

amnesty international

UNITED STATES OF AMERICA

Killing possibility: The imminent execution of Stanley Williams in California

November 2005

AI Index: AMR 51/187/2005

*[I]f it is impossible to construct a system capable of accommodating **all** evidence relevant to a man's entitlement to be spared death – no matter when that evidence is disclosed – then it is the system, not the life of the man sentenced to death, that should be dispatched.*

United States Supreme Court Justice T Marshall, 1990ⁱ

[Stanley] Williams's good works and accomplishments since incarceration may make him a worthy candidate for the exercise of gubernatorial discretion.

Ninth Circuit Court of Appeals, Judge Hug, 2004ⁱⁱ

On 13 December 2005, the State of California plans to execute Stanley “Tookie” Williams, who has been on San Quentin prison’s death row for well over two decades. Williams founded the notorious “Crips” street gang in Los Angeles, California, in the early 1970s. He was sent to death row in 1981 for two separate robbery murders. In one robbery a convenience store clerk was killed and in the other the owners of a motel were killed (father, mother, and grown daughter). Stanley Williams has always asserted his innocence of these specific crimes. Indeed, the United States federal appeals court described his convictions as based upon “circumstantial evidence and the testimony of witnesses with less-than-clean backgrounds and incentives to lie in order to obtain leniency from the state.”ⁱⁱⁱ Amnesty International is not in a position to comment on Stanley Williams’ claim of innocence, but would note the ever-growing evidence of wrongful convictions in capital cases in the USA, and that lingering doubt about guilt is itself a solid ground for commutation of a death sentence.^{iv}

Whether or not Stanley Williams committed the crimes for which he is scheduled to die, by his own admission he participated in violent behaviour before he was sent to prison and during his first seven years there. Then, during six years in solitary confinement, he underwent through focused education what he describes as a “redemptive transition.” Since his release from solitary confinement in 1994, he has exhibited exemplary behaviour in prison. In 1997, Williams issued the first of his “apologies”, renouncing gang life:

Twenty-five years ago when I created the Crips youth gang with Raymond Lee Washington in South Central Los Angeles, I never imagined Crips membership would one day spread throughout California, would spread to much of the rest of the nation and to cities in South Africa, where Crips copycat gangs have formed. I also didn't expect the Crips to end up ruining

the lives of so many young people, especially young black men who have hurt other young black men. . . .

[T]oday I apologize to you all — the children of America and South Africa — who must cope every day with dangerous street gangs. I no longer participate in the so-called gangster lifestyle, and I deeply regret that I ever did. . . . I pray that one day my apology will be accepted. I also pray that your suffering, caused by gang violence, will soon come to an end as more gang members wake up and stop hurting themselves and others. I vow to spend the rest of my life working toward solutions.^v

Stanley Williams has “worked toward solutions” through his public apologies, by writing an award-winning series of children’s books that warn about the perils of the gang lifestyle, by writing another book for older children that demythologizes the prison experience (undercutting a myth that prison is some kind of rite of passage for young African-American males), by writing his own autobiography which renounces gang violence, by producing a peace protocol to help street gangs turn to peaceful behaviour, and by founding an internet-based peer mentoring and anti-gang program involving children in the United States, Switzerland, and South Africa.^{vi} His work played a prominent role in gang truces in Los Angeles and Newark, New Jersey. In 2004, after watching a film that depicts Williams’ life (*Redemption*, in which the actor Jamie Foxx plays Stanley Williams), over 300 members of the Crips and Bloods gangs in Newark, New Jersey, signed a peace treaty, agreeing to end gang violence.^{vii} Inspired by Williams’ work against violence, a member of the Swiss Parliament has nominated him for the Nobel Peace Prize. This year, President George W. Bush’s Council on Service and Civic Participation bestowed upon Stanley Williams the “Presidential Call to Service Award.” The letter congratulating Williams for the award praised him for having contributed to the “build[ing of] a culture of citizenship, service, and responsibility in America.”^{viii} This special award “honors those who have provided more than 4,000 hours of service over the course of their lifetime.”^{ix}

