

UA 320/99

Death pena**USA (Texas)Glen Charles McGinnis, black, aged 26**

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Glen McGinnis is scheduled to be executed on 25 January 2000 for the murder of Leta Ann Wilkerson, white, during a robbery of a laundry in Conroe, Montgomery County, Texas, on 1 August 1990. Glen McGinnis was 17 at the time of the crime. International law prohibits the use of the death penalty against child offenders - those under age 18 at the time of their crimes.

Glen McGinnis's mother worked as a prostitute out of the one-bedroom apartment that she shared with her son. She was addicted to crack cocaine and spent periods in jail on drug-related charges. The young boy was often left alone to fend for himself. He suffered abuse, including beating with an electric cord, by his stepfather, who lived in the apartment for two years. The state Child Protective Services (CPS) intervened three times, once after the boy was raped by his stepfather when he was 10, a second time when he was beaten on the head with a baseball bat, and again after his mother and stepfather burned his stomach with hot sausage grease. Each time the CPS returned him home after treatment, and each time he ran away, only to be caught shoplifting and returned home again by the authorities. He ran away from home for good when he was 11, and his formal schooling ended around this time. He alternated between the streets of Houston and state juvenile facilities, where he was sent when he was caught stealing cars. When on the streets, he lived in cars and empty apartments, and sometimes with adult friends. He continued to shoplift clothing and food. He was on probation following a car theft at the time of the 1990 murder.

At the sentencing phase of his trial, the District Attorney (DA) argued vigorously for a death sentence, depicting Glen McGinnis as an habitual criminal who would represent a continuing threat to society if allowed to live. The local press reported the DA as stating: "this guy's been an habitual criminal since he was 13 years old.... It's been one crime after another, with capital murder just kind of being the inevitable result."

The defence presented evidence of the defendant's childhood of abuse and neglect, as well as his capacity to flourish in a structured environment. Employees at a juvenile detention facility where he had been held testified that he had a good disciplinary record, and that he was respectful to adult staff. They stated that he was not aggressive, even in the face of repeated taunting and aggression from other juveniles in the facility aimed at his open homosexuality. One of the staff members told the jury that she had considered adopting Glen McGinnis after working with him in detention.

The defence presented a former head of the state prison system's psychology program, who argued that McGinnis was unlikely to be a continuing threat to society, especially when held in the structured environment of a prison, and that he had the capacity for remorse. He told the jury that McGinnis was a product of his environment, and an impulsive teenager who had acted without deliberation when he shot Leta Wilkerson. However, the expert was not allowed to support his opinion by presenting testimony from the teenager that he had "panicked" in the laundry and had not planned to kill.

The jury pool initially consisted of 102 people - three black and 99 white. The judge released 22 of the 35 jurors who asked to be excused, including all three blacks, after minimal consideration of their excuses. His action meant that Glen McGinnis was given no opportunity to have African Americans serving

on his jury, as his defence lawyer was faced with a pool of 80 whites from which he and the prosecutor would select 12 jurors.

#### **BACKGROUND INFORMATION**

The International Covenant on Civil and Political Rights and the Convention on the Rights of the Child prohibit the use of the death penalty against child offenders - those who commit crimes when under 18 years old. The ban is so widely accepted, and adhered to, that it has become a principle of customary international law, binding on countries regardless of which specific international instruments they have or have not ratified. The only four executions of child offenders known in the world since October 1997 have all been carried out in the USA. In the past decade, the USA has carried out 10 of the 19 known executions of child offenders. Glen McGinnis is one of three child offenders scheduled to be put to death in the USA in January 2000 (see *Shame in the 21<sup>st</sup> Century: Three Child Offenders Scheduled for Execution in January 2000*, AMR 51/189/99, December 1999).

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

- expressing sympathy for the family and friends of Leta Ann Wilkerson, and explaining that you do not condone her murder;
- stating, however, that the planned execution of Glen McGinnis violates international law, which prohibits the use of the death penalty for child offenders - those under 18 at the time of the crime;
- arguing that the use of the death penalty against child offenders denies a child's immaturity and capacity for change, and rejects any notion that wider adult society bears even minimal responsibility for the crimes of children, adding that society clearly failed the young Glen McGinnis;
- noting that Glen McGinnis' juvenile criminal record was one involving car thefts and shoplifting, and that correctional officials testified to his non-aggressive nature when held in custody;
- expressing concern that Glen McGinnis was convicted by an all-white jury after all African Americans had been excused;
- noting that Governor Bush is campaigning under the slogan "compassionate conservatism" in his effort to become President of a country which claims to be a world leader in respect for human rights;
- urging that clemency be granted to Glen McGinnis.

#### **APPEALS TO:**

Gerald Garrett  
 Chairman of the Board Of Pardons and Paroles  
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**Faxes:+ 1 512 463 8120**

**Salutation: Dear Mr Chairman**

The Honourable George W. Bush  
 Governor of Texas,  
 PO Box 12428, Austin,  
 TX 78711-2428, USA

**Telegrams:Governor Bush, Austin, Texas, USA**

**Faxes:+ 1 512 463 1849**

**Salutation: Dear Governor**

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

You may also send letters of concern (not more than 250 words) to:

Letters to the Editor, *Dallas Morning News*, PO Box 655237, Dallas, TX 75265, USA. **Faxes: +1 972 263 0456. E-mails: [letterstoeditor@dallasnews.com](mailto:letterstoeditor@dallasnews.com)**

**PLEASE SEND APPEALS IMMEDIATELY.**