would have been in a juvenile court.

She was sent to an adult prison when she was 17 years old, the youngest inmate there, and placed in the mental health unit where she remained for almost three years. A mental health evaluation recommended that, because she had flashbacks

of the crimes and a significant mental health history, she should be kept in the unit to ensure her protection. In 1995, she was granted a new trial and this took place in 1999. She was again convicted and sentenced to life without parole.

Jacqueline Montanez was born on 29 May 1976. She never had a relationship with her biological father and her mother met her stepfather when she was one year old. Jacqueline's stepfather was a drug dealer and an "enforcer" for the Latin Kings street gang. From a very young age he groomed her to be a gang "soldier," sending her out to deliver heroin when she was as young as six.

When she was eight years old, her school alerted social services because she had multiple bruises and had told her teachers that she was being hit by her stepfather who also allegedly sexually abused her for years. When she was nine, she started using drugs and alcohol, was hospitalised for overdoses and joined a rival street gang to her stepfather's gang. She repeatedly ran away from home to escape the abuse, which led to her being periodically placed in the custody of social services from the age of 12. At the time of the crime, she had run away from a foster home and had not attended school since the eighth grade.

Jacqueline Montanez recalls that *"for 15 years of my life I lived being beat up or watching my parents shoot up or delivering drugs for my [step] father, or being raped... I woke up to beatings, cooking his drugs and bagging them. I thought it was normal."*

USA: Life without parole for Children (JWOP)

Until 25th June 2012, in *Miller v. Alabama*, the United States of America was the only country in the world routinely imposing the sentence of life without the possibility of parole (LWOP) on young people under 18. On this date, the US Supreme Court, by a vote of 5 to 4, outlawed **mandatory** life imprisonment without parole for offenders who were under 18 years old at the time of the crime although the sentence can still be imposed.

This decision built on earlier rulings finding that mandatory life without parole for those under 18 at the time of the crime violates the US constitutional ban on "cruel and unusual punishments." In 2010, in *Graham v. Florida* the US Supreme Court found life without parole sentences imposed for non-homicide crimes committed by under-18-year-olds unconstitutional. In 2005 in *Roper v. Simmons* the Court prohibited the death penalty against this age group.

At this point there were about 2,500 people who were under the age of 18 at the time of the crime serving life without parole in murder cases in

some 38 states and in federal prisons.

States differ on if and when they allow parole eligibility or re-sentencing hearings for prisoners sentenced as children. In **Illinois**, where Jacqueline Montanez is serving life without parole, questions concerning implementation of the U.S. Supreme Court are being battled out in the courts.

In March 2014, the Illinois Supreme Court ruled that the *Miller v. Alabama* decision should be applied retroactively in Illinois and that juveniles serving mandatory life without parole should be entitled to new sentencing hearings where courts can consider mitigating evidence and alternative punishments. However, in August of this year, state prosecutors succeeded in appealing this decision to the U.S. Supreme Court. We should find out whether the U.S. Supreme Court will accept the appeal soon, perhaps as early as November.

Jacqueline Montanez: Current Legal Status

Jacqueline Montanez applied for executive clemency in January 2012 and it has been under consideration by the Governor's office ever since. Because of pending appeal Jackie's re-sentencing request is essentially on hold.



Photo: Jacqueline Montanez at the age of six or seven © Private

After more than 22 years of incarceration, Jacqueline Montanez has grown into a very different person. She has obtained a high school equivalency diploma and completed almost all available education and vocational programmes.

She has become a certified trainer of service dogs for disabled people and is a published poet. Jacqueline also tutors and mentors other inmates and is committed to speaking out for and about troubled young people, particularly those who have been abused and those trapped in the gang lifestyle which she herself was born into. She and some fellow inmates are currently fundraising for a domestic violence shelter in Lincoln, Illinois, where she is currently incarcerated.

According to her legal representative, Alison Flaum: *"The legal roller coaster has been hard on her – sometimes she feels hopeful, sometimes that her day in court will never really come. Last year's transfer to a new prison – which is much further from family and friends in Chicago – was quite hard for her. So the cards and letters she receives are very meaningful to her and do make a tremendous difference."*

ACTION

Please urge Governor Quinn to grant clemency to Jacqueline Montanez, bringing Illinois in line with international human rights law, and to ensure that the sentence of life without parole for any crime committed by a person under the age of 18 is eliminated from state legislation. Explain that you are not suggesting that children's crimes be excused, but that the question of their accountability should be addressed taking into account their immaturity and capacity for development, aiming to maximise their potential for successful reintegration into society.

