June 5, 2020

Texas Board of Pardons and Paroles
David Gutierrez, Presiding Officer
P.O. Box 13401
Austin, Texas 78711

Dear Board Members,

We write to you concerning the execution of Billy Joe Wardlow, currently scheduled for July 8, 2020. Mr. Wardlow was seeking relief in the Court of Criminal Appeals, where he argued that his sentence is unconstitutional as it was based on a finding that he was likely to commit further acts of violence in the future. Mr. Wardlow argued that this finding was unreliable because he was 18 years old at the time of the offense.

Mr. Wardlow was supported in the Court of Criminal Appeals by several Texas researchers and scholars: Dr. Stephen Strakowski, Dr. John Edens, William Kelly, and Michele Deitch. These individuals are, collectively, considered experts in the fields of neuroscience, psychiatry, criminology, and forensic testing for future dangerousness and psychopathy. They filed a brief as amicus curiae arguing that established research definitively proves Mr. Wardlow’s central contention, that it is not scientifically possible to reliably predict future dangerousness in the case of an 18-year-old. In essence, they detail scientific studies showing that 18-year-olds are more inclined towards risky behavior and have diminished impulse control relative to adults. As a result, they argued, young people are more likely to engage in antisocial and violent activity, but they overwhelmingly grow out of it as they age and their brains develop. According to Mr. Wardlow and his amici, assessment of future dangerousness for an 18-year-old is therefore likely to mistake a temporary deficit in maturity for a permanent defect, resulting in a prediction of future dangerousness that is most probably incorrect.

Mr. Wardlow's appeal was denied on procedural grounds on April 29, 2020 on the basis that the allegations did not satisfy the requirements of Article 11.071 §5. Thus, the court dismissed the appeal without reviewing the merits of the claim raised. However, we believe the underlying issue raised deserves thoughtful examination. Previously, the House Committee on Criminal Jurisprudence planned to hold a public hearing in April to explore this question. However, this has been postponed due to the Governor's Emergency Declaration in response to COVID-19.

Despite this delay, we intend to further explore this issue and take it up in the next legislative session. We write to inform you of this intention, lest Mr. Wardlow be executed before we consider an issue that might impact his case.

Thank you for your kind attention to this matter. If we can provide any additional information, please do not hesitate to contact us.

Kindest regards,

Nicole Collier

Sen. Judith Zaffirini
Rep. Terry Canales
Sen. Royce West
Rep. Senfronia Thompson
Sen. Jose Rodriguez
Sen. Eddie Lucio, Jr.
Rep. Ina Minjarez
Rep. Mary Ann Perez
Rep. Alma Allen
Rep. Diego Bernal
Rep. Ron Reynolds
Sen. Nathan Johnson
Rep. Phillip Cortez
Sen. Beverly Powell
Rep. Mary Gonzalez
Rep. Eddie Rodriguez
Rep. Garnet F. Coleman
Rep. Celia Israel
Rep. Eddie Lucio III
Rep. Chris Turner
Rep. Eugene Wu
Rep. Carl Sherman
Rep. Donna Howard
Rep. Trey Martinez Fischer
Rep.Ana Hernandez
Rep. Toni Rose
Rep. John Bucy III
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