

# URGENT ACTION



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*Note: Please write on behalf of these persons even though you may not have received the original UA when issued on April 28, 2010. Thanks!*

20 April 2011

Further information on UA 97/10 (28 April 2010) and follow-ups (10 August 2010 and 07 January 2010) – Legal concern/Juvenile at risk of life without parole

USA Jordan Brown (m)

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The Pennsylvania Superior Court has ruled against a lower court decision not to transfer Jordan Brown's case to juvenile court for trial and has ordered a new transfer hearing. The Acting State Attorney General, who had until 10 April to appeal the ruling, did not do so. He should now drop his pursuit of an adult trial for Jordan Brown.

On 11 March, the Pennsylvania Superior Court vacated a decision to try Jordan Brown in an adult court and asked the lower court to re-examine whether his case should be transferred to a juvenile court. This provides the Acting Attorney General with a clear opportunity to reverse his position and argue in favour of a juvenile trial for Jordan Brown. If tried in an adult court and convicted of first-degree murder, Jordan Brown would be 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.

The lower court judge had concluded that Jordan Brown failed to prove he could be rehabilitated and treated within the juvenile system, since he did not admit guilt or accept responsibility for the crime with which he has been charged. Jordan Brown's lawyers appealed the decision, arguing that the way in which the judge had reached his conclusion had violated the boy's right not to incriminate himself. In its decision on 11 March, the Pennsylvania Superior Court agreed with the lawyers' arguments.

Jordan Brown, who was 11 at the time of the crime, 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.

## **BACKGROUND INFORMATION**

A life without parole sentence 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 clearly is 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

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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 offense 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. 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: a joint Human Rights Watch/Amnesty International Report <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.

**RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible:**

- Explain that you are not seeking to excuse the killing of Kenzie Houk;
- Highlight 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;
- Welcome the state’s decision not to appeal the Superior Court’s ruling;
- Call on the prosecution to meet its international obligation to ensure that Jordan Brown not be sentenced to life imprisonment without parole;
- Urge the prosecution to take the opportunity of the new transfer hearing to reconsider its position and drop its pursuit of a trial in an adult court.

**APPEALS TO:**

**Acting Pennsylvania Attorney General**

William H. Ryan Jr.  
Pennsylvania Office of Attorney General  
16th Floor, Strawberry Square  
Harrisburg, PA 17120

**Fax:** 1 717 787 8242

**Email:**

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

**Salutation:** Dear Acting Attorney General

**COPIES TO:**

**Jordan Brown’s lawyer**

David H. Acker, Esquire  
414 N. Jefferson Street  
New Castle, PA 16101

**Email:**

**David\_Acker\_Attorneyatlaw@hotmail.com**

**Salutation:** Dear Mr. Acker

**PLEASE SEND APPEALS IMMEDIATELY.**

**Check with the AIUSA Urgent Action office if sending appeals after 1 June 2011.**