

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



Action begins August 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.**

**2<sup>nd</sup> of September 2014 marks 24 years since the UN Convention on the Rights of the Child came into force, an international treaty which 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 was questioned four times throughout the night. The first interrogation, during which she made a confession, took place with neither a youth officer nor her mother present

At trial, Jacqueline Montanez pleaded not guilty and testified that she did not murder 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".* .

She 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.

Jacqueline Montanez was sent to adult prison when she was 17 years old. She was the

youngest inmate there and was placed in the mental health unit where she remained for almost three years. A mental health evaluation noted that she had flashbacks of the crimes and a significant mental health history. It recommended that she be kept in the unit to ensure her protection. In 1995, she was granted a new trial and this took place in 1999. However, 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 on several occasions and joined a rival street gang to her stepfather's gang.

Jacqueline Montanez has said that 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."*

**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.**

## 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. 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.”* (See below for details)

### **Life without parole for Children in the USA:**

Until 25<sup>th</sup> 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 the possibility of parole for offenders who were under 18 years old at the time of the crime. The ruling came two years after the Supreme Court found life without parole sentences imposed for non-homicide crimes committed by under-18-year-olds unconstitutional (*Graham v. Florida*, 2010), and seven years after the Court prohibited the death penalty against this age group (*Roper v. Simmons*, 2005). This decision built on these earlier rulings in finding that mandatory life without parole for those under 18 at the time of the crime also violates the US constitutional ban on “cruel and unusual punishments” 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 the USA, in some 38 states and in federal prison.



While states now differ on if, and when, they allow parole eligibility or re-sentencing hearings for prisoners sentenced as children, in **Illinois**, where Jacqueline is serving her sentence, full implementation of the U.S. Supreme Court decision has been delayed as the question

of whether the decision will be applied retroactively is battled out in the courts. Back in March 2014, the Illinois Supreme Court ruled that the in *Miller v. Alabama* decision should be applied retroactively in Illinois and this was tremendous news. However, at the time of writing this article (August 2014), state prosecutors are seeking to appeal this decision to the U.S. Supreme Court in the hope that the court will decide against retroactive application of *Miller v. Alabama*. Their appeal request is unlikely to be dealt with until October, at the earliest. In the meantime, Jackie’s re-sentencing request is essentially on hold.

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

## **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 Lauder milk, 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 Flaum  
Legal Director  
Children and Family Justice Center  
Bluhm Legal Clinic, Northwestern University  
School of Law  
[www.law.northwestern.edu/legalclinic/cfjc](http://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)