

UA 255/00

Death pen

USA (Arizona) Christopher Huerstel, aged 18
Kajornsak Prasertphong, Thai national, aged 20

The trial of Christopher Huerstel and Kajornsak Prasertphong began on 24 August 2000 in Prescott, Arizona. The Pima County prosecutor is seeking the death penalty against both defendants. They are accused of the murder of Robert Curry (44), Melissa Moniz (20) and James Bloxham (17), who were shot during a robbery of a Pizza Hut restaurant in Tucson on 17 January 1999.

Christopher Huerstel was 17 at the time of the killings. International law forbids the use of the death penalty against those who were under 18 years old at the time the crime was committed.

Kajornsak Prasertphong, who was 19 at the time of the Pizza Hut murders, is a Thai national. According to information received by Amnesty International, he was not informed of his right to contact his consulate for assistance after his arrest. This fundamental right of all detained foreign nationals is enshrined in international law, notably in Article 36 of the Vienna Convention on Consular Relations (VCCR).

The first stage of the trial, which seeks to determine guilt or innocence, is likely to last at least two weeks. If either defendant is convicted of capital murder, a separate sentencing phase will be conducted some time later. The trial venue was moved to Prescott, several hundred kilometres from Tucson, because of the publicity that surrounded the crime in Tucson.

BACKGROUND INFORMATION

Amnesty International opposes the death penalty under all circumstances. It believes that every death sentence is an affront to human dignity, every execution a symptom of, not a solution to, a culture of violence. Some 108 countries have abolished the death penalty in law or practice.

A range of international safeguards govern the use of the death penalty in those countries which still retain it. The USA consistently violates these minimum standards. For example, it leads a tiny group of countries using the death penalty against child offenders, those under 18 at the time of the crime. On 17 August 2000, the United Nation Sub-Commission on the Promotion and Protection of Human Rights adopted a resolution affirming that such use of the death penalty violates customary international law. In other words, the ban on the death penalty against child offenders commands such respect worldwide that it has become a principle binding on all countries regardless of which international instruments they have or have not ratified. Since 1993, there have been 17 known executions of child offenders worldwide. The USA carried out 12 of these, including four this year. Some 80 child offenders remain on death row in 16 US states. See *USA: Abandoning Justice: The imminent execution of Alexander Williams, mentally ill child offender* (AMR 51/121/00, August 2000).

There are also at least 80 foreign nationals on death row in the USA. In most cases, they were not informed upon arrest of their right to contact their consulate for assistance, in violation of international law. Some 11 foreign nationals have been executed in the USA since 1997, including Jaturun Siripongs, a Thai national denied his VCCR rights, executed in California on 9 February 1999. Following the execution of two German nationals, Karl and Walter LaGrand

in Arizona in 1999, the German government is pursuing its concerns in the International Court of Justice (ICJ). The ICJ had issued an order to stop the execution of Walter LaGrand, but the US Supreme Court and the Arizona Governor allowed the execution to proceed on 3 March. For more information, see *USA: Worlds Apart: Violations of the Rights of Foreign Nationals on Death Row - Cases of Europeans* (AMR 51/101/00, July 2000).

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

- expressing sympathy for the families and friends of the victims of the crime, and explaining that you are writing neither to excuse the crime nor to express any opinion on the guilt or innocence of the two defendants;
- expressing opposition to the death penalty;
- expressing concern that Pima County is seeking the death penalty against Christopher Huerstel in violation of international law prohibiting the use of the death penalty against those who were under 18 at the time of the crime; pointing out that this ban is binding on all countries, and all jurisdictions within countries, and noting that the USA is joined only by Pakistan, Nigeria, Iran and the Democratic Republic of Congo in having carried out such sentences in the past seven years;
- expressing concern at reports that the authorities violated international law by failing to inform Kajornsak Prasertphong promptly upon arrest that as a Thai national he had the right to seek assistance from his consulate;
- urging the prosecuting authorities to work to prevent such violations of international law from occurring in Pima County in the future;
- urging that Pima County drop its pursuit of the death penalty against both defendants.

APPEALS TO:

Rick Unklesbay (Prosecutor)
 Deputy County Attorney, Pima County
 320 North Stone
 Suite 1400
 Tucson, AZ 8570, USA
Fax: + 1 520 628 9466
Salutation: Dear Deputy County Attorney

COPIES TO:

Barbara LaWall, Pima County Attorney, 320 North Stone, Suite 1400, Tucson, AZ 8570, USA. **Fax: + 1 520 628 9466**

Madeleine Albright, Office of the Secretary of State, 2201 C Street, N.W., Washington, DC 20520, USA. **Fax: + 1 202 647 1533**

and to diplomatic representatives of USA accredited to your country.

You may also write brief letters (not more than 250 words) to:
 Letters to the Editor, *Arizona Daily Star*, PO Box 26887 Tucson, AZ 85726, USA.
Fax: + 1 520 573 4141. E-mail: letters@azstarnet.com
 Letters to the Editor, *Tucson Citizen*, PO Box 26767, Tucson, AZ 85726, USA
Fax: + 1 520 573-4569. E-mail: letters@tucsoncitizen.com

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 6 October 2000.