

EXTRA 08/99

Death penalty / Legal concern

25 January 1999

USA (Florida)

Jermaine Jones (m), aged 16
Mazer Jean (m), aged 17

State prosecutors in Florida are seeking the death penalty for two teenagers charged with first degree murder. International law prohibits the use of the death penalty for under-18s.

The two, Mazer Jean and Jermaine Jones, will be tried in Naples, Collier County, southwest Florida. They are accused of the murder on 25 August 1998 of 40-year-old Michael Carlos Sierra, a guard at the Big Cypress Wilderness Institute (BCWI), a privately-run juvenile detention centre contracted out by the Florida Department of Juvenile Justice.

The prosecutors only announced on 21 January that they would be seeking the death penalty. Jermaine Jones's trial is set to commence on 22 February, after his lawyer requested more time to prepare. The trial of Mazer Jean is scheduled to begin on 26 January. His lawyer has reportedly not asked for a delay despite the late announcement that it would be a capital trial.

According to reports, the murder occurred as Michael Sierra was supervising three BCWI inmates - Jermaine Jones, Mazer Jean, and a 15-year-old boy - felling trees on the BCWI land as punishment for breaching institute rules. The 15-year-old, who is said to be the only eyewitness, is reported to have stated that the two older boys attacked Michael Sierra and fled in his vehicle. Police arrested the two the same day after a high-speed car chase.

BACKGROUND INFORMATION

The international community has agreed that those under 18 at the time of the offence should be exempted from the death penalty, not to excuse their crimes or to belittle the suffering of their victims and their relatives, but in recognition of children's immaturity and the greater scope for change in them.

The ban on the death penalty for child offenders is so widely accepted and adhered to throughout the world that it has become a principle of international law. No country can exempt itself from this global ban, no matter what human rights agreements it has or has not signed up to.

The International Covenant on Civil and Political Rights, which came into force in 1977 forbids the the death penalty for child offenders. The USA reserved the right to ignore this ban when it ratified the Covenant in 1992. However, UN experts have repeatedly ruled that the reservation is invalid and should be withdrawn, and 11 countries have lodged formal objections to it. The Convention on the Rights of the Child has confirmed the global consensus that killing child offenders is wrong: 191 countries - all except the USA and Somalia - have agreed to be bound by the Convention's ban on the death penalty for crimes committed by under-18s.

Since it resumed judicial killing in 1977, the USA has executed 12 people for crimes committed when they were 17. On 4 February 1999 in Oklahoma, Sean Sellers is set to become the first person since 1977 put to death for a crime committed at 16. Jermaine Jones will be 17 on 4 February.

Sean Sellers's execution would bring the number of child offenders put to death in the USA since 1990 to 10 - more than in the rest of the world combined.

Five other countries - Iran, Nigeria, Pakistan, Saudi Arabia and Yemen - are known to have executed child offenders since 1990, killing nine between them.

Yemen has since changed its law to exempt under-18s from the death penalty. The three known executions of child offenders in 1998 all took place in the USA.

The US federal authorities maintain that the application of the death penalty to child offenders is an issue for individual US states and the US Supreme

Court to determine. However, under international law the federal system of government cannot be used to justify a breach of a country's international obligations. Some 70 prisoners remain on death row in the USA for crimes committed when they were 16 or 17.

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

To state authorities:

- acknowledging the seriousness of the charges against Jermaine Jones and Mazer Jean, and expressing sympathy for the relatives and friends of Michael Sierra;
- expressing concern that the state is seeking the death penalty for the two teenagers, in violation of international law which forbids the use of the death penalty against those under 18 at the time of the crime;
- urging that the decision to seek the death penalty be immediately overturned.

To federal Attorney General Reno:

- expressing concern that state authorities in Florida are seeking the death penalty against Jermaine Jones and Mazer Jean for a crime committed when they were under 18, in violation of customary international law;
- pointing out that under international law the federal authorities have an obligation to ensure that state authorities comply with their international obligations;
- urging the Attorney General to do all in her power to stop prosecutors seeking the death penalty in this case;
- calling on the federal authorities to ratify without reservation the Convention on the Rights of the Child and to withdraw the US reservation to Article 6(5) of the International Covenant on Civil and Political Rights.

APPEALS TO:

Official responsible for decision to seek death penalty:

The Honorable Joe D'Allesandro
State Attorney's Office
1700 Monroe Street
3rd Floor, Fort Myers, FL 33901, USA

Tel: +1 941 335 2700

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Salutation: Dear State Attorney

Official prosecuting the case:

The Honorable Jerry Brock
Assistant State Attorney
3301 Tamiami Trail East Administration Building Sixth Floor
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Telephone: +1 941 774 8470

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Salutation: Dear Assistant State Attorney

The Honorable Janet Reno
Attorney General
Department of Justice
950 Pennsylvania Avenue NW, Room 440
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Fax: +1 202 514 4371

Salutation: Dear Attorney General

COPIES TO:

(Jermaine Jones' lawyer) Michael Schneider, Public Defender's Office, 3301 Tamiami Trail East, Collier Courthouse Building F, 7th Floor, Naples, FL 34112, USA. **Fax: +1 941 774 1792. E-mail: michaels@pd.cgis20.org**

and to diplomatic representatives of USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 22 February 1999.