

URGENT ACTION

TRANSFER HEARING SCHEDULED FOR BOY AGED 13

On 5 August Jordan Brown will have a rare second chance to argue for his case to be transferred to juvenile court for trial. The Pennsylvania Attorney General should seize this opportunity to agree unconditionally to the transfer.

On 8 June, **Jordan Brown's** lawyers met with the prosecution and the trial court judge to prepare for the hearing, ordered by the Pennsylvania Superior Court, on the issue of transferring his case to a juvenile court. It is yet to be decided whether parties will introduce new evidence or whether the hearing will be based on prior oral arguments.

According to press reports, the Senior Deputy Attorney General, Anthony Krastek, has indicated that he may consider moving the case to juvenile court on the condition that Jordan Brown admits guilt. Defense lawyers for Jordan Brown have responded in the press that the 13-year-old boy has no intention of doing so, standing by his denial of the charges for the past 25 months.

The hearing is the result of the Pennsylvania Superior Court's decision to vacate an earlier ruling which denied Jordan Brown's petition for transfer to juvenile court. Aged 11 at the time of the crime, he has been automatically charged for trial in an adult court, as required by Pennsylvania law for cases involving murder. He has been charged with two counts of homicide, because the victim, Kenzie Houk, was eight-and-a-half months pregnant and her unborn child also died. If tried in adult court and convicted of first-degree murder, Jordan Brown would be automatically sentenced to life imprisonment with no possibility of parole. This sentence, when imposed on anyone who was under 18 years old at the time of the crime, violates international law.

PLEASE WRITE IMMEDIATELY in English or your own language:

- Explaining that you are not seeking to excuse the killing of Kenzie Houk;
- Pointing out that international law prohibits life imprisonment without the possibility of parole for anyone who was under 18 years old at the time of the crime;
- Calling on the prosecution to meet its international obligation to ensure that Jordan Brown is not sentenced to life imprisonment without parole;
- Urging the prosecution to seize the opportunity of the hearing to agree to the transfer unconditionally and drop its pursuit of a trial in an adult court.

PLEASE SEND APPEALS BEFORE 16 AUGUST 2011 TO:

Pennsylvania Attorney General

Linda L Kelly

Pennsylvania Office of Attorney General

16th Floor, Strawberry Square

Harrisburg, PA 17120, USA

Fax: +1 717 787 8242

Email: <http://attorneygeneral.gov/contactus/>

Salutation: Dear Attorney General

And copies to Jordan Brown's lawyer:

David H. Acker, Esquire

414 N. Jefferson Street

New Castle, PA 16101, USA

Email:

David_Acker_Attorneyatlaw@hotmail.co

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Salutation: Dear Mr Acker

Also send copies to diplomatic representatives of USA accredited to your country. Please check with your section office if sending appeals after the above date. This is the fourth update of UA: 97/10 (AMR 51/032/2010). Further information:

www.amnesty.org/en/library/info/AMR51/032/2010/en, <http://www.amnesty.org/en/library/info/AMR51/068/2010/en> and

<http://www.amnesty.org/en/library/info/AMR51/001/2011/en>

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ADDITIONAL INFORMATION

A sentence of life without parole, when imposed on a defendant who was under 18 at the time of the crime, violates international law and standards which are almost universally accepted around the world. These standards recognize that, however serious the crime, children, who are still developing physically, mentally and emotionally, do not have the same level of culpability as adults, and require special treatment in the criminal justice system appropriate to their youth and immaturity. The standards emphasize that when children come into conflict with the law, the primary objectives should be the child's best interests and the potential for his or her successful reintegration into society. Life imprisonment without parole is clearly inconsistent with this international obligation.

The International Covenant on Civil and Political Rights (ICCPR), which the USA ratified in 1992, specifically acknowledges the need for special treatment of children in the criminal justice system and emphasizes the importance of their rehabilitation. Article 14(4) of the ICCPR states: "In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation". In 2006, the UN Human Rights Committee, the expert body established by the ICCPR to oversee implementation of the treaty, reminded the USA that sentencing children to life imprisonment without parole is incompatible with the ICCPR. It called on the USA to ensure that no children were subjected to this sentence.

The 193 countries which have ratified the UN Convention on the Rights of the Child (CRC) have further agreed to be bound by the principle, enshrined in Article 37(a), that no person under the age of 18 at the time of the offence should be sentenced to "life imprisonment without the possibility of release". The USA is the only country apart from Somalia not to have ratified the CRC. However, the USA has signed the Convention and as a signatory, the USA is bound under international law to do nothing which would defeat the object and purpose of the treaty pending its decision to ratify. In its March 2011 response to recommendations from other governments following scrutiny of the USA's human rights record under the Universal Periodic Review process at the UN Human Rights Council in late 2010, the US administration said that it supported "the recommendations that we ratify the Convention on the Rights of the Child, as we support its goals and intend to review how we could move toward its ratification". Under the US Constitution, the President can only ratify treaties "with the advice and consent of the Senate".

Article 37(b) of the Convention also calls upon states to use imprisonment against a child "only as a measure of last resort and for the shortest appropriate period of time." In a General Comment on children's rights in juvenile justice issued in 2007, the UN Committee on the Rights of the Child, the expert body established under the CRC, emphasised that no children should be sentenced to life imprisonment without the possibility of parole. The Committee reminded those countries which sentence children to life imprisonment *with* the possibility of parole that this punishment must "fully comply with and strive for the realization of the aims of juvenile justice", including that the child should receive "education, treatment, and care aiming at his/her release, reintegration and ability to assume a constructive role in society".

The USA is believed to stand alone in sentencing children to life without parole. Although several countries technically permit the practice, Amnesty International knows of no cases outside the USA where such a sentence has been imposed in recent years. Jordan Brown is one of the youngest people that Amnesty International knows of who is currently at risk of being sentenced to life without parole. However, there are at least 2,500 people in the USA serving life imprisonment without the possibility of parole for crimes committed when they were under 18 years old. Jordan Brown's case is therefore starkly illustrative of a wider problem, and the organization is taking this action as part of its efforts to persuade authorities in the USA to bring their country into line with international standards on the treatment of child offenders (see *USA: The rest of their lives: Life without Parole for Child Offenders in the United States*, <http://www.amnesty.org/en/library/info/AMR51/162/2005/en>). In such cases, Amnesty International does not specify in detail what sentence is appropriate, only that it should conform to international standards.

Further information on UA: 97/10 Index: AMR 51/062/2011 Issue Date: 6 July 2011

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