

**PUBLIC**

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**EXTRA 52/03**

**Legal concern**

**04 December 2003**

**USA (Kentucky)**

**Kevin Stanford (m), black, aged 40**

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The outgoing Governor of Kentucky intends to commute the death sentence of Kevin Stanford in the next few days because he was under 18 years old at the time of the murder for which he was convicted over two decades ago. The use of the death penalty against child offenders violates a fundamental principle of international law, and Governor Patton's principled move is to be greatly welcomed. However, Amnesty International is concerned that the Governor intends to commute Kevin Stanford's death sentence to one of life imprisonment without the possibility of parole, itself a violation of international law in this case.

Article 37(a) of the UN Convention on the Rights of the Child, states that "neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age." The Convention has been ratified by 192 countries, the most ratified international instrument in history. The USA has not ratified the treaty, but has signed it, thereby binding itself under international law not to do anything to undermine the object and purpose of the treaty pending a decision on whether to ratify it.

The international consensus against putting child offenders to death or locking them up and throwing away the key reflects the widespread recognition of young people's capacity for growth and change. The life of a child offender, it is agreed, should never be written off, no matter what he or she has done. Rather, the guiding principle for officialdom must be to maximize the child offender's potential for eventual successful reintegration into society.

In June 2003, Governor Patton said that in Kevin Stanford's case, "the justice system perpetuated an injustice. As you will note, I have not set an execution date for Mr. Stanford and he is certainly one of the people that I will correct an injustice for." A news release issued by Governor Patton's office on 25 November said: "Patton repeated that he intends to commute the death sentence of Kevin Stanford who was convicted of murder. Because Stanford committed the crime when he was 17, a minor, Patton has said he would reduce his sentence to life in prison without parole."

Governor Patton has not yet signed the commutation order. He would have to do so by the morning of 8 December, which is when he will leave office as the new governor is sworn in.

#### **BACKGROUND INFORMATION**

Kevin Stanford, who is African American, was sentenced to death by an all-white jury for the robbery, rape and murder of a 20-year-old white woman, Baerbel Poore, committed when Stanford was 17. His trial lawyer failed to raise compelling mitigating evidence, including of Kevin Stanford's childhood of sexual and physical abuse, drug and alcohol abuse, parental neglect, poverty and exposure to violence in the racially divided community where he grew up.

Sentenced to death in 1982, he has been on death row for 21 years – more than half of his life. He has grown up on death row. He has accepted responsibility for his involvement in the crime (there were two other co-defendants – one, 17 at the time of the crime received nine months in a juvenile facility; the other, 16, received a life sentence with the possibility of parole – Kentucky law did not provide for life imprisonment without the possibility of parole at the time). Kevin Stanford has obtained his high school diploma and two college degrees in business management and the liberal arts. He was close to completing a third degree in sociology when the program was eliminated for death row inmates. Kevin Stanford's daughter, born two weeks after his arrest in 1981, has remained in contact with him and says that he gives her a "lot of wisdom

and guidance". When he was facing execution last year, she said: "Growing up without him and being at this age, and knowing what he's faced with, it's very hard for me to understand, and very hard for me to comprehend. And, I want a life with him. And I want to, I guess you can't really make up for lost time, but I want to make the best of the present and the best of the future with him. And, the family definitely needs him also... I can't really see the world going on and existing without him in my life, in my family's life..."

Kevin Stanford's case was at the centre of the landmark *Stanford v Kentucky* decision in 1989, in which the US Supreme Court ruled that the execution of people for crimes committed when they were 16 or 17 years old did not offend contemporary standards of decency. In 2002, the US Supreme Court refused to take his case again to revisit that decision. Four of the Justices dissented, saying that "offences committed by juveniles under the age of 18 do not merit the death penalty. The practice of executing such offenders is a relic of the past and is inconsistent with evolving standards of decency in a civilized society. We should put an end to this shameful practice."

There are more than 70 people on death row in the USA for crimes committed when they were 16 or 17 years old. Amnesty International is concerned that there are many more child offenders – possibly hundreds – serving sentences of life without parole for crimes committed when they were under 18. The youngest, to Amnesty International's knowledge, was Lionel Tate, who was 12 at the time of the offence. Amnesty International has been working for clemency in Lionel Tate's case, as part of its effort to highlight this violation of international law (see EXTRA 14/03, AMR 51/027/2003, 18 February 2003).

**RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words:**

- expressing sympathy for the family of Baerbel Poore, and noting the seriousness of the crime and the suffering it will have caused;
- welcoming the governor's principled decision to commute Kevin Stanford's death sentence;
- expressing concern, however, that the sentence of life without the possibility of parole also violates international law when used against people who were under 18 at the time of the crime;
- pointing out that a young person's capacity for change lies behind the international ban on both punishments for those under 18 years old at the time of the crime, and noting Kevin Stanford's personal development on death row after a childhood of abuse and deprivation;
- calling on the governor to commute the death sentence to a sentence that complies with international law and standards.

**APPEALS TO:**

Governor Paul E. Patton  
700 Capitol Avenue, Suite 100  
Frankfort, KY 40601, USA

**Telegram: Governor Paul Patton, Frankfort, Kentucky, USA**

**Fax: + 1 502 564 2517**

**Email: governor@mail.state.ky.us**

**Salutation: Dear Governor**

**COPIES TO:** Diplomatic representatives of USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**