(See attached model letter)

Governor of Illinois

Governor Pat Quinn
c/o Era Laudermilk, Associate General Counsel
Office of the Governor
James R. Thompson Center
100 W. Randolph, Suite 16-100
Chicago, IL 60601, USA
<http://www2.illinois.gov/gov/Pages/ContacttheGovernor.aspx>

Salutation: *Dear Governor*

Send copies of your letters to:

His Excellency the Honourable Matthew Barzun

Embassy of the United States of America
24 Grosvenor Square, London, W1A 6AE

Salutation: *Your Excellency*

And to Jacqueline's committed lawyer

Alison R Flaum, Legal Director,
Children and Family Justice Center
Northwestern University School of Law
375 East Chicago Avenue
Chicago, IL 60611-3069, USA

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www.law.northwestern.edu/legalclinic/cfjc

SOLIDARITY

Please send letters and cards to:

Jacqueline Montanez, B47331
Logan Correctional Center
P.O. Box 1000
Lincoln, IL 62656, USA

Further Information

USA: Another welcome step on children in the criminal justice system (June 2012)

<http://www.amnesty.org/en/library/info/AMR51/033/2012/en>

This is where I'm going to be when I die': Children facing life imprisonment without the possibility of release in the USA (2011)

<http://www.amnesty.org/en/library/info/AMR51/081/2011/en>

The Campaign for the Fair Sentencing of Youth:

<http://fairsentencingofyouth.org/> (monitors reforms since *Miller v. Alabama* nationwide among other issues)

MODEL LETTER

Governor of Illinois, Pat Quinn
c/o Era Lauder milk, Associate General Counsel
Office of the Governor
James R. Thompson Center
100 W. Randolph Suite 16-100
Chicago, IL 60601, USA

Dear Governor Quinn:

I am writing to you to appeal for clemency for Jacqueline Montanez who in 1993 was tried and convicted in an adult court of the First Degree murder of Hector Reyes and James Cruz, a crime she had committed in 1992, when she was only 15 years old.

If Jacqueline Montanez had been tried in juvenile court for this serious crime, factors such as her youth, her difficult home environment, including physical and sexual abuse and exposure to drugs and street gangs, her mental health issues and likelihood of rehabilitation would have been considered. Instead she received a mandatory sentence of life imprisonment without the possibility of parole.

At the time of her trial, the USA was the only country in the world imposing life without parole sentences on children under 18 years at the time of the crime. It violated globally respected principles of international human rights law and juvenile justice standards, including the International Covenant on Civil and Political Rights (ICCPR), which the USA ratified in 1992, which acknowledges the need for special treatment of children in the criminal justice system and emphasizes the importance of procedures that recognise their youth and facilitate their rehabilitation; as well as the Convention on the Rights of the Child which the USA signed in 1995 although it has not yet been ratified.

The US Supreme Court in effect acknowledged these principles on June 25th, 2012, in its ruling in *Miller v. Alabama*, which stated that a judge or jury must have the opportunity to consider mitigating circumstances before imposing the harshest possible penalty for juveniles. The Court found the mandatory sentencing of juvenile offenders to life imprisonment without possibility of parole violates the Eighth Amendment's ban on cruel and unusual punishment.

Consequently, Jacqueline Montanez' mandatory sentence is unacceptable, and the Illinois Supreme Court ruled unanimously on March 27 that *Miller v. Alabama* is retroactive and applies to those like Jacqueline Montanez who were sentenced prior to the U.S. Supreme Court decision. Unfortunately that decision has been appealed. I urge you to uphold the ruling of the Illinois Supreme Court in order to allow Jacqueline Montanez a new sentencing hearing.

I am not suggesting that crimes committed by children should go unpunished, but the sentencing of juvenile offenders should take into account their need for correction as well as punishment and courts should be allowed to consider mitigating evidence and alternative punishment. Miss Montanez has consistently expressed remorse for her crimes, and she has now spent over 22 years in prison for the crimes committed when she was a very different person at age 15.

While in prison, Jacqueline Montanez has obtained a high school equivalency diploma and completed almost all available education and vocational programmes. She has become a certified trainer of service dogs for disabled people and is committed to speaking out for and about troubled young people, particularly those who have been abused and those trapped in the gang lifestyle which she herself was born into.

In view of the Supreme Court ruling and Jacqueline Montanez' rehabilitation over 22 years in prison, I strongly urge you to grant her request for clemency.

Sincerely