

EXTERNAL

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Possible Death Sentence for Juvenile Offender 2 June 1997

USA (MISSISSIPPI)Azikiwe KAMBULE, aged 17, South African national

Azikiwe Kambule, aged 17, is facing a possible death sentence in Mississippi for his alleged role in the murder of Pam McGill.

Azikiwe Kambule moved to Mississippi from South Africa in 1994. According to information received by Amnesty International, Kambule was travelling in a car with Santonio Berry, aged 21, on 25 January 1997, when Berry spotted McGill in a red sports car and decided to follow her in order to steal the car. When McGill stopped outside her home Berry forced her at gunpoint to get back into the car and told Kambule to get in the back seat. He then drove to a secluded wood, told Kambule to wait, and forced McGill to walk into the woods where he shot her. Kambule claims that he was unaware that Berry intended to steal a car until it happened and was also unaware that Berry intended to murder McGill.

Berry accepted a plea-bargain from the Madison County District Attorney of life imprisonment without parole in return for a guilty plea and his testimony that the abduction and murder were Kambule's idea and that Kambule pointed a gun at McGill while they were in her car. As part of the plea-bargain, Berry also admitted to shooting McGill. The District Attorney also offered Kambule a plea-bargain of life imprisonment without parole which, asserting his innocence, Kambule refused. The case goes to trial on 16 June 1997.

As the crime 'began' in Hinds County but the murder actually took place in Madison County, either district attorney could have tried the case under the "joint jurisdiction" rule. However, the District Attorney for Hinds County, Ed Peters, requested that the trial take place in Madison County because "The family from the beginning has expressed a desire that the people charged get the death penalty and the best way to do that is to send it to another county. The jurors in Hinds County have a reputation for refusing to vote for the death penalty. Certain judges in Hinds County have gotten so prejudiced against the prosecution that they won't even allow confessions to be entered as evidence." Hinds County has a high proportion of black residents whereas Madison County is predominantly white.

In the event of a guilty verdict, the jury's options for sentencing are limited to death or life imprisonment without parole. Both sentences violate the United Nations Convention on the Rights of the Child, which states: "*Neither capital punishment nor life imprisonment without the possibility of parole shall be imposed for crimes committed by persons below eighteen years of age.*"

Kambule has no criminal record or history of violence.

The trial judge has refused a request by Kambule's defence attorneys for court funds to hire an investigator and expert witnesses for the defence.

BACKGROUND INFORMATION

The execution of people aged 18 and under when a crime is committed is expressly forbidden under international human rights law, in recognition of the fact that the death penalty is wholly inappropriate for individuals who have not yet attained full physical or emotional maturity. Such treaties and standards include the International Covenant on Civil and Political Rights (ICCPR), the

American Convention on Human Rights (ACHR), the United Nations (UN) Convention on the Rights of the Child, and the Safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by the UN Economic and Social Council (ECOSOC) in 1984 (Resolution 1984/50). The United States signed the ICCPR in 1977 and ratified it in April 1992. However, the US government reserved its right "subject to its Constitutional constraints" to impose capital punishment on persons below 18 years of age. The US has signed the ACHR and the UN Convention on the Rights of the Child, but has not yet ratified either convention. It remains one of the few countries that has not ratified the UN Convention on the Rights of the Child.

Twenty-five of the 38 US states that have the death penalty permit the execution of juvenile offenders. There are currently over 45 juvenile offenders under sentence of death in 14 states. Nine juvenile offenders have been executed in the USA under its present death penalty laws.

The execution of juvenile offenders is extremely rare. Since 1990, only five countries are known to have executed people who were under 18 at the time of the crime - Iran, Pakistan, Saudi Arabia, Yemen and the USA. The majority of known executions of juvenile offenders is in the USA (six since 1990). The last known execution of a juvenile offender took place in the US, that of Christopher Burger in the State of Georgia on 9 December 1993.

As of 31 July 1996, there were 53 prisoners under sentence of death in Mississippi. The method of execution is by lethal gas or by lethal injection for those sentenced to death after 1 July 1984. Four executions have taken place in Mississippi since the resumption of executions in 1983. The last prisoner to be executed in Mississippi was Leo Edwards on 21 June 1989.

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

To the District Attorney

- urging the District Attorney not to seek a death sentence against Azikiwe Kambule;

To the State Governor and Attorney General

- urging that they do everything in their power to influence the District Attorney of Madison County not to seek a death sentence against Azikiwe Kambule;

To all three

- expressing concern that Azikiwe Kambule is facing a possible death sentence, particularly in view of his age (refer to the international human rights standards mentioned above);
 - stating that you are not seeking to excuse Azikiwe Kambule's possible role in the murder of Pam McGill and expressing sympathy for the victims of violent crime and their families.

APPEALS TO:

Mr John Kitchens
 Madison County District Attorney
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Telephone: +1 601 859 7838
Fax: +1 601 859 8555

Salutation: Dear District Attorney

The Honorable Kirk Fordice
Governor of Mississippi
Office of the Governor
State Capitol
PO Box 139
Jackson, MS 39205, USA
Telephone +1 601 359 3150
Fax: +1 601 359 3741
Salutation: Dear Governor

The Honorable Mike Moore
Attorney General of Mississippi
Office of the Attorney General
Department of Justice
Carroll Gartin Justice Bldg.
PO Box 220
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Telephone: +1 601 359 3680
Fax:+1 601 359 3441
Salutation: Dear Attorney General

COPIES TO: 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 30 June 1997.