

PUBLIC

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Death penalty / Legal concern

USA (Texas)

Robert Aaron Acuña (m), Latino, aged 18

At a trial about to begin in Harris County, Texas, the prosecution is intending to seek a death sentence against Robert Acuña for a crime he is alleged to have committed when he was 17 years old.

International law, recognized by almost every government in the world, prohibits the use of the death penalty against those who were under 18 at the time of the crime.

Robert Acuña is charged with the murder of Joyce Carroll and her husband James Carroll, aged 74 and 75 respectively. Both were shot dead in their home in Baytown, near Houston, on 12 November 2003.

Jury selection for Robert Acuña's trial began this week. The trial proper is scheduled to begin on 2 August 2004. The lead prosecutor is Assistant District Attorney Renee McGee. Her co-prosecutor is Assistant District Attorney Vic Wisner. The District Attorney of Harris County is Charles A. Rosenthal.

The United Nations Guidelines on the Role of Prosecutors requires, among other things, that prosecutors "be made aware of...human rights and fundamental freedoms recognized by national and international law". The Guidelines state that prosecutors must "respect and protect human dignity and uphold human rights" in performing their duties.

BACKGROUND INFORMATION

Recognizing that the immaturity of young people and their capacity for growth and change renders the death penalty a singularly inappropriate punishment in such cases, international law bans the execution of child offenders, people who were under 18 at the time of the crime. The Geneva Conventions, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child (ratified by 192 countries), the American Convention on Human Rights and the United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, all have provisions exempting this age group from execution. The Inter-American Commission on Human Rights has found that the prohibition on the execution of anyone who was under 18 years old at the time of the crime is now a peremptory norm of international law (a *jus cogens* norm), from which no country can exempt itself.

Since 1990, Amnesty International has documented 36 executions of child offenders in eight countries – the Democratic Republic of Congo (DRC), Iran, Nigeria, Pakistan, Saudi Arabia, the USA, China and Yemen. The USA carried out 19 of the executions, more than all other countries combined. It is the only country which claims for itself the right to carry out such executions in its normal criminal justice system. The DRC has abolished the special military courts which led to the execution of a child offender in 2000; Yemen, Pakistan and China have abolished the death penalty against child offenders (although there are some residual problems in enforcing the law in the latter two countries); Saudi Arabia and Nigeria now deny such use of the death penalty; and Iran appears to be in the process of abolishing the death penalty for under-18-year-olds.

Nineteen of the 38 death penalty states in the USA set 18 (at the time of the crime) as the minimum age for death penalty eligibility, and another 12 states are abolitionist. Thus 31 US states, as well as the federal government, do not use the death penalty against child offenders. Of those states that do, Texas is by far the leading perpetrator, accounting for a third of the country's condemned child offenders, and 13 of 22 executions of child offenders carried out in the USA since 1977. Six of the last seven such executions were carried out by Texas executioners. More than a third of the child offenders on death row in Texas and

approximately one in seven of those currently condemned nationwide, were prosecuted in Harris County, where Robert Acuña is facing the death penalty. No whole *state* in the USA, apart from Alabama (and the rest of Texas), has more child offenders on death row than this single Texas jurisdiction.

In its October 2004 term, the US Supreme Court will revisit its 1989 decision allowing the execution of offenders who were 16 or 17 at the time of the crime. Its decision is expected in early 2005. In 2002, four of the nine Supreme Court Justices described the execution of child offenders as "shameful" and "a relic of the past".

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- expressing sympathy for the family and friends of Joyce and James Carroll, and explaining that you are not seeking to excuse the manner of their deaths, to minimize the suffering caused, or to express any opinion on the guilt or innocence of the accused;
- explaining that you are deeply concerned that the Harris County District Attorney's Office is intending to seek a death sentence against Robert Acuña if it obtains his conviction, despite the fact that he was under 18 years old at the time of the crime;
- using any of the above or other information as you see fit in explaining your concern;
- urging that the District Attorney's Office drop its pursuit of the death penalty in this case.

APPEALS TO:

Assistant District Attorney Renee McGee
Harris County District Attorney's Office
1201 Franklin Street, Suite 600,
Houston, Texas 77002-1923
USA

Fax: +1 713 755 5469

Salutation: Dear Assistant District Attorney

COPIES TO:

District Attorney Charles A. Rosenthal
Harris County District Attorney's Office
1201 Franklin Street, Suite 600, Houston, Texas 77002-1923, USA

Fax: +1 713 755 6865

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

You may also write a brief letter of concern (not more than 250 words) to:

Letters to the Editor, Baytown Sun, P.O. Box 90, Baytown, TX 77522, USA

Fax: +1 281 427-6283

Email: <http://www.baytownsun.com/letter.lasso>

Viewpoints, c/o Houston Chronicle, P.O. Box 4260, Houston, Texas 77210, USA.

Fax: +1 713-362-3575

Email: viewpoints@chron.com

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 30 August 2004.