

PUBLIC

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Further information UA 60/99 (AMR 51/57/99, 1 April 1999) - Death penalty / Legal concern

USA (Oklahoma)Derrick LESTER, aged 16

On 14 May 1999, Amnesty International received the following communication from Chris Ross, the First Assistant District Attorney of Pontotoc County in Ada, Oklahoma:

"I am writing you to advise that I have decided not to seek the death penalty against Derrick Lester. After reviewing the most recent decisions, it is my opinion that the Oklahoma Court of Criminal Appeals will not allow the State to seek the death penalty against a 15 year old unless the legislature passes a law specifically authorizing the same. Since the legislature has not done so, I do not believe that it can be sought."

He concludes his message with the following: *"You can accept this email as a firm assurance that the State will not be seeking the death penalty against Mr. Lester."*

Several Urgent Action appeal-writers had received replies from Mr Ross enquiring as to the source of the information contained in their appeals. He also wrote that the case had not yet reached the stage when the state had to say whether it would seek the death penalty or not. While this is true, Mr Ross had nevertheless repeatedly said to the press and others that he was planning to seek the death penalty, even if that meant "making [new] law".

In responding to appeal writers, rather than address the specific concern relating to the international ban on the use of the death penalty against children, Mr Ross chose instead to highlight the details of the crime of which Derrick Lester had been accused.

On 15 April, Amnesty International wrote to Mr Ross saying that it had been the source of information used in appeals to him. The organization explained that it was not attempting to pass judgment on the guilt or innocence of Derrick Lester, nor downplay the gravity of the crime with which he had been charged, but was interested only in the Oklahoma authorities adhering to a principle of international law. The letter also informed Mr Ross that *"we will gladly update our activists with the news that you do not intend to seek the death penalty against Derrick Lester if you can provide that categorical assurance."*

On 27 April, Mr Ross wrote to the International Secretariat, saying: *"I cannot at this time give you my "categorical assurance" that I will not seek the death penalty against Mr. Lester"*. He also said that he had received so many faxes on the case that he had had to change his fax number. Again he did not respond to the issue of the international ban on the use of the death penalty against children.

Derrick Lester's attorney has filed an appeal on the earlier court decision that her client should be tried as an adult despite strong evidence that he is amenable to rehabilitation. If this appeal is successful, it would mean that Derrick Lester may yet be tried as a juvenile. A decision, however, is not expected for some time.

Derrick Lester's defence team has asked the International Secretariat to thank all those who sent appeals on Derrick's behalf. In their contact with Mr Ross in recent weeks, he repeatedly referred to the number of appeals coming into his office on the case and on one occasion even showed the defense attorney a box full of letters and faxes.

Amnesty International welcomes Mr Ross's decision not to pursue the death penalty, particularly as the case has still not yet reached the stage where he had to make this decision.

No further action is required by the UA Network.