

10 February 2000

Further information on UA 203/99 (AMR 51/125/99, 10 August 1999) and follow-ups (AMR 51/142/99, 2 September 1999 and AMR 51/212/99, 15 December 1999) - Death penalty / Legal concern

USA (Nevada) Kenshawn Maxey, black, aged 19

Late on 8 February 2000, the jury in Kenshawn Maxey's trial voted to spare his life after taking into consideration his youth and the abuse he suffered as a child.

On 4 February, Kenshawn Maxey was found guilty of first-degree murder in the shooting death of bartender Salvatore Zendano Jr. during a robbery at O'Acres Bar and Grill in Las Vegas in May 1998. He was also convicted of second degree murder for firing the shot that killed his 18-year-old accomplice, Lashawn Levi. Kenshawn Maxey was 17 at the time of the crime.

At the sentencing phase of the trial, the defence presented evidence of Kenshawn Maxey's youth, and his deprived and abused childhood as reasons for leniency (see previous update). The defence also sought to call an expert witness to testify about the international ban on the use of the death penalty against child offenders - those under 18 at the time of the crime - and the fact that the USA is almost alone in pursuing such use of the punishment. However, supporting the prosecution's objection to this proposal, the judge ruled that the law of the USA was clear: 16- and 17-year-old offenders were eligible for the death penalty.

The prosecutor argued for the death sentence, saying that an abused childhood was no reason for leniency and claiming that a sentence of death would help the victim's family: "Sal Zendano's family have a right to gain some peace of mind. A sentence of life without parole will remind Sal's family every day that the person who brutally killed Sal still lives, still eats, still breathes..."

The jurors had a choice of four sentences: imprisonment for 100 years; life imprisonment with the possibility of parole; life imprisonment without the possibility of parole; and the death penalty.

According to information received by Amnesty International, when the jurors initially retired to consider the sentence, they were split 11-1 in favour of the death penalty. After a day and a half of deliberation, they decided that the mitigating factors outweighed the aggravating factors, and voted that Kenshawn Maxey should be sentenced to life imprisonment without the possibility of parole. The judge will formally sentence Maxey on 23 March.

Life without the possibility of release for crimes committed by child offenders violates article 37 of the Convention on the Rights of the Child.

During its reporting of the trial, the *Las Vegas Sun* repeatedly referred to the appeals from Amnesty International members, and explained the international treaty ban on the use of the death penalty against child offenders.

No further action by the UA Network is requested. Kenshawn Maxey's lawyers have asked that their thanks be sent to all those who appealed on behalf of the teenager.