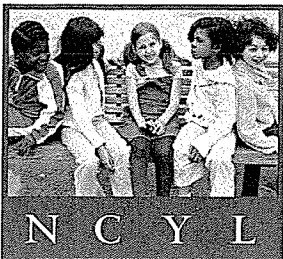


National Center for Youth Law



December 18, 2006

COLUMBIA LEGAL
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SEATTLE OFFICE

The Honorable Christine Gregoire
Washington State Governor
Legislative Building
302-14th Avenue S.W.
Olympia, Washington 98504

Re: Clemency Petition for Mr. Barry C. Massey, Jr.
DOC Number 942583

Dear Governor Gregoire:

We write to express our support for Mr. Massey's Clemency Petition pending before you. We urge you to adopt the recommendation of the Clemency and Pardons Board to reduce Mr. Massey's sentence to 25 years. Mr. Massey is currently serving a life without parole sentence for a crime committed at the age of 13.

Mr. Massey's case presents a perfect example of why sentencing teenagers to prison for the rest of their lives for crimes committed during their youth is cruel and unfair. As Mr. Massey has proven, children who make very bad choices as adolescents can and do turn their lives around. Mr. Massey has demonstrated in countless ways that he is not the person he was during his early teens. His in-prison work to help steer at-risk youth away from a life of crime, his deep sense of remorse for the Wang family, and his infraction-free prison record for the past 10 years, all demonstrate that Mr. Massey has grown into an adult who is able to return to society as a law-abiding citizen without risk to the public. His case is living proof that the practice of locking up youth forever is not only unnecessarily unforgiving but, as recognized by almost every country in the world *except* the United States, also inhumane given the salient differences between adult and young offenders. The practice is indeed prohibited by the Convention on the Rights of the Child, the world's most universally ratified human rights treaty.¹

¹ Although the United States is one of only two countries in the world that has not ratified the Convention on the Rights of the Child (the other country is Somalia), the U.S. is a signatory to the treaty and therefore obligated not to contravene the treaty's object and purpose.

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Washington State Governor
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The United States Supreme Court recently recognized the significant differences that exist between juvenile and adult offenders when it declared the juvenile death penalty unconstitutional. *Roper v. Simmons*, 543 U.S. 551 (2005). Relying upon emerging social, psychological, and scientific evidence, the Court in *Roper* found that the developmental differences between adults and adolescents diminishes the moral reprehensibility of even the most heinous of juvenile crimes and a juvenile's level of culpability. These developmental differences, as outlined by the *Roper* Court, are aptly illuminating on the facts of Mr. Massey's case. We urge you to consider them when reviewing his clemency request.

There are three general differences between juveniles and adults that led the United States Supreme Court in *Roper* to conclude that juvenile offenders cannot be classified (as Mr. Massey has been) "among the worst offenders." 543 U.S. at 569. First, juveniles are immature and irresponsible compared with adults, and "[t]hese qualities often result in impetuous and ill-considered actions and decisions." *Id.* The second area of difference is that juveniles are "more vulnerable or susceptible to negative influences and outside pressures, including peer pressure." *Id.* The third broad difference recognized in *Roper* is that the personality traits of juveniles are more "transitory" and less fixed, making the possibility for reform much greater for juveniles than for adults. *Id.* at 570.

Based upon these three significant differences between adult and juvenile offenders, the Court in *Roper* concluded that:

The reality that juveniles still struggle to define their identity means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character. From a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed.

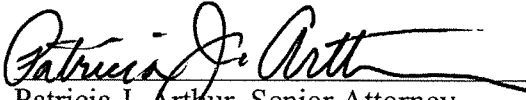
Id.

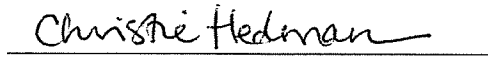
These differences could not be more profoundly present than in Mr. Massey's case. As the evidence presented to the Board in support of his clemency petition shows, Mr. Massey's conduct at age 13 was ill-considered, impetuous, and motivated by peer pressure. And, as Mr. Massey has proven by his remarkably changed behavior while in prison, his capacity for reform has been great, rendering his behavior at the age of 13 far less "morally reprehensible" than an adult's.

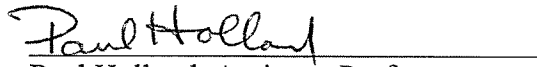
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As you review Mr. Massey's clemency petition, we urge you to consider the wisdom of the landmark principles handed down in *Roper*. We beg you to reject the cruel result urged by those opposing Mr. Massey's Clemency Petition. Based upon his young age at the time of his crime and his demonstrated reformation, Mr. Massey should not be incarcerated for the rest of his life without any hope ever of being released.

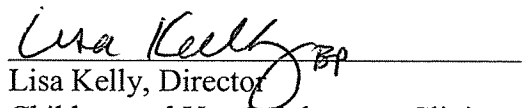
Sincerely,


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