

<b>Urgent Action</b>	Public
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<b>An insight into the stories behind UAs</b>	AI Index: ACT 60/003/2004

## UNITED STATES

### **Appeal-writers campaign against the injustice of death row**

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Over the years, the Urgent Action Network has sent many thousands of appeals on cases of defendants or prisoners facing the death penalty in the USA for crimes committed when they were under 18 years old, prohibited under international law. It has been a long struggle, with setbacks along the way, but we may be seeing light at the end of the tunnel.



**Joe Ward: Appeal letters arrived daily on his behalf**  
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Sometimes the UA Network has been asked to intervene at the pre-trial stage, to try and persuade the prosecutors to drop their pursuit of the death penalty. These pre-trial UAs have certainly made their mark. In 2001, for example, Alabama prosecutors dropped pursuit of the death penalty against Jeffrey Franklin for a crime he was accused of committing when he was 17. The defendant's lawyers told Amnesty International that they believed that the international attention on the case contributed to the outcome, noted that at one point the sheer volume of appeals broke the prosecutor's fax machine.

In 2000 Kenshawn Maxey's lawyers asked for their heartfelt thanks to be sent to UA appeal-writers when he avoided the death penalty in Nevada for a crime committed when he was 17. Local press had repeatedly referred to appeals by AI, and the international ban on such use of the death penalty. In one article, the *Las Vegas Sun* noted that the prosecutor had received "about 50 letters this week alone" from around the world.

In another Nevada case, that of Sean Dixon accused of a crime committed when he was 16, the defence lawyer wrote to AI in 1999: "I am thrilled to inform you that the campaign on behalf of Sean Dixon worked. The case was negotiated yesterday, the State dismissed the notice of intent to seek the death penalty, and Sean will receive a sentence that permits parole. The prosecutor informed me that he received over 200 letters from Amnesty International members, although he refuses to acknowledge that the letters played any role in his decision not to seek the death penalty against Sean. Thanks again for your efforts. I believe that it had an enormous impact on the prosecutor's change of heart". The local press had also reported on the international appeals in the case.

The same happened in the case of Brandon Brown in Pennsylvania in 2002. District Attorney Anthony Rosini decided to pursue the death penalty against Brown for the murder of Jasmine Stroud. The local paper wrote of the "international attention" on the case: "Letters condemning Rosini's decision have been sent from as far away as New Zealand, the Netherlands and the United Kingdom...All of them expressed sorrow about Jasmine's

death. However, they also said they do not want to see the state take the life of a 16-year-old”.

In Louisiana in 2002, in the case of Joseph Ward, accused of a murder committed when he was 17, the local paper reported that international appeals were arriving “daily” in the office of the prosecutor, who was quoted as saying that he was receiving “a pile of them every day”.

In Oklahoma in 1999, after the prosecutor agreed to drop his pursuit of the death penalty against Derrick Lester, the defence lawyers sent their thanks to the UA Network. They said that in their contact with the prosecutor, he had repeatedly referred to the number of appeals coming into his office and on one occasion even showed the defence attorney a box full of letters and faxes.

In the case of Johnnie Lee McKnight in North Carolina in 1999, his lawyers were amazed at the quantity of appeals sent in by UA activists. The prosecutor’s office had been “flooded” with appeals, and local press gave favourable coverage to AI’s action, which included asking for participants to send “letters to the editor”. The Fayetteville Observer Times published several of the letters. It later wrote that it had received more than 100 such letters “and no sign of them stopping”. The paper then ran a substantial article on the issue. Johnnie McKnight’s lawyers believe that the appeals and the light they shone on the case had an important impact in the case. The death penalty was dropped.

Not all the pre-trial UAs have such a good outcome, however, but nevertheless appeals did not go unnoticed. Gregory Wynn was sentenced to death in 1999 in Anniston, Alabama, for a crime committed when he was 17. AI’s action led to an article in the local paper entitled “Wynn’s trial puts Anniston at forefront of controversy”. The importance of such publicity, which in such actions has mainly been favourable, cannot be underestimated. Over the years more and more papers have come out in favour of a moratorium on executions and against the execution of child offenders in particular. Urgent Action participants have played their part in such developments over the years.

James Davolt was sentenced to death in 2000 for a crime committed when he was 16. AI’s action led to repeated coverage in the local media. Such coverage also occurred in the Arizona case of Christopher Huerstel, also sentenced to death in 2000. Such coverage is important in trying to change public opinion. It is noteworthy that in 2003, the final report of the Arizona Capital Case Commission, appointed by the then Attorney General (who is now Governor), recommended an end to the juvenile death penalty in Arizona.

