

**USA (Florida)Lionel Tate, black, aged 14**

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Lionel Tate recently began a sentence of life imprisonment without the possibility of parole, for a crime committed in 1999 when he was 12 years old. His sentence violates international law. His lawyers have filed a clemency petition to the Governor of Florida, and Amnesty International is calling for Lionel Tate's sentence to be commuted and his treatment brought into line with international standards.

On 25 January, Lionel Tate was convicted as an adult of the first-degree murder of his playmate, six-year-old Tiffany Eunick, who was killed on 28 July 1999. The jury rejected the defence claim that the 12-year-old boy had accidentally killed the much smaller girl while mimicking professional wrestling moves that he had seen on television. Prior to the trial, the defence rejected the prosecution's offer of a sentence of three years in juvenile detention, followed by a year of house arrest and 10 years of probation, in return for a plea of guilty to second-degree murder.

At his sentencing on 10 March, Lionel Tate received the mandatory prison sentence under Florida law of life without parole. If the sentence is not reduced on appeal or by executive clemency, he will die in prison.

Lionel Tate's sentence violates the principle that the state's treatment of children who commit crimes, however serious, must focus on the possibility of the child's rehabilitation and successful reintegration into society. Indeed, under international standards, maximizing this possibility should be one of the primary guiding principles motivating the state's response.

Article 37(a) of the Convention on the Rights of the Child (CRC) states: "Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age". While the USA is one of only two countries (the other being Somalia), which have not ratified this treaty (191 countries have), it has signed it. As such, it has bound itself under international law not to do anything which would defeat the object and purpose of the treaty, pending the decision on whether to ratify it.

Article 37(b) of the CRC calls upon states to use imprisonment against a child "only as a measure of last resort and for the shortest appropriate period of time". Article 40 calls upon states to treat children found to have violated the law in a way that "takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society". Article 14(4) of the International Covenant on Civil and Political Rights, which the USA ratified in 1992, states: "In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation". The UN Rules for the Protection of Juveniles deprived of their Liberty furthermore state that any such deprivation should only be under conditions that guarantee "meaningful activities and programmes which would serve to promote and sustain [the juveniles'] health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society".

In Florida, the Governor has the unfettered discretion to grant clemency with the approval of at least three members of the Cabinet. The Governor could call a special clemency meeting on the case at any time. Lionel Tate's clemency petition, including a letter from Amnesty International, reached Governor Bush on 1 June. In such cases, the organization does not specify in detail what sentence is appropriate, only that it should conform to international standards.

#### **BACKGROUND INFORMATION**

During the past two decades in the USA, in response to public concern about crimes committed by young people, federal and state governments have significantly expanded the role of the general criminal justice system with respect to children and increased the severity of sanctions that courts may impose on children. The growing tendency in the USA to prosecute and punish children as if they were adults, rather than in the separate juvenile justice system, is inconsistent with the approach encouraged by international standards, that governments should establish laws, procedures, authorities and institutions specifically for children.

There are many people in the USA serving life imprisonment without the possibility of parole for crimes committed when they were under 18. Amnesty International knows of none from this group who was as young as Lionel Tate at the time of the offence. His case is therefore starkly illustrative of a wider problem, and the organization is taking this action as part of its efforts to persuade US authorities to bring their country into line with international standards on the treatment of child offenders. His sentence should be commuted as a matter of urgency and the state's efforts turned towards maximizing his chance for successful reintegration into society at the earliest possible time, rather than throwing away the key.

#### **RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in English or your own language, in your own words:**

- expressing sympathy for Tiffany Eunick's family, explaining that you are not seeking to belittle her tragic death or the suffering it has caused;
- expressing concern, however, that Lionel Tate, who was 12 years old at the time, has been given a sentence of life imprisonment without the possibility of parole, which violates international law;
- noting that the sentence has received widespread international attention, being out of step with commonly held views of juvenile justice, and that such cases are damaging Florida's, and the USA's, reputation in the world;
- calling for the sentence to be commuted and that the state's response be aimed at maximizing Lionel Tate's potential for successful reintegration into society, in line with international standards recognized around the world.

#### **APPEALS TO:**

The Honourable Jeb Bush  
 Governor of Florida  
 PL 05 State Capitol  
 400 South Monroe Street  
 Tallahassee, FL 32399-0001, USA  
**Fax: + 1 850 487 0801**  
**Telegrams:Governor Bush, Tallahassee, Florida, USA**  
**Salutation:Dear Governor**

#### **COPIES TO:**

Please send a copy of your appeal to Lionel Tate's appeal lawyers:  
Law Offices of Richard L. Rosenbaum  
350 East Las Olas Boulevard  
Suite 1220, Las Olas Centre II  
Fort Lauderdale, Florida 33301, USA

**If possible please fax a copy of your appeal to cabinet members:**

Secretary of State Kathleen Harris, **Fax: + 1 850 922 5763**  
Attorney General Robert Butterworth, **Fax: + 1 850 487 2564**  
Comptroller Robert Milligan, **Fax: + 1 850 410 9027**  
Insurance Commissioner Tom Gallagher, **Fax: + 1 850 488 7265**  
Agriculture Commissioner Charlie Bronson, **Fax: + 1 850 414 9778**  
Education Commissioner Charlie Crist, **Fax: + 1 850 488 1492**

and to diplomatic representatives of the USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat,  
or your section office, if sending appeals after 15 July 2001.