

# Pennsylvania fifth grader still in prison

Tom Eley  
3 November 2014

Ten-year-old Tristin Kurilla has now been held in a solitary prison cell at Honesdale, Pennsylvania, for over three weeks. Charged as an adult, Kurilla is accused of murder in the October 11 killing of 90-year-old Helen Novak at his grandfather's home near Scranton.

There is no indication that he will be released or moved to a juvenile facility any time soon. A representative for the Pennsylvania Attorney General's office, which is trying the case, told the *World Socialist Web Site* that no determination has been made as to whether or not the boy will be prosecuted as an adult—in which case he could face life imprisonment. The next court date is a preliminary hearing scheduled for November 19.

The *World Socialist Web Site* was able to confirm that the child is still being held in isolation at the Wayne County Correctional Facility. The prison's "Right to Know" Officer was unavailable for comment, but a prison employee said that Kurilla is occasionally visited by his parents. He has access to coloring books, television, and is "getting schooling," the employee said. There has been a psychological evaluation, but details were not forthcoming.

Kurilla is charged on the basis of his own confession, gathered without the presence of an attorney. State Trooper John Decker took the affidavit, allegedly at the insistence of Martha Virbitsky, the boy's mother. Kurilla said he did not intend to kill Novak. He was nonetheless charged as an adult with first degree murder.

Within days of his imprisonment, the family's attorney, Bernard J. Brown, withdrew a request to the county court that the boy be released to parental custody. Brown indicated that the boy's parents felt that they could not adequately care for him, citing their work obligations and Tristin Kurilla's psychological condition, which reportedly has never been professionally diagnosed or treated.

Last week, Brown withdrew himself as Kurilla's attorney. The boy is now being represented by the Wayne County Public Defender, Scott Bennett. Neither Bennett nor Brown returned calls seeking comment, though the State Attorney General's Office confirmed that no motion to move the case to juvenile court has been filed since Bennett assumed the case.

The case has also been dropped by the media, the last local or national article appearing on October 24.

Kurilla is accused of killing Helen Novak while both were under the supervision of his grandfather, Anthony Virbitsky. Kurilla's mother was away at work when the boy allegedly physically attacked the elderly woman, punching her and holding a cane over her throat. She declined medical attention, but died of internal trauma, an autopsy found.

State Trooper Decker claims to have read the boy and his mother Miranda rights before gathering a self-incriminating statement from him. District Attorney Janine Edwards then charged him as an adult with murder because Pennsylvania state law does not allow the charge of homicide to be leveled against a child.

Pennsylvania's imprisonment of Tristin Kurilla is a violation of an elementary principle of human rights. According to Section IV, Part C of the *United Nations Convention on the Rights of the Child*, "Children who commit an offence at an age below that minimum cannot be held responsible in a penal law procedure." The Convention suggests an age of 14 or 16 as ideal, but insists that no child below the age of 12 can be held criminally culpable. Only the US and Somalia have refused to sign.

The US is the only country in the world that routinely sentences minors to life sentences without parole, according to Amnesty International.

On Friday, while millions of American children his age dressed up and went trick-or-treating for Halloween, Kurilla spent his 21st night alone in jail.

Days after his imprisonment it was reported that Kurilla described his orange prison jump suit was a Halloween costume “that he would probably never wear.”

Other evidence has emerged that the child has little or no comprehension of his confinement. Given coloring books, a search of his prison cell found that he had scribbled on one sheet of paper the words “How to escape” along with undelivered letters to his family asking them not to worry about him.

“It is delusional to think that a 10-year-old has any idea—except as a fantastical TV or cartoon image—about what is going on in the court proceedings swirling around him,” wrote Marsha Levick of the Juvenile Law Center. “Our Constitution requires that criminal defendants have specific competencies to understand the charges against them, understand the roles of the various parties in court, and be able to assist their counsel in preparing a defense or making decisions about trial strategy.

“To give a coloring book to a child inmate... confirms, in that simple gesture, the wrongheaded thinking behind a law that would allow the adult confinement and prosecution of a 10-year-old child.”



To contact the WSWWS and the  
Socialist Equality Party visit:

**[wsws.org/contact](https://wsws.org/contact)**