

# Pennsylvania 10-year-old still behind bars on murder charge

**Tom Eley****23 October 2014**

Ten-year-old Tristin Kurilla remains locked away in a solitary county jail cell in Northeastern Pennsylvania for the killing of 90-year-old Helen Novak on October 11. He is being held in Wayne County Correctional Facility at Honesdale, separated from the adult population, pending a court hearing that was scheduled to take place yesterday. No new information was available as of publication.

Kurilla stands accused of killing Helen Novak while both were in the care of his grandfather, Anthony Virbitsky. In a confession gathered by a state trooper on the day of the death, the boy said that he held a cane around the elderly woman's neck and punched her repeatedly. She showed no visible signs of injury, the grandfather said, and even declined medical attention, but died later from blunt force trauma, an autopsy found.

Kurilla's mother, Martha Virbitsky, took the boy to the state police barracks near Honesdale, outside of Scranton, Pennsylvania, after returning from work that Saturday. Trooper John Decker said he read the boy his rights prior to the confession, which took place with no one else in the room. In the affidavit, Tristin said he "was only trying to hurt" Novak.

State District Attorney Janine Edwards charged him as an adult with murder because Pennsylvania state law does not allow the charge of premeditated homicide to be leveled against a child. Edwards has not explained why she did not charge him with a lesser offense such as voluntary manslaughter. The case has since been handed over to the state attorney general because one of Kurilla's relatives is employed in the district attorney's office.

The murder charge has had the double effect of disallowing Tristin's placement in a juvenile detention center, which will not hold murder suspects. Instead, he

has been jailed in an adult prison and held without bail for 12 days and counting. He has been given a few items for his entertainment, including video games and coloring books, and has been allowed occasions to speak on the phone with his family.

He has also been separated from the general prison population. This is tantamount to solitary confinement, which is considered a form of torture. Solitary confinement is defined by one legal dictionary as taking place "when a person is placed away from other inmates" either as punishment or for the alleged protection of the separated prisoner.

Tristin's parents evidently feel they cannot take the child home, because their attorney, Bernard Brown, has withdrawn a motion to have him released to parental custody. Brown cited the parents' concerns over their ability to continue with their jobs while caring for Tristin.

Both Tristin's mother and the attorney have indicated that the child is in need of psychological help. There has been no report that he is receiving such treatment, or even counseling, in the county jail. A psychological evaluation has been requested by the family, but there is no report that this has taken place.

His parents' decision to leave him in jail raises the question as to whether or not Tristin Kurilla is receiving adequate legal assistance. Martha Virbitsky also waived her child's right to an attorney prior to his interrogation on October 11, and reportedly insisted that the state trooper speak to Tristin alone.

Al Flora, a former chief public defender in neighboring Luzerne County, told the *Citizens Voice* of Wilkes-Barre that a parent cannot simply waive a child's right to an attorney. "The defense can probably raise the argument the statement was not given voluntarily, it was compelled in conjunction with the

mother," Flora said, adding that it is doubtful that a child can even be held as competent to waive his own right to an attorney.

Earlier, the family's attorney raised the possibility that the confession was coerced. "It seems there was some intimidation," Brown told a reporter. "You can see through the writing of the affidavit, they seem to be double backing and re-interviewing Tristin or his family."

Last week, guards executed a search warrant of the child's cell. They found there a scrap of paper with the words "how to escape" spelled out on it, according to local news sources. Also found were three letters telling family members "that the prison food was good and that he loved them," reports say.

The Scranton *Times Tribune* described Tristin's first court appearance last Wednesday in the following terms: "Appearing by video conference... the small boy was wearing an orange jump suit as he appeared on the screen in the Wayne County Courthouse. He sat quietly with his head in his hands and stared at the camera."

The family's attorney has said that Tristin "doesn't have an idea of what is going on." In one instance, the boy told his attorney that the prison jumpsuit was like "a Halloween costume he would probably never wear."

It is an indictment of Pennsylvania's entire political establishment that the child remains behind bars.

"It's ridiculous," Marsha Levick, deputy director and chief counsel of the Juvenile Law Center, told news program "48 Hours' Crimesider." She said, "The idea of prescribing criminal responsibility to a 10-year-old defies all logic," adding that even teenagers and adolescents "are still developing and they're developmentally immature. Multiply that for a 10-year-old."

According to the Juvenile Law Center, youth held in adult prisons are more likely to be sexually abused and 36 times more likely to commit suicide.

The Pennsylvania Attorney General's Office has declined to say whether or not the state would seek to prosecute Tristin Kurilla as an adult.



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