

UA 60/99

Death penalty / Legal concern

1 April 1999

USA (Oklahoma) Derrick LESTER, aged 16

Pontotoc County authorities in Oklahoma are planning to seek the death penalty against Derrick Lester, accused of involvement in a murder when he was aged 15. In doing so, they will be violating international law which bans the use of the death penalty against those who were under 18 at the time of the crime. They would also be flouting the constitutional minimum age of 16 for the death penalty set by the US Supreme Court in 1988.

Derrick Lester, black, and Jason Blevins, white, who was 19 at the time, are accused of the first degree murder of an 84-year-old white woman, Eula Bench, on the night of 16/17 October 1998. Jason Blevins will be tried separately, and is also facing the possibility of the death penalty.

On 23 March 1999, at a Youthful Offender hearing, the judge ruled that Derrick Lester should be tried as an adult, as he was not convinced that the state's Youthful Offender Program would protect the public from him. According to information received by Amnesty International, this was despite hearing evidence from six defence witnesses indicating that Derrick Lester is very amenable to rehabilitation. The state presented one doctor to refute this, but he was unable to deny that substantial rehabilitative progress could take place within a few years. Derrick Lester has no criminal record.

Derrick Lester's father was murdered when he was seven years old. Three psychiatrists presented evidence at the hearing concerning the likely impact of this event, and the fact that the person believed to have been responsible has never been prosecuted. Two relatives and the foster father of Derrick Lester's co-defendant also testified on the boy's behalf at the hearing. Since his father's death, Derrick Lester has effectively become a surrogate parent for his younger brother (10) and sister (nine).

Derrick Lester turned 16 on 28 January 1999. He is in Pontotoc County Jail, where he is held in isolation. No trial date has yet been set.

BACKGROUND INFORMATION

International human rights standards ban the use of the death penalty against children, in recognition of a young person's immaturity and greater potential for change and eventual reintegration into society. This is a principle so widely accepted and adhered to throughout the world that it has become a rule of customary international law, irrespective of which human rights instruments a country has or has not ratified. When the USA ratified the International Covenant on Civil and Political Rights (ICCPR) it reserved the right to continue to sentence to death and execute child offenders. UN experts and others have repeatedly stated that this reservation is invalid and should be withdrawn.

The USA is one of only two countries that have not ratified the UN Convention on the Rights of the Child, which like the ICCPR, bans the use of the death penalty against those under 18 at the time of the crime.

The USA is one of only six countries that have executed child offenders since 1990, and has executed more (10) such prisoners than the other five countries combined (nine) during this period. US authorities carried out the last four known executions of child offenders, three in 1998 and one in 1999. This most recent execution was that of Sean Sellers, who became the first US prisoner executed for a crime committed at 16 since 1959 (the others were 17 at the time of the crime). Sean Sellers was executed in Oklahoma despite huge national and international protest.

A recent Amnesty International document, *On the Wrong Side of History: Children and the Death Penalty in the USA* (AMR 51/58/98, October 1998, page 11), reports on how state prosecutors in Oklahoma attempted in three recent cases to undermine

the minimum age of 16 for capital defendants set in 1988 by the US Supreme Court in *Thompson v. Oklahoma*, by seeking the death penalty against 15-year-olds. While it is still considered likely that appeal courts would overturn any eventual death sentence against Derrick Lester, the *Thompson v Oklahoma* decision is not completely safe from attack in the current climate surrounding the death penalty in the USA.

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

- expressing sympathy for the relatives of Eula Bench;
- expressing outrage that authorities in Oklahoma are planning to seek the death penalty against Derrick Lester;
- stating that while you do not condone the crime of which Derrick Lester and his older co-defendant have been accused, the death penalty for those under 18 at the time of the crime is banned under international law, and is forbidden for those under 16 by the US Supreme Court;
- calling on the authorities not to seek the death penalty against Derrick Lester.

APPEALS TO:

First Assistant District Attorney (prosecuting the case)
The Honorable Chris Ross, Pontotoc County Courthouse
120 West 13th Street, Ada, OK 74820, USA

Faxes: +1 580 332 7393

Salutation: Dear Assistant District Attorney

District Attorney
The Honorable Bill Peterson
Pontotoc County Courthouse
120 West 13th Street, Ada, OK 74820, USA

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COPIES TO:

The Honorable Madeleine Albright, Office of the Secretary of State, 2201 C Street NW, Washington DC 20520, USA **Fax: +1 202 647 1533**

The Honorable Janet Reno, Attorney General, Department of Justice, 950 Pennsylvania Ave NW, Washington, DC 20530, USA. **Fax: +1 202 514 4371**

Chief Justice, US Supreme Court, One First Street NE, Washington, DC 20543

Presiding Judge, Oklahoma Court of Criminal Appeals, 230 State Capitol Building, Oklahoma City, OK 73105. E-mail: webmaster@mail.occa.state.ok.us

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 1 June 1999.