In 2002, Samnang Prim’s lawyer thanked the UA Network for their appeals “which were very valuable in the process” of getting the prosecutor to drop the pursuit of the death penalty. The lawyer wrote: “Thank all members and letter writers for us, and let them know that, in combination with the efforts of many other people, they were successful!!!!” Samnang Prim is a former Cambodian child refugee. He was facing a death penalty trial in Colorado for a crime committed when he may have been under 18 years old (his refugee background meant it was impossible to determine his exact age beyond a reasonable doubt).

It is evident that appeals at the other end of the process – when a child offender is facing execution – are much less likely to stop the violation. The politics of the death penalty make executive clemency very hard to achieve. Many of the executions of child offenders have occurred in Texas, where the clemency process is notoriously defective. Nevertheless, in 2002, local, national and international pressure almost led to victory in the case of Napoleon Beazley, when the Texas Board of Pardons and Paroles voted 10-7 against clemency. The Board routinely vote unanimously or near unanimously against clemency, so to come within two votes of a clemency recommendation in a case not involving innocence was staggering.

In January 2004, the US Supreme Court agreed to revisit its 1989 decision, *Stanford v Kentucky*, allowing the execution of people who were 16 or 17 at the time of the crime. The case involves Christopher Simmons, on death row in Missouri for a crime committed when he was 17. UA participants will remember his case as they were involved when he had an execution date of 5 June 2002. The Missouri Supreme Court stopped the execution on 28 May, the same day that Napoleon Beazley was executed, and subsequently ruled that standards of decency had evolved in the USA since the *Stanford* decision, rendering the execution of child offenders unconstitutional. The State of Missouri appealed the decision and that is what the US Supreme Court has agreed to hear, later this year.

The Simmons decision is not expected until early 2005. This should mean that there will be no further executions of child offenders pending that decision. Nevertheless, Texas has scheduled four child offenders to die before the end of June 2004, and is pursuing their execution. The UA Network is already engaged in appealing for Edward Capetillo, who is scheduled to be the first of the four executed.

Perhaps we have seen the last execution of a child offender in the USA. AI believes that the US Supreme Court must outlaw the execution of child offenders, or it cannot claim to be a consistent arbiter of the US Constitution (see *USA: Indecent and internationally illegal: The death penalty against child offenders* <http://web.amnesty.org/library/Index/ENGAMR511432002>). If the Court does so rule, the UA Network will have played a role, by highlighting this violation over the years. However, there is still a chance that the Court will uphold *Stanford*, which would be a truly shameful outcome, and all efforts must be made to prevent it.

There is another internationally illegal practice lurking in the shadows in the case of child offenders in the USA. Two child offenders have been granted clemency in recent years, Alexander Williams in 2002 and Kevin Stanford in 2003. The UA Network had appealed in both cases. Both of them had their sentences commuted to life imprisonment without the possibility of parole. In the case of people who were under 18 years old at the time of the crime, this sentence violates international law too.

In some such cases, the UA Network may be asked to intervene. This happened in the case of Lionel Tate, who was sentenced to life imprisonment without the possibility of parole (LWOP) in 2001 for a crime committed when he was 12 years old. AI selected this case for the UA Network, as it was illustrative of a wider problem, and involved perhaps the youngest defendant (at the time of the crime) to face such a sentence in the USA.

The UA on Lionel Tate – which spanned more than two years on and off – has been effective. After a court overturned his conviction in December 2003, the UA appeal-writers urged the prosecutors not to seek another LWOP sentence. In the event, the defence and prosecution reached a plea arrangement, much more in line with international standards. On 26 January he was freed on bond.

Lionel Tate's lawyer asked for his thanks to be passed to all who took action on the teenager's behalf. He wrote: "Thanks again. Your entire organization is to be commended for the help and assistance. Your organization "kept the spotlight" on this case and assisted us in favorably resolving this matter. Lionel shall be out of jail before his 17<sup>th</sup> birthday. Your support helped make the difference. Please let everyone know of our thanks. In light of the good work you all do, I trust we shall soon again join together to fight for children's lives."

Amnesty International is campaigning to end the death penalty for child offenders across the world. For further information, please see our <i>Stop Child Executions</i> page on <a href="http://web.amnesty.org/pages/deathpenalty-children-eng">http://web.amnesty.org/pages/deathpenalty-children-eng</a> or contact your section's death penalty theme coordinator.
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