Several death sentences in the United States have been commuted after the authorities were presented with evidence of rehabilitation. In 1988, the Governor of Montana commuted the death sentence of David Keith after his attorneys argued that he had changed since his arrest four years earlier and that his life “might be put to good use if he [were] allowed to live and help counsel others with alcohol and drug problems.”^x In 1990, the Georgia Board of Pardons and Paroles commuted the death sentence of William Neal Moore, influenced by the fact that Moore had been a “model prisoner during his 16 years on death row” and had been “not merely an example of the ability of the Georgia prison system to rehabilitate criminals but an agent of the rehabilitation of others.”^{xi} In 1997, the Governor of Virginia commuted William Saunders’ death sentence following the recommendation of his trial judge that he was “not the same violent man sentenced to death seven years ago.”^{xii} In 2004, the Georgia board commuted the death sentence of Willie Hall, remarking about his exemplary prison record.^{xiii}

The record of governors, however, has been inconsistent, injecting further arbitrariness into the application of the death penalty in the USA. In 1990, the Governor of Virginia failed to exercise his discretion to save the life of Wilbert Evans, whom death row prison guards had credited with saving their own lives. “According to uncontested affidavits presented by guards taken hostage during [a death row] uprising, Evans took decisive steps to calm the riot, saving the lives of several hostages, and preventing the rape of one of the nurses.”^{xiv} Lawyers for Evans asserted that his execution would violate the prohibition on “cruel and unusual” punishments under the Eighth Amendment to the US Constitution, on the grounds that the guards’ affidavits provided overwhelming evidence that he was rehabilitated and posed no risk to others. The State of Virginia did not disagree with the evidence, arguing only that allowing Evans to raise his complaint would “unleash an endless stream of

litigation” tying up the courts with claims made by other inmates.^{xv} When the US Supreme Court refused to stay Evans’ execution, Justice Thurgood Marshall protested that the “indifferent shrug of the shoulders with which the Court” met Evans’ claim revealed “the utter bankruptcy of its notion that a system of capital punishment [could] coexist with the Eighth Amendment.”^{xvi} Implicit in his dissent was the argument that the Eighth Amendment requires that some means be provided to “accommodat[e] all evidence relevant to a man’s entitlement to be spared death – no matter when that evidence is disclosed.”^{xvii} In 1998, lawyers for Texas death row inmate Karla Faye Tucker raised the same issue, arguing that her execution would be unconstitutional due to the compelling evidence of her transformation from “pick axe killer” to spiritual counselor for scores of people. Then-Governor George W. Bush recognized her extraordinary rehabilitation, but announced that he felt compelled to defer all decisions about the human heart to a “Higher Authority.”^{xviii} Texas Governor Rick Perry subsequently ignored similarly strong evidence of rehabilitation presented in the clemency petitions of Napoleon Beazley and James Allridge, who were inmates so trusted by the Texas prison authorities that they were given a kind of “trustee” status on death row.^{xix}

As well as the impossibility of consistent application, another reason behind the global trend towards abolition is the death penalty’s absolute denial of the possibility of rehabilitation. In the words of the Irish Commission for Justice and Peace: “In executing someone, we rule out irrevocably any possibility, however remote, of subsequent repentance, conversion, or reconciliation; we exclude finally the possibility of moral development and of the growth of conscience.”^{xx} In the Inter-American system, it is recognized that “the application of the death penalty has irrevocable consequences . . . preclud[ing] the possibility of changing or rehabilitating those convicted.”^{xxi} In the South African Constitutional Court’s landmark decision in June 1995 recognizing that the death penalty violated fundamental human rights and threatened to “make a mockery of the civilized, humane and compassionate society to which the nation aspires”^{xxii}, Justice Mahomed, who was to become his country’s first black Chief Justice, put it this way:

