

UA 230/02

Death pen**USA (Texas) Michael Scott (m), white, aged 28**

Prosecutors are intending to seek a death sentence against Michael Scott at his forthcoming trial in Travis County, Texas. Michael Scott was 17 at the time of the crime of which he is accused. International law, respected in almost every country in the world outside the USA, prohibits the imposition of the death penalty for crimes committed by those under 18.

Michael Scott is charged with capital murder in the case of four teenagers who were killed in a yoghurt shop in Austin on 6 December 1991. The victims were Eliza Thomas, aged 17, Amy Ayers, aged 13, Jennifer Harbison aged 15, and Sarah Harbison, aged 17. They had been stripped, tied up and shot, and the building set on fire.

Jury selection for Michael Scott's trial is due to begin on 29 July. An alleged confession Scott gave to police in September 1999 after 18 hours of interrogation is likely to be an issue at the trial. A police videotape shows the interrogating officer apparently holding a gun against Michael Scott's head while standing behind him in the interrogation room. The trial judge has ruled Michael Scott's statement admissible as evidence.

In the same case, Robert Springsteen was sentenced to death in 2001 for the murder of Amy Ayers. He was also 17 at the time of the crime. His allegedly coerced confession was also an issue at his trial. A third defendant, who was 16 at the time of the murders and therefore ineligible for the death penalty under Texas law, is awaiting trial. Charges against a fourth suspect, aged 15 at the time of the crime, have been dismissed. There is reported to be no physical evidence linking any of the defendants to the crime.

BACKGROUND INFORMATION

There is an unequivocal international prohibition on the use of the death penalty against child offenders, people who were under 18 at the time of the crime. The Geneva Conventions, the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), 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 the death penalty.

Under the 1989 US Supreme Court decision, *Stanford v Kentucky*, defendants who were 16 or 17 years old at the time of the crime can be subject to the death penalty. Since that decision, 191 countries -- all but the USA and Somalia -- have ratified the CRC. Somalia signed the treaty on 9 May 2002 and indicated its intention to ratify it. The USA ratified the ICCPR in 1992, but lodged a "reservation" purporting to exempt it from the prohibition on the use of death penalty against child offenders. The Human Rights Committee, the expert body established by the ICCPR to oversee its implementation, has said that the reservation is "incompatible with the object and purpose of the Covenant" and should be withdrawn. The Committee has "deplored" the USA's continuing execution of child offenders, and confirmed that the ICCPR's prohibition on such executions is a principle from which there can be no derogation. In 2000, the UN Sub-Commission on the Promotion and Protection of Human Rights affirmed that such use of the death penalty violates customary international law, binding on all countries regardless of which treaties they have or have not ratified.

Since 1995, 10 child offenders have been executed in the USA, six of them in Texas. In the same period, Amnesty International has documented only seven such executions in the rest of the world combined - three in Iran, two in Pakistan, one in Nigeria, and one in the Democratic Republic of Congo (DRC). In 2000, Pakistan abolished the juvenile death penalty, and in December 2001 its President announced that he would commute the death sentences of all child offenders on death row in Pakistan. Also in 2001, the DRC authorities commuted the death sentences of five child offenders, and there is currently a moratorium on executions there. China, which accounts for the majority of the world's executions each year, nevertheless abolished the death penalty for child offenders in 1997. There are some 80 child offenders under sentence of death in the USA, 30 of them in Texas.

There have been 786 executions in the USA since it resumed judicial killing in 1977. Texas has carried out 274 of these executions.

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

- acknowledging the seriousness of the crime, expressing sympathy for the family and friends of Eliza Thomas, Amy Ayers, Jennifer Harbison and Sarah Harbison, and explaining that you are not seeking to condone the manner of their deaths or comment on the guilt or innocence of the accused;
- expressing concern that Travis County is intending to seek a death sentence against Michael Scott in the event of his conviction, in violation of international law which prohibits the imposition of the death penalty against people who were under 18 at the time of the crime;
- noting that this international prohibition is respected in almost every country of the world outside the USA, and that Texas is the leading perpetrator in the USA;
- pointing out the damage that is being done to Texas's reputation as a result of local prosecutors seeking internationally illegal death sentences;
- calling on the District Attorney's Office to drop its pursuit of a death sentence in this case.

APPEALS TO:

Ronnie Earle
 District Attorney
 509 West 11th Street
 Austin, TX 78701, USA
Fax: +1 512 854 9695
Salutation: Dear District Attorney

COPIES TO:

Governor Perry , c/o Bill Jones, General Counsel,
 PO Box 12428, Austin, TX 78711, USA
Fax + 1 512 463 1932/1849/0039

and to diplomatic representatives of USA accredited to your country.

Please copy your appeals to John Niland, Texas Defender Service, 510 South Congress, Suite 307, Austin, TX 78704, USA. **Fax: +1 512 477 2153**

You may also send a copy of your appeal or write a letter of not more than 150 words to:

Letters to the Editor, *Austin American-Statesman*, PO Box 670, Austin, Texas 78767, USA. **Fax: +1 512 912 5927. Email: via website:**

<http://www.austin360.com/aas/feedback/letterssubmit.html>

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 4 September 2002.