

PUBLIC

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EXTRA 26/03

Death penalty / Legal concern

07 May 2003

USA (Kentucky)

Daniel Gordin (m) aged 18

Jury selection for Daniel Gordin's murder trial began on 5 May 2003 in Nicholasville, Kentucky. In the event that he is convicted, the Jessamine County prosecution is intending to seek a death sentence against him.

Daniel Gordin was 16 years old at the time of the crime of which he is accused. International law, respected by almost every country in the world apart from the USA, unequivocally prohibits the imposition of the death penalty against defendants who were under 18 at the time of the crime.

Daniel Gordin, white/Hispanic, is charged with the murder of Ryan Harris, an 18-year-old white school student who was shot to death in January 2002. A co-defendant in the same case is scheduled to go to trial next month.

Jury selection is likely to last for at least a week. The trial may take another three weeks.

BACKGROUND INFORMATION

The imposition of the death penalty against people who were under 18 at the time of the crime is prohibited by international law, and has been roundly condemned by United Nations bodies and experts. The Geneva Conventions, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, 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. In October 2002, the Inter-American Commission on Human Rights concluded: "The acceptance of this norm crosses political and ideological boundaries and efforts to detract from this standard have been vigorously condemned by members of the international community... [T]his proscription binds the community of States, including the United States".

The United Nations Guidelines on the Role of Prosecutors, adopted in 1990, require States to ensure that prosecutors are made aware of "human rights and fundamental freedoms recognized by national and international law." The Guidelines require prosecutors to "respect and protect dignity and uphold human rights".

Since 1990, the USA has executed 19 child offenders, compared to 14 such executions reported in the rest of the world combined. These 14 occurred in Democratic Republic of Congo, Iran, Nigeria, Pakistan, Saudi Arabia, and Yemen. Yemen and Pakistan have now abolished such use of the death penalty in law. The USA is responsible for 13 of the 18 executions of child offenders known to have been carried out worldwide since January 1998, and for all four of such executions reported since January 2002. For further information see *USA: Indecent and internationally illegal: The death penalty against child offenders* (AMR 51/143/2002, September 2002).

Kentucky has not executed a child offender since 1946. Half a century later, opinion polls in the state indicate around 80 per cent support for abolishing the death penalty for 16- and 17-year-old offenders. In 2002, Governor Patton said that he would sign any such legislation into law if it came before him from the legislature. No such bill has yet emerged.

There is currently one child offender on death row in Kentucky. Kevin Stanford, who was 17 at the time of the crime, has been on death row for over 20 years. His case was at the centre of the 1989 Supreme Court decision, *Stanford v Kentucky*, in which the Court held that defendants who were 16 or 17 years old at the

time of the crime could be executed. In October 2002, four of the nine Supreme Court Justices dissented from the Court's refusal to revisit the constitutionality of the execution of young offenders. The dissenters stated that the execution of people for crimes committed when they were under 18 years old was "a relic of the past and is inconsistent with evolving standards of decency in a civilized society. We should put an end to this shameful practice."

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

- expressing sympathy for family of Ryan Harris and explaining that you are not seeking to make any comment on the guilt or innocence of the accused or to minimize the suffering the victim's death will have caused;
- expressing deep concern that the Jessamine County prosecution is intending to seek a death sentence against Daniel Gordin in the event that he is convicted, in violation of international law which prohibits the use of the death penalty against defendants who were under 18 at the time of the crime;
- noting that the USA is almost the only country in the world still pursuing this practice, a practice which four current US Supreme Court Justices have said is "shameful" and a "relic of the past";
- pointing to the damage being done to the USA's reputation abroad by its internationally illegal use of the death penalty against defendants who were under 18 at the time of the crime;
- urging the Commonwealth Attorney to take a principled stand and to drop the death penalty as an option in this case, in the interests of decency and the reputation of Jessamine County, the State of Kentucky and the USA as a whole.

APPEALS TO:

Tom Lockridge
Jessamine County Commonwealth Attorney
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Telegram: Commonwealth Attorney, Nicholasville, Kentucky, USA
Fax: +1 859 885 6304
Salutation: Dear Commonwealth Attorney

COPIES TO:

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Frankfort, KY 40601, USA
Fax: +1 502 564 2517
Email: governor@mail.state.ky.us

and to diplomatic representatives of USA accredited to your country.

You may also copy your appeal or write brief letters of concern (not more than 250 words) to:

Letters to the Editor, *Lexington Herald-Leader*,
100 Midland Avenue, Lexington, KY 40508, USA.
Fax: +1 859 255 7236
Email: hleditorial@herald-leader.com

PLEASE SEND APPEALS IMMEDIATELY.