

URGENT ACTION

PROSECUTOR OPPOSES ARIZONA DEATH SENTENCE

Daniel Cook is due to be executed in Arizona on 5 April after 23 years on death row. The lead prosecutor from the 1988 trial has said that he would not have sought the death penalty if he had known about Daniel Cook's background of severe childhood abuse and mental disorders.

On the night of 19/20 July 1987, Carlos Cruz-Ramos and Kevin Swaney were abused and killed in the apartment in Lake Havasu City, Arizona, shared by Daniel Cook and another man John Matzke. On 21 July, John Matzke went to the police and gave them a statement about the murders. The police went to the apartment, found the bodies of the two victims, and arrested 25-year-old Daniel Cook.

John Matzke confessed to killing Carlos Cruz-Ramos, pleaded guilty to one count of second-degree murder and was sentenced to 20 years in prison. The prosecution dropped the two first-degree murder charges against him in exchange for his testimony against Daniel Cook. The latter meanwhile was appointed a lawyer who at the time was suffering from bipolar disorder and was drinking heavily. A few weeks before his trial, Daniel Cook decided to waive his right to counsel, later stating that he had believed that his only options were to continue with a lawyer he viewed as incompetent or to represent himself. He chose the latter (with the lawyer retained as "advisory counsel"). The jury convicted him on both counts of first-degree murder. The judge denied his request for a mental health expert to help him to prepare for the sentencing, and Daniel Cook presented no mitigating evidence.

The judge sentenced Daniel Cook to death. Although the judge had access to some information on Daniel Cook's history of mental problems, including repeated suicide attempts, it was far from what has been revealed since trial. According to this more recently presented evidence, Daniel Cook was subjected to severe and repeated physical and sexual abuse as a young child and teenager by family members and others. He has been diagnosed as suffering from organic brain damage and post-traumatic stress disorder (see overleaf for further information).

In a sworn statement signed in 2010, the lead prosecutor from the trial said that had he known about this mitigating evidence, including that the childhood abuse Daniel Cook suffered "mirrored the circumstances surrounding the crime", he "would not have sought the death penalty in this case". The former prosecutor also recalled that the appointed trial lawyer was "at the low end of the competency scale for the handling of the defense of a standard felony" and "appeared neither capable nor willing to put forth the effort necessary to represent a defendant charged with a capital offense". He added that Daniel Cook "was clearly not competent to act as his own counsel."

PLEASE WRITE IMMEDIATELY in English or your own language, in your own words:

- Acknowledging the seriousness of the crime for which Daniel Wayne Cook was sentenced to death;
- Noting that the prosecutor has pointed to the inadequacy of Daniel Cook's representation at trial, and said that he would not have pursued a death sentence if he had known about Cook's childhood abuse and mental disorders;
- Pointing to the disparity in sentences given to the two defendants in this case;
- Calling on the governor to commute Dan Cook's death sentence.

PLEASE SEND APPEALS AS SOON AS POSSIBLE, AND BEFORE 5 APRIL TO:

The Honorable Jan Brewer, Governor of Arizona
 1700 West Washington, Phoenix, Arizona 85007, USA
 Fax: +1 602 542 1381
 Email: azgov@azgov.com
 Salutation: Dear Governor

Also send copies to diplomatic representatives of the USA accredited to your country. Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

In 2010, Daniel Cook's appeal lawyer retained a psychiatrist with expertise in post-traumatic stress disorder (PTSD) and extensive experience in working with the victims and perpetrators of sexual abuse. The following details are included in her evaluation of Daniel Cook as summarized in a sworn statement dated 21 November 2010.

Daniel Cook was subjected to severe abuse as an infant at the hands of his father, including beatings with a belt and being burned on the penis with a cigarette. At the age of three, he was sent to live with his grandmother and step-grandfather. The latter subjected the boy to sexual abuse, as well as forcing him and his sister, who was 11 months older than Daniel, to sexually molest each other. The grandparents also subjected the children to physical abuse; including tying them to chairs and making the boy eat his own vomit. When Daniel Cook was nine, his grandmother died and the two children went to live with their mother and her new husband. The children were subjected to further physical abuse, including beatings with a belt, and Daniel was subjected to further sexual abuse by one of his older step-brothers. In addition, Daniel Cook experienced several suicide attempts by his mother who reportedly suffered from bipolar disorder.

When Daniel Cook was 14 years old, his mother gave up custody of him and he was placed in a home for boys. There he was subjected to further sexual abuse by a "house parent", who is currently serving a prison term for such crimes. Daniel Cook was also allegedly tied up and raped by other individuals at the home. He ran away on a number of occasions, and was eventually discharged from the home at the age of 16. At the age of 18 he enlisted in the US Army Reserve, but within three months had attempted suicide by overdose and was discharged. He made a number of suicide attempts in the following years and was placed in psychiatric hospitals on several occasions. During those years, he was variously diagnosed with schizophrenia, acute psychosis, alcohol addiction, passive aggressive personality, depression, and dependent personality disorder.

In her 2010 declaration, the psychiatrist stated that, in her opinion, "had Mr Cook been allowed a proper mental health evaluation in preparation for sentencing", he would have been diagnosed with a variety of disorders, including PTSD, organic mental syndrome, and amphetamine delusional disorder. At the time of the crime, Daniel Cook and John Matzke were using crystal methamphetamine, and had smoked marijuana and consumed large amounts of alcohol. Daniel Cook had also taken Valium that day.

Amnesty International opposes the death penalty in all cases, unconditionally, regardless of the crime or the offender, or the method used to kill the prisoner. To end the death penalty is to abandon a degrading, destructive, diversionary and divisive public policy that is not consistent with widely held values. It not only runs the risk of irrevocable error, it is also costly, in social and psychological terms as well as to the public purse. It has not been proved to have a unique deterrent effect. It tends to be applied in a discriminatory way, on grounds of race and class. It diverts resources that could be better used to work against violent crime and assist those affected by it. The death penalty extends the suffering of the victim's family to that of the condemned prisoner.

There have been 1,243 executions in the USA since judicial killing resumed there in 1977, including nine so far this year. Arizona has executed 24 people since resuming executions in 1992. Twenty-two of them were put to death under a three-drug lethal injection process (sodium thiopental, pancuronium bromide, and potassium chloride) used in most US death penalty states to anesthetize, paralyze and kill the prisoner. A shortage of sodium thiopental resulting from the sole US manufacturer's suspension of production of the drug and its decision earlier this year to withdraw from the market has led to US death penalty states looking to each other, to the federal government, and to sources overseas for solutions. Arizona is one of the states that have obtained lethal injection drugs from a company in the United Kingdom in recent months (see Urgent Action update, 28 October 2010, <http://www.amnesty.org/en/library/info/AMR51/101/2010/en>).

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