

PUBLIC

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11 April 2000

Further information on UA 29/00 (AMR 51/21/00, 8 February 2000) - Death penalty / Legal concern

USA (Arizona) James Edward DAVOLT, aged 17

The trial of James Edward Davolt began on 11 April 2000, in Mohave County, Arizona.

James Davolt, who has no prior criminal record, is charged with two counts of first degree murder in the deaths of Nicholas Zimmer, 84, and Eleanor Zimmer, 85. The couple were found dead in their home in Lake Havasu City, Mohave County, Arizona, on 26 November 1998.

The prosecution still intends to seek a death sentence against James Davolt, in violation of international law which forbids the use of the death penalty against defendants who were under 18 at the time of the crime. On 23 March, the trial judge dismissed a pre-trial defence motion which argued that the prosecution were forbidden by international law from seeking the death penalty. By raising the issue now it has been preserved for appeal, should Davolt be convicted and sentenced to death.

The trial is likely to last for two weeks.

BACKGROUND INFORMATION

Article 6(5) of the International Covenant on Civil and Political Rights (ICCPR) and Article 37(a) of the Convention on the Rights of the Child (CRC) ban the use of the death penalty against those under 18 at the time of the crime. This principle is so widely accepted and adhered to that it has become a principle of customary international law, binding on countries no matter which international instruments they have or have not ratified.

The USA attempts to justify its use of the death penalty against child offenders by arguing that it reserved the right to continue this practice when it ratified the ICCPR in 1992. Article 4 of the ICCPR states, however, that there can be no derogation from Article 6, even in times of public emergency. The UN Human Rights Committee, the expert body set up to monitor compliance with the ICCPR, has stated that the US reservation should be withdrawn as it contravenes the object and purpose of the treaty.

International standards ban the death penalty against children not to excuse their crimes but in recognition of their immaturity and potential for change. The global consensus on this issue has been confirmed by ratifications of the CRC - the USA is one of only two countries not to have done so (the other being Somalia, a collapsed state with no recognized government). China abolished the death penalty for offenders under 18 at the time of the crime in 1997, to comply with its CRC obligations.

Since 1990, 23 people are known to have been executed worldwide for crimes committed when they were under 18. Of these, 13 took place in the USA, while the rest took place in Iran, Nigeria, Pakistan, Saudi Arabia and Yemen. Yemen has since abolished the death penalty for child offenders.

Since October 1997 there have been eight known executions of child offenders worldwide - seven in the USA, the other in Iran. The USA has executed three child offenders in January 2000 alone.

As far as Amnesty International is aware, there are currently 74 child offenders on death row in the USA for crimes committed when they were aged 16 or 17.

FURTHER RECOMMENDED ACTION: Please send faxes/express/airmail letters in your own words in English or your own language using the following guidelines:

- acknowledging the seriousness of the crime of which James Edward Davolt is accused, and expressing sympathy for the relatives of Nicholas and Eleanor Zimmer (you may add that you are not writing to express an opinion on the guilt or innocence of the defendant);
- expressing concern that Mohave County, Arizona, is seeking a death sentence against James Davolt despite the international ban on the death penalty against child offenders - those under 18 at the time of the crime;
- noting that global adherence to this ban has rendered it a principle of customary international law binding on all jurisdictions in all countries;
- pointing out that the USA has earned the shameful distinction of being world leader in such use of the death penalty, pointing out that only Iran (one) and the USA (seven) are known to have executed child offenders since October 1997;
- urging that the prosecution drop its pursuit of the death penalty against James Edward Davolt;

APPEALS TO:

Derek Carlisle (prosecutor in charge of this case)
Deputy Mohave County Attorney
PO Box 7000
315 N. 4th Street
Kingman, AZ 86402-7000, USA
Faxes: + 1 520 753 2669
Tel: + 1 520 753 0719
Salutation: Dear Deputy County Attorney

COPIES TO: diplomatic representatives of the USA accredited to your country.

You may also write brief letters of concern (not more than 250 words) to one of the following:

Letters to the Editor, *Kingman Daily Miner*, 3015 Stockton Hill Road, Kingman, AZ 86401, USA
Faxes: + 1 520 753 5661
E-mails: edit@ctaz.com

Letters to the Editor, *Mohave Daily News*, 2435 Miracle Mile, Bullhead City, AZ 85442, USA
Faxes: + 1 520 763 7820
E-mails: mvdnedit@mohavedailynews.com

You may also write a letter of concern to the local radio station, marked for the attention of Dave Hawkins: *Kingman K99 Super Country*, 812 E. Beale Street, Kingman, AZ 86401, USA
Faxes: + 1 520 753 1978

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