

URGENT ACTION

GEORGIA SETS FIRST EXECUTION IN FOUR YEARS

Willie Pye is scheduled to be executed in Georgia on March 20, 2024. Now 58, he was sentenced to death for a murder committed in 1992 when he was 27. In 2021, federal judges overturned the death sentence because of the trial lawyer's failure to investigate and present evidence of Pye's significantly sub-average intellectual functioning and traumatic childhood. This decision was reversed on appeal, not on the merits but on procedural grounds under a 1996 federal law. His lawyers have presented evidence that he has intellectual disability, but under Georgia's requirement to prove this 'beyond a reasonable doubt', his death sentence has been upheld.

TAKE ACTION:

- Write a letter in your own words or using the sample below as a guide to one or both government officials listed. You can also email, fax, call or Tweet them.
- [Click here](#) to let us know the actions you took on **Urgent Action 22.24**. It's important to report because we share the total number with the officials we are trying to persuade and the people we are trying to help.

State Board of Pardons and Paroles

2 Martin Luther King, Jr. Drive SE
Suite 430, Balcony Level, West Tower
Atlanta, GA 30334, USA
Email: GaParoleBoard@pap.ga.gov

Dear Members of the State Board of Pardons and Paroles,

Willie Pye is scheduled to be executed on March 20, 2024, and I urge you to ensure that this execution does not go forward.

Since 2002, the execution of people with intellectual disability has been unconstitutional in the USA. It is undisputed that Willie Pye has significantly subaverage intellectual functioning, with an IQ of 68. State and defense experts agree that Willie Pye presents adaptive deficits – the second element of an intellectual disability assessment – but the state's expert disputed whether they meet the requisite standard, even though they "affect his ability each and every day to function in the community".

In 1989, seven years before Willie Pye's sentencing, the US Supreme Court held that evidence of intellectual disability was a factor that "may well lessen a defendant's culpability for a capital offense", and sentencers must be able to "consider and give effect to mitigating evidence of [intellectual disability] in imposing sentence". At Willie Pye's sentencing, the jurors were not able to do so as they had heard no evidence of his low intellectual functioning. A three-judge panel found in 2021 that it was clear the lawyer's representation had been constitutionally inadequate, and that Willie Pye should get a new sentencing, but the full court overturned this, not on the merits, but on legal technicalities relating to the amount of federal deference due state court decisions.

The power of executive clemency exists precisely as a failsafe against injustice that has been left unremedied by the courts. I appeal to you to use your authority to ensure that Willie Pye's death sentence is commuted.

Yours sincerely,

ADDITIONAL INFORMATION

Willie Pye, a Black man, was arrested in 1993 and charged with the 1992 murder of his former girlfriend. The Spalding County public defender was appointed to represent him. As noted by a federal court in 2021, according to his billing records, the lawyer spent about 150 hours preparing for Willie Pye's trial. The American Bar Association has pointed out that at least 10 times this amount of time is typically required for appropriate representation in a capital case. After the jury voted to convict Willie Pye, the sentencing phase lasted one morning and ended in a death sentence.

The Antiterrorism and Effective Death Penalty Act (AEDPA), aimed in part at facilitating executions, became law in 1996. Under the AEDPA, according to the US Supreme Court, federal courts must operate a "highly deferential standard for evaluating state-court rulings, which demands that state court decisions be given the benefit of the doubt". In 1998, the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions found that the AEDPA had "further jeopardized the implementation of the right to a fair trial" under international law and has contributed to injustices.

In 2021, a three-judge panel of the US Court of Appeals for the 11th Circuit unanimously found that this was one of the rare cases under the AEDPA in which a claim of ineffective assistance of counsel denied on the merits in state court is found to warrant relief on federal review. The panel concluded that it was quite evident that the trial lawyer had not provided constitutionally adequate representation, having conducted only the "most cursory" of investigations into mitigation evidence, including failing to obtain a mental health evaluation. As a result of his "paltry" investigation, the jury heard "virtually none of the "powerful mitigating evidence" presented on appeal, including evidence of Willie Pye's subaverage intellectual functioning, frontal lobe brain damage and severe depression, or of his traumatic childhood in which involved "near-constant physical and emotional abuse, extreme parental neglect, endangerment, and abject poverty" which had "pervaded" his daily life as a child as well as his "troubled adulthood". The US Supreme Court had long before Willie Pye's trial recognized the validity of childhood abuse as mitigating evidence in capital trials. The 11th Circuit panel found that the evidence presented on appeal "paints a vastly different picture" to what was presented to the jury. Willie Pye had been prejudiced by his lawyer's failure and was entitled to a new sentence.

At the time of his trial, Georgia was the only state in the USA prohibiting the execution of people with intellectual disability, throwing into even starker relief his trial lawyer's failure to investigate this issue. Unlike any other state in the USA, Georgia law requires that intellectual disability be proved beyond a reasonable doubt. It is undisputed that Willie Pye has significantly subaverage intellectual functioning and an IQ of 68, and school records and teacher testimony indicate it manifested before the age of 18. The only point of dispute is around adaptive deficits because the state here presented an expert who agreed Willie Pye has undoubted adaptive deficits but disagreed that those deficits were significant enough to meet the second element of an intellectual disability assessment. Under the uniquely strict "beyond a reasonable doubt" standard, this kept Willie Pye under sentence of death.

PREFERRED LANGUAGE TO ADDRESS TARGET: English

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: March 20, 2024.

NAME AND PRONOUN: Willie Pye (he/him).