The death sentence must, in some measure, manifest a philosophy of indefensible despair in its execution, accepting as it must do, that the offender it seeks to punish is so beyond the pale of humanity as to permit of no rehabilitation, no reform, no repentance, no inherent spectre of hope or spirituality [T]he finality of the death penalty allows for none of these redeeming possibilities. It annihilates the potential for their emergence.^{xxiii}

In the decade since South Africa abolished the death penalty, countries have rejected judicial killing at the rate of three per year.^{xxiv} Today, some 121 states are abolitionist in law or practice compared to the 75 which retain the death penalty, a handful of which account for the vast majority of the world’s executions.^{xxv} As well as reflecting a growing recognition that the death penalty violates the right to life and the prohibition on cruel, inhuman or degrading treatment or punishment enshrined in international law, the abolitionist trend is also a rejection of the notion that capital punishment can be considered compatible with “human dignity,” which should surely be defined as including the potential in all persons for change and growth.^{xxvi} South Africa’s Justice Mahomed wrote in 1995 that the death penalty “cannot accomplish its objective without invading in a very deep and distressing way, the guarantee of human dignity . . . The invasion of [the prisoner’s] dignity is inherent. He is effectively told: ‘You are beyond the pale of humanity. You are not fit to live among humankind. You are not entitled to life. You are not entitled to dignity. You are not human. We will therefore annihilate your life.’” Justice Mahomed added:

It is not necessarily only the dignity of the person to be executed which is invaded. Very arguably the dignity of all of us, in a caring civilization, must be compromised, by the act of repeating systematically and deliberately,

albeit for a wholly different objective, what we find to be so repugnant in the conduct of the offender in the first place.^{xxvii}

Stanley Williams has repudiated his past violent conduct and continues to make efforts toward changing the violent conduct of others. It now remains to be seen whether the state will favour a policy of hope or annihilation.

International human rights instruments repeatedly stress that, if a state retains the death penalty, it must provide procedures for meaningful clemency review. These include the ICCPR (Article 6.1 and 6.4); the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty (Safeguard 7); and the American Convention on Human Rights (Article 4.1 and 4.6). As a party to the ICCPR, the USA must therefore provide the means for appropriate consideration of the evidence of Stanley Williams' "good works and accomplishments since incarceration" as grounds for reduction of sentence. Commutation of Williams' death sentence would be consistent with the Covenant's additional requirements that all prisoners be treated with respect for the "inherent dignity of the human person" (ICCPR, article 10.1) and that a goal of the penitentiary system be "reformation and social rehabilitation" (ICCPR article 10.3).

Stanley Williams' long incarceration on California's death row itself raises serious legal and moral issues.^{xxviii} However it unquestionably has allowed him to have a greater opportunity to realize his own potential for rehabilitation and reform than most other death row inmates receive. By all accounts, he has taken advantage of this opportunity and has made a compelling case for his own moral transformation, including absolute repudiation of his past acts. So much so that the US Court of Appeals for the Ninth Circuit noted the Nobel Peace Prize nomination "for his laudable efforts opposing gang violence from his prison cell", and found that his "good works and accomplishments may make him a worthy candidate" for an act of executive clemency.

California Governor Arnold Schwarzenegger should recognize the extraordinary facts in Stanley Williams' case and commute his death sentence. The alternative would be to send the message to gang members around the world that "there are no second chances in the eyes of justice . . . that in some cases, killing is right."^{xxix}

ⁱ *Evans v. Muncy*, 498 U.S. 927, 931 (1990), Marshall J., dissenting from denial of stay of execution.

ⁱⁱ *Williams v. Woodford*, 384 F.3d 567, 628 (9th Cir. 2004).

ⁱⁱⁱ *Williams v. Woodford*, 384 F.3d 567, 624 (9th Cir. 2004).

