

PUBLICAI Index: AMR 51/79/99

EXTRA 59/99 Death Penalty / Legal Concern 14 May 1999

USA (Indiana) Gregory DICKENS Jr, black, aged 17

At the forthcoming trial of Gregory Dickens Jr, charged with killing a police officer, the prosecution will seek the death penalty. International law bans the use of capital punishment against those who commit crimes when under 18. Gregory Dickens was 16 at the time of the crime of which he is accused.

Police Corporal Paul Deguch, white, was shot and killed on 24 August 1997 outside a house on the northeast side of South Bend, Indiana. Gregory Dickens was arrested the same day and has been in jail since. Jury selection for his trial in St Joseph County Superior Court, South Bend, is due to begin on 17 May 1999, and will take at least a week. The trial proper is therefore not likely to start until 24 May at the earliest, and will probably take about three weeks. Gregory Dickens will turn 18 on 22 May.

Amnesty International does not condone the crime with which Gregory Dickens has been charged, or seek to make any judgment whatsoever on his guilt or innocence. It is seeking only to prevent a violation of international law.

BACKGROUND INFORMATION

The International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC) are two international treaties banning the use of the death penalty against those under 18 at the time of the crime. This principle is now so widely accepted, and adhered to, that it has become a principle of customary international law, binding on countries no matter which international instruments they have or have not ratified.

The USA attempts to justify its use of the death penalty against juvenile offenders by reference to its having reserved the right to continue this practice when it ratified the ICCPR in 1992. The UN Human Rights Committee, the expert body set up to monitor countries' compliance with the ICCPR, has stated that the reservation should be withdrawn as it contravenes the object and purpose of the treaty. In 1998, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions reiterated this view and stated that the US reservation should be considered void.

International standards ban the death penalty against children, not to excuse their crimes, but in recognition of their immaturity and potential for change. The global consensus on this issue has been overwhelmingly confirmed by ratifications of the CRC. Only two countries - the USA and Somalia - have failed to ratify it, and none of the 191 countries which have ratified it has lodged a reservation to article 37(a) which forbids the death penalty against those under 18 at the time of the crime.

Since 1990 there have been 19 known executions of juvenile offenders in six countries. Nine were carried out in Iran, Nigeria, Pakistan, Saudi Arabia and Yemen (which has since amended its laws to exempt child offenders from the death penalty), while the other 10, including the only four in the past 18 months, have taken place in the USA. Most recently, Sean Sellers was executed in Oklahoma on 4 February 1999 for crimes committed at 16. On 16 June 1999 Chris Thomas is scheduled to be executed in Virginia for a crime committed at 17 (see UA 105/99, AMR 51/77/99, 12 May 1999).

Over 70 people are on US death rows for crimes committed when they were 16 or 17. The US Supreme Court has set 16 as the minimum age for death penalty eligibility, although some legislators and prosecutors have recently sought to undermine this minimum (see *On the Wrong Side of History: Children and the Death Penalty in the USA*, AMR 51/58/98, October 1998).

The US federal government is the authority ultimately responsible for ensuring nationwide adherence to the country's international obligations.

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

- expressing sympathy for the family of Police Corporal Paul Deguch, and stating that you have no views on the guilt or innocence of Gregory Dickens Jr, and do not condone the crime of which he is accused;
- expressing concern, however, that St Joseph County, Indiana, is seeking the death penalty against Gregory Dickens Jr, in violation of the global ban on the use of the death penalty against those who were under 18 at the time of the crime;
- explaining that this ban is now so widely recognized and adhered to worldwide that it has become a principle of customary international law, binding on all countries regardless of their international ratifications;
- pointing out that it is neither the legal right of individual US states, nor of the US federal government, to allow such use of the death penalty;
- + **to deputy prosecutor:** urging that the prosecution drop their pursuit of the death penalty against Gregory Dickens Jr.
- + **to federal addressees:** urging the federal authorities to intervene to stop this imminent violation of the USA's international obligations.

APPEALS TO:

The Honorable Scott Duerring, Deputy Prosecutor of St Joseph County, 10th Floor, County-City Building, South Bend, IN 46601, USA. **Fax: +1 219 235 9761**
Salutation: Dear Deputy Prosecutor (*note: he is prosecuting this case*)

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

The Honorable Janet Reno, Attorney General, Department of Justice, 950 Pennsylvania Ave, N.W., Room 440, Washington, DC 20530, USA. **Fax: +1 202**

514 4371. Salutation: Dear Attorney General

COPIES TO:

The Honorable Chris Toth, Prosecutor of St Joseph County, 10th Floor, County-City Building, South Bend, IN 46601, USA. **Fax: +1 219 235 9761** (*Note: Head of the Prosecutor's Office, Chris Toth was elected in November 1998, so inherited this case from previous Prosecutor*).

The Honorable Jeffrey A. Modisett, Attorney General of Indiana, Office of the Attorney General, Indiana Government Center South, 5th Floor, 402 West Washington St., Indianapolis, IN 46204, USA. **Fax: +1 317 232 7979**

and to diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.