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October 18, 2001

Mr. Gerald Garrett  
Chairman  
Texas Board of Pardons and Paroles  
209 West Fourteenth Street, Suite 500  
Austin, Texas 78701

Dear Mr. Garrett:

On behalf of Human Rights Watch, I write to urge the Board of Pardons and Paroles to recommend commutation of the death sentence of Gerald Lee Mitchell, who is scheduled to be executed on Monday, October 22. Mr. Mitchell was convicted and sentenced to death in 1986 for a murder he committed at the age of seventeen.

Human Rights Watch is a privately funded international organization that investigates and reports on human rights practices in over seventy countries around the world, including the United States. We oppose the death penalty in all circumstances because of its inherent cruelty. In addition, we have particular concerns about its application in Mr. Mitchell's case.

If his death sentence is carried out, Mr. Mitchell will be the eighteenth juvenile offender executed nationwide and the tenth in Texas since the death penalty was reinstated in 1976.

Elsewhere in the world, only the Democratic Republic of Congo and Iran are known to have executed juvenile offenders in the last three years. Indeed, the prohibition on the execution of juvenile offenders is so widely observed that it has attained the status of a peremptory norm of international law, meaning that it is a binding obligation superior to other law.

The international standard forbidding the execution of juvenile offenders reflects the reality that children are different from adults; that they lack the experience, judgment, maturity, and restraint of an adult; and that with help even the most errant can be rehabilitated. As the U.S. Supreme Court recognized in 1988 when it struck down the death penalty for fifteen-year-olds in *Thompson v. Oklahoma*, "The reasons why juveniles are not trusted with the privileges and responsibilities of an adult also explain why their irresponsible conduct is not as morally reprehensible as that of any adult."

Mr. Mitchell's capacity for judgment, maturity, and restraint at the time of his crime should also be evaluated in light of his limited mental capacity. His IQ measured seventy-five prior to his trial. A psychological examination found that he functioned at a borderline intellectual level and suffered from temporal lobe seizures, suggesting that he might suffer from an organic brain disorder.

The Board of Pardons and Paroles has the responsibility to ensure that the United States complies with its international obligation to refrain from imposing the death penalty on juvenile offenders. We urge the Board to uphold these basic principles of justice and morality by recommending the commutation of Gerald Lee Mitchell's death sentence.

Sincerely,

Michael Bochenek  
Counsel  
Children's Rights Division