^{iv} Safeguard 4 of the UN Safeguards guaranteeing protection of the rights of those facing the death penalty states: "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." Amnesty International has also noted with concern the possible impact of race in Stanley Williams' case, namely that of an African American man sentenced to death by an all-white jury. See USA: Death by discrimination – the continuing role of race in capital cases, AI Index: AMR 51/046/2003, April 2003, page 55.

^v Available at www.tookie.com/apology.html.

^{vi} See Venise Wagner, *Practicing peace in a North Richmond enclave, trouble kids learn not to fight*. San Francisco Chronicle, 11 December 2000.

^{vii} *Peace breaks out on the streets as gangs shun colour of blood*. The Times (London), 1 June 2004.

^{viii} See the clemency petition at <http://www.cm-p.com/pdf/executiveclemency.pdf>

^{ix} See <http://www.usafreedomcorps.gov/content/council/pvsa/index.asp>.

^x U.P.I. Regional News Release, December 23, 1988.

^{xi} Editorial, *When Mercy Becomes Mandatory*, Atlanta Constitution, 16 August 1990, at A10.

^{xii} *Death Sentence Commuted*, Washington Post, 16 September 1997, at B03.

^{xiii} Amnesty International, Urgent Action, USA (Texas): Death Penalty, James Vernon Allridge, AMR 51/125/2004, 12 August 2004.

^{xiv} *Evans v. Muncy*, 498 U.S. 927, 928-29 (1990) (Marshall, J., dissenting from denial of stay).

^{xv} *Id.* at 930.

^{xvi} *Id.* at 931.

^{xvii} *Id.*

^{xviii} Sister Helen Prejean, *Death in Texas*, *New York Review of Books*, Vol. 52, No. 1, 13 January 2005.

^{xix} See Allridge Urgent Action, *supra*, AMR 51/125/2004 (“James is deserving of clemency because he is the perfect role model inmate. I think if James was put back in [general inmate] population he would continue to be a good role model prisoner.”) (Texas prison guard); Amnesty International, *United States of America: Too Young to Vote, Old Enough to be Executed*, AMR 51/105/2001, 31 July 2001 (“The jury’s finding of future dangerousness has also been called into question by the fact that Napoleon Beazley has been a model prisoner. Before death row was recently moved from Ellis Unit in Huntsville to its new location in Terrell Unit, Livingston, and all prisoners were confined to their cells for 23 hours a day, Napoleon Beazley was one of a few prisoners assigned to jobs within the prison. At the trial the state’s experts had testified that Beazley would pose a threat of violence in prison. It seems they were wrong.”)

^{xx} Quoted in Amnesty International, *When the State Kills...The death penalty v. human rights*. AI Index: ACT 51/07/89 (1989), page 9.

^{xxi} Additional Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

^{xxii} Didcott, J., *State v. Makwanyane*, 1995 (3) SALR 391 (CC).

^{xxiii} Mahomed, J., *State v. Makwanyane*, 1995 (3) SALR 391 (CC).

^{xxiv} Amnesty International, *Abolitionist and Retentionist Countries*, www.amnesty.org.

^{xxv} *Id.*

^{xxvi} Shigemitsu Dando, *Toward the Abolition of the Death Penalty*, 72 *Ind. L. J.* 7, 16, 19 (1996) (“[I]f every human being is able to develop his or her personality at any stage of life, the death penalty – which, by nature, deprives one of such chance of rehabilitation – is deemed inconsistent with human dignity.”).

^{xxvii} Mahomed, J., *State v. Makwanyane*, 1995 (3) SALR 391 (CC).

^{xxviii} See *Pratt and Morgan v. Jamaica* (Nos 210/1986 and 225/1987), UN Doc. A/44/40 222 (1989); *Soering v. United Kingdom*, 161 *Euro Ct. H.R.* (Ser A) para. 81 (1989) (holding that lengthy incarceration on death row is inhuman punishment).

^{xxix} Last Statement of Napoleon Beazley; Amnesty International, *United States of America: The Human Dignity that Texas Refuses to Recognize*, AMR 51/087/2002, 31 May 2002.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM
