

15 December 1999

Further information on UA 203/99 (AMR 51/125/99, 10 August 1999) and follow-up (AMR 51/142/99, 2 September 1999) - Death penalty / Legal concern

USA (Nevada) Kenshawn Maxey, black, aged 19

Kenshawn Maxey's trial is scheduled to begin in Clark County, Nevada, on 10 January 2000. The prosecutor still intends to seek the death penalty against the teenager, and has made no offer of a lesser sentence. Kenshawn Maxey was 17 at the time of the crime of which he is accused. International law forbids the use of the death penalty against child offenders - those under age 18 at the time of the crime.

Kenshawn Maxey is charged with capital murder in the shooting death of bartender Salvatore Zendano Jr. during a robbery of O'Aces Bar and Grill in Las Vegas in May 1998. Lashawn Levi, Kenshawn Maxey's 18-year-old alleged accomplice, was also shot and killed during the crime.

BACKGROUND INFORMATION

The typical child offender sentenced to death and executed in the USA is not a youngster from a stable, supportive background, but a mentally impaired or emotionally disturbed adolescent emerging from a childhood of abuse, deprivation and poverty (see *USA: Shame in the 21st Century: Three Child Offenders Scheduled for Execution in January 2000*, AMR 51/189/99, December 1999). The use of the death penalty in these cases not only represents an absolute refusal to recognize the immaturity of children and their capacity for change, but also rejects any notion that wider adult society should accept even minimal responsibility for the crimes of a child.

According to information received by Amnesty International, Kenshawn Maxey was born in a Las Vegas hospital on 5 October 1980 to an 18-year-old mother who was incarcerated in the Clark County Detention Center before and after his birth. For the first few years of the boy's life, his mother was in and out of detention on prostitution and drug-related charges. In 1988, when Kenshawn Maxey was seven, his mother was murdered and her naked mutilated body discovered in a shallow grave in the desert outside Las Vegas. Kenshawn Maxey found out about her death (and the fact that she was a prostitute) through other children at school, who had learned of it through detailed media reports.

Whenever the mother was in custody, and after her death, Kenshawn Maxey and his brother were shuttled between state custody and their father, when he was not in prison himself on drug-related or other charges. The father would often be intoxicated with alcohol or drugs, and the young boys would be left to fend for themselves, frequently going hungry and wearing filthy clothes. He used to hit Kenshawn Maxey and his brother, sometimes beating them with extension cords that left visible welts on their bodies. At the age of nine, Kenshawn Maxey was diagnosed with concussion after his father hit him about the head and threw him against a wall.

In 1990, the father was sent to prison, where he remains today. Shortly afterwards, Kenshawn Maxey was made a permanent ward of court, and placed in the custody of state foster homes. Thus, from the age of 10, he has been solely the responsibility of the state. This same state is now seeking the death penalty against him, in violation of international law.

The International Covenant on Civil and Political Rights and the Convention on the Rights of the Child ban the use of the death penalty against those under 18 at the time of the crime. This ban is so widely accepted, and adhered to, that it has become a principle of customary international law, binding on all countries. Since 1990, 19 people are known to have been executed worldwide for crimes committed when they were under 18. Ten were executed in the USA, while the other nine were put to death in Iran, Nigeria, Pakistan, Saudi Arabia and Yemen. The last four known executions of child offenders were all carried out in the USA (there is an unconfirmed report of the execution of a minor in Iran in October 1999).

FURTHER RECOMMENDED ACTION: Please send faxes/express/airmail letters in your own words, in English or your own language:

- explaining that you are not writing to express an opinion on the guilt or innocence of Kenshawn Maxey, or to condone the crime of which he is accused, but to express concern that Clark County is still seeking the death penalty against him, in violation of the global ban on the death penalty against those under age 18 at the time of the crime;
- noting that the USA has the shameful distinction of leading the world in the use of the death penalty against children, and of being the only country known to have executed a child offender since October 1997;
- urging that the prosecution take a step towards bringing the USA into line with international law and the consensus against executing child offenders by dropping its pursuit of the death penalty in this case;

you may also:

- note that the prosecution has made no offer of a lesser sentence, and aims to enable Nevada to execute an individual who has been a ward of court, and hence the responsibility of the state, since he was aged 10;
- urge the prosecutor to do all in his power to ensure that the trial jury is able to fully consider all the mitigating evidence relating to Kenshawn Maxey's life.

APPEALS TO:

The Honourable David Schwartz (prosecutor in this case)
 Deputy District Attorney
 200 South Third Street
 Las Vegas, NV 89101, USA
Fax: +1 702 383 8465
Tel: +1 702 455 2718
Salutation: Dear Deputy District Attorney

COPIES TO:

The Honourable Stewart Bell, District Attorney, 200 South Third Street, Las Vegas, NV 89101, USA. **Fax: +1 702 455 2294**

and to diplomatic representatives of the USA accredited to your country.

You may also write your concerns (in no more than 250 words) to:
 The Editor, *Las Vegas Review-Journal*, 1111 West Bonanza, Las Vegas, NV 89106, USA. **Fax: +1 702 383 4676**
 The Editor, *Las Vegas Sun*, 800 South Valley View, Las Vegas, NV 89107, USA

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 30 January 2000.