

PUBLIC

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UA 86/07 Death penalty / Legal concern

USA (Texas) Ryan Heath Dickson (m), white, aged 30

Ryan Dickson is scheduled to be executed in Texas on 26 April. Texas accounts for all but one of the 13 executions carried out in the USA so far this year, and 36 per cent of all executions carried out since judicial killing resumed there in 1977.

Ryan Dickson, who was two weeks past his 18th birthday at the time of the crime, is set to become the 153rd prisoner to be put to death in Texas since Governor Rick Perry took office in 2001. This would be one more than the total carried out during the five-year term of his predecessor, George W. Bush.

According to the evidence at trial, four young males, Ryan Dickson, his younger brother Dane Dickson, Freddie Medina and Jeremy Brown decided to steal beer from a grocery store in Amarillo run by Marie Surace, 60, and her 61-year-old husband Carmelo Surace. Marie Surace was shot and killed during the robbery on 27 November 1994. Carmelo Suraco was also shot, and died later from his injuries.

Ryan Dickson was charged separately with the two murders. He was tried and sentenced to death in 1997 for the murder of Carmelo Surace. After the trial, the Potter County District Attorney indicated that whether or not her office would try Ryan Dickson for the murder of Marie Surace would depend on how the first death sentence progressed in the appeal courts. In 2002, after that death sentence ran into problems on appeal (see below), Ryan Dickson was brought to trial for the murder of Marie Surace and was again sentenced to death. It is the 1997 death sentence which is due to be carried out on 26 April. The second death sentence is still on appeal.

In order to obtain a conviction of capital murder under Texas law, the prosecution had to prove that Ryan Dickson intentionally killed Carmelo Surace during the course of a robbery. While Dickson acknowledged responsibility for the killing, he denied having done so intentionally, arguing that the Carmelo Surace was shot during a struggle. The testimony of Freddie Medina and Jeremy Brown was an important part of the state's evidence of intent. Brown, for example, testified that before entering the store, Dickson had said that he was going to shoot the owners. The jury found Ryan Dickson guilty of capital murder. After the trial, it emerged that the prosecution had failed to give the defence audiotapes of pre-trial interviews it had conducted, including with Jeremy Brown. In contrast to his trial testimony, in this interview, indeed during the first 40 to 50 pages of the transcript, Brown had said he did not know whether Dickson had expressed intent to shoot the store owners. Toward the end of the interview, the prosecutor had assured Brown that he need not worry about being charged with murder.

After a hearing, the trial court concluded in September 2000 that the defence could have used the contents of the tapes particularly to impeach the credibility of Jeremy Brown, and could have shown that it was only after Brown had been informed that he would not be prosecuted that he agreed during the pre-trial interview that Ryan Dickson had expressed the intent to kill. The trial court concluded that with such evidence, the jury might have reached a different conclusion. It recommended that Ryan Dickson receive a new trial "because of the importance of preserving and maintaining the integrity of the adversarial trial process". The Texas Court of Criminal Appeals accepted the court's findings apart from the conclusion that "harm" from the prosecution's non-disclosure of the tape "may be presumed". It allowed the conviction and death sentence to stand.

In 2006, the US Court of Appeals for the Fifth Circuit expressed its concern about the prosecution's failure to turn over the tapes, stating that "the preservation of our civil liberties depends upon the faithful and ethical exercise of power by those who bear the mantle of public trust. Where, as here, the actions of officials are contrary to these aspirational principles, whether for improper or guileless reason, courtroom victories may

prove pyrrhic [gained at too great a cost], and such conduct should attract no judicial approbation". However, having reviewed the state court decision "through the deferential lens" demanded by federal law, it upheld Ryan Dickson's capital murder conviction and death sentence.

After the jury had convicted Ryan Dickson at the 1997 trial, the proceedings moved into the sentencing phase. The prosecution focussed on the defendant's criminal record and his affinity with a local street gang in arguing for a death sentence. The defence presented evidence of the physical and mental abuse that Dickson had suffered at the hands of his mother since he was about two years old. Even without access to the taped evidence calling into question the reliability of witness testimony against Dickson (doubt about guilt has been shown to be a highly mitigating factor in the minds of capital jurors in the USA), the six men and six women on the jury deliberated for nearly three days before reaching their decision.

Ryan Dickson had just turned 18 years old at the time of the murders. If the crime had been committed 17 days earlier, he would now be serving a life sentence. On 24 June 2005, the death sentences of 29 Texas death row inmates who were 17 years old at the time of the crimes for which they were convicted were commuted to life imprisonment following the US Supreme Court's ruling, *Roper v. Simmons*, on 1 March 2005. The *Roper* ruling, which Amnesty International had long campaigned for, finally brought the USA into line with international law prohibiting the use of the death penalty against people who were under 18 at the time of the crime. The ban on the death penalty for child offenders stems from recognition of the immaturity, impulsiveness, poor judgment and underdeveloped sense of responsibility often associated with youth. But, as noted by the US Supreme Court in its *Roper* decision, "drawing the line at 18 years of age is subject, of course, to the objections always raised against categorical rules. The qualities that distinguish juveniles from adults do not disappear when an individual turns 18." Scientific research shows that development of the brain and psychological and emotional maturation continues at least into a person's early 20s.

While Texas was following the law when it commuted the 29 death sentences in June 2005, it would also be serving the interest of justice to commute the death sentence of Ryan Dickson, due to his age at the time of the crime as well as the state's failure to turn over the pre-trial interview tapes.

Amnesty International opposes the death penalty in all cases, unconditionally. Today, 128 countries are abolitionist in law or practice. In contrast, there have been 1,070 executions in the USA since it resumed judicial killing in 1977, of which 391 have been carried out in Texas.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words (please include Ryan Dickson's inmate number, #999250):

- expressing sympathy for the family of Carmelo and Marie Surace, explaining that you are not seeking to condone the manner of their deaths, or to downplay the suffering caused;
- opposing the execution of Ryan Dickson, and the death penalty in general;
- expressing concern at the failure of the prosecution at his 1997 trial to turn over tapes of pre-trial interviews, which could have been used by the defence at the trial to impeach the credibility of at least one key witness;
- noting that after a hearing, the Texas trial court recommended a new trial in the interests of justice;
- noting that Ryan Dickson was only just 18 years old at the time of the crime, and emerging from a childhood reportedly marked by parental abuse;
- expressing deep concern at Texas's continuing resort to the death penalty;
- calling on the authorities to stop this execution and commute Ryan Dickson's death sentence.

APPEALS TO:

Rissie Owens, Presiding Officer, Board of Pardons and Paroles, Executive Clemency Section
8610 Shoal Creek Boulevard, Austin, TX 78757, USA

Fax: +1 512 463 8120

Salutation: Dear Ms Owens

Governor Rick Perry, Office of the Governor, P.O. Box 12428, Austin, Texas 78711-2428, USA

Fax: +1 512 463 1849

Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY.