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WA 6931
3 December 2010

Hon Delia Lawrie
Minister for Justice and Attorney-General
NT Legislative Assembly
GPO Box 3146
Darwin
NT 0801

Dear Ms Lawrie,

Thank you for your reply of 13th October, 2010, concerning the sentence given to Kyle Horace of Rapid Creek. I have passed on a copy of your reply to Kyle's elderly grandmother, Mavis Waddell, of Rapid Creek, and sent a copy of your reply to Kyle in Berrimah Prison. Mavis has campaigned tirelessly for justice for her grandson since he was sentenced by Chief Justice Brian Martin in March, 2006, at great cost to her health, and I fear your reply will be most discouraging to her. Mavis and other members of the Kyle support group are Darwin electors and I believe that they deserve a better hearing from you as the Minister for Justice and Attorney-General.

Ms Lawrie, as a representative of the people of the northern suburbs you have shown little sympathy for Kyle or his family. For example, in your reply you correctly note that the sentence was not appealed. However, rather than an indication of Kyle's guilt as you imply, the fact that the sentence was not appealed is an indication of the inadequacies of the Northern Territory justice system, as was his inadequate defence by Alan Woodcock. My essays on the Kyle Horace case appear at <http://www.drbilldayanthropologist.com> list in lengthy detail the many reasons for an appeal in the case.

For one, Kyle was a 15-year-old boy at the time; however, he was not tried until he was almost 19. And yet you state in your reply that 'the maximum penalty for those offences is life imprisonment'. This remark is extremely hurtful. For what offences do the courts give life imprisonment for a 15-year-old boy? For multiple murders? Kyle stood in the dock as a fully grown man after living freely in Darwin for 3½ years. In that time he came to the notice of the police only for minor infringements, not of a sexual nature. How was it that a supposedly violent sex offender facing life imprisonment (as you state) was free to wander the Darwin streets for 3½ years, and yet committed no chargeable offence? Even the judge was surprised that Kyle had spent no time in custody until the end of his trial, which had been delayed for over two years due to police incompetence.

Kyle went to court to be judged as a grown man for an offence which occurred between two juveniles (and the evidence suggests it was the very common 'offence' of clumsy consensual sex between juveniles). The prejudice of a case that belonged in the Children's Court is illustrated by the **ABC Online** report which still has the headline, "**Man Jailed for Raping 13-year-old Girl**" (22 March 2007). The report continues: www.abc.net.au/news/newsitems/200703/s1878752.htm

An **18-year-old Darwin man** will spend at least five years in prison after **raping a 13-year-old girl** in May 2003. Kyle Horace was found guilty by a Northern Territory Supreme Court of **three counts of unlawful sexual intercourse** without consent. In sentencing today, the court heard Horace raped the girl in the grounds of a Darwin primary school after he approached her asking for directions. **He was 15 years old at the time.**

As another example of the prejudice towards Kyle, your reply of 13 October last and the above report state that Kyle was found guilty of 'three counts of sexual intercourse'. In fact he was found guilty of 'three counts of penetration', which in my understanding is not the same thing. There was absolutely no evidence of oral penetration and little evidence for the other counts. Three witnesses contradicted the complainant's evidence, some of which she 'recalled' years later.

I have known Kyle since he was 12 years old and visit him regularly in Berrimah prison. I was a friend of his grandfather Norman Horace, back in the 1970s. Since I heard of this case, I have been campaigning for his release or retrial. Every month that passes I become more convinced than ever that this is a **racial** and **political** case. Unfortunately for Kyle he appeared before the Chief Justice immediately after the judge had been criticised in the media for sentencing an Aboriginal man to three months for the anal rape of a 13-year-old girl.

Because you are a politician, I would have thought you would have more understanding the above situation. As the Member for Karama, I would have thought you would show more interest in the plight of Kyle's family and friends who are convinced of his innocence and the injustice of the case. As the Attorney-General you might have the power to do something about it, rather than to spout legalities from the rule book.

Yours sincerely,

William B Day

Consulting Anthropologist