

PUBLIC

AI Index: AMR 51/148/99

1 November 1999

Further information on UA 150/99 (AMR 51/102/99, 29 June 1999) and follow-up (AMR 51/171/99, 22 October) - Death penalty / Legal concern

USAMichael Domingues

More than 70 other prisoners on death row for crimes committed when they were under 18 years old

On 1 November 1999, the US Supreme Court announced that it will not consider Michael Domingues's claim that his death sentence is illegal under customary international law and US treaty obligations. As a result, he and some 70 other child offenders on death row in the USA remain under threat of execution.

In early October, the US Solicitor General filed an *amicus curiae* (friend of the court) brief maintaining the position that the USA has the right to execute child offenders (those convicted of capital offences when under 18 years old), and arguing that the US reservation to the ICCPR is valid (see original UA and previous update). The brief concluded by urging the Supreme Court not to examine Michael Domingues's claim.

The Supreme Court had requested the brief in June 1999, prompted by the Domingues appeal. Domingues is on death row in Nevada for a crime committed when he was 16. His lawyers have challenged the legality of his sentence on the grounds that it is a violation of customary international law and the USA's obligations under Article 6(5) of the International Covenant on Civil and Political Rights.

The US Supreme Court last looked at the issue of the minimum age for the death penalty in 1989, when it ruled that US "standards of decency" allowed the execution of 16- and 17-year-old offenders.

It seems not only that the US federal government is unwilling to offer the sort of leadership required to lead US states away from executing people for crimes committed when they were children, but that the Supreme Court is equally unwilling to consider if US "standards of decency" have evolved in the past 10 years to meet the global consensus that the use of the death penalty against children is wrong.

The USA is responsible for the only executions of child offenders known anywhere in the world in the past two years, and has executed more child offenders than the rest of the world combined in the past decade.

No further action by the UA Network is requested at present. Many thanks to all who sent appeals on this case.