

URGENT ACTION

EXECUTION SET DESPITE DIAGNOSIS OF SCHIZOPHRENIA

Bruce Ward is scheduled to be executed in Arkansas on 17 April. He has been diagnosed with paranoid schizophrenia. In custody since 1989, he has been on death row for nearly 25 years. Thirty-two years old at the time of the crime, he is now aged 60.

On 11 August 1989, a police officer found the body of 18-year-old Rebecca Doss at a service station in Little Rock, Arkansas, where she worked. **Bruce Ward** was sentenced to death for the murder a year later, on 18 October 1990. His sentence was twice overturned because of errors. At a third sentencing proceeding in October 1997, Bruce Ward was again condemned to death. Prior to this sentencing, his lawyer asked for a stay because Bruce Ward's mental condition had "deteriorated to the point that he cannot or will not cooperate with present counsel". He was sent to the state hospital where he refused to submit to any evaluation. He was not provided an independent examination, the sentencing proceeded, and Bruce Ward was again, in 1997, sentenced to death.

The 1986 US Supreme Court decision, *Ford v. Wainwright*, bans the execution of prisoners who are mentally incompetent, that is, those who cannot understand the reason for or reality of their punishment. In 2007, in *Panetti v. Quarterman*, the Supreme Court elaborated that under *Ford*, "A prisoner's awareness of the State's rationale for an execution is not the same as a rational understanding of it. Gross delusions stemming from a severe mental disorder may put an awareness of a link between a crime and its punishment in a context so far removed from reality that the punishment can serve no proper purpose".

Bruce Ward has spent over 25 years on death row, the majority of that time in solitary confinement. According to his lawyers, his mental state has continued to deteriorate, and includes a firm belief that his lawyers are part of a conspiracy against him. In 2006, 2010, 2011 and in 2015, a doctor retained by his appeal lawyers diagnosed Bruce Ward with paranoid schizophrenia. The doctor described his persecutory and grandiose delusions, including that he is the victim of a broad conspiracy to frame him for crimes he did not commit and that he "is destined for some greater purpose and that his execution will never be completed. Instead he believes he eventually will be exonerated and go on to great fortune and have many children". The doctor concluded that while Bruce Ward has a "literal knowledge he has been sentenced to death" it is "compromised by delusional beliefs and distortions resulting from a mental disease, Schizophrenia, Paranoid Type." The doctor concluded that Bruce Ward "does not have a rational understanding of his death sentence". His review of the records also led him to conclude that Bruce Ward had been suffering from paranoid schizophrenia at the 1990 trial and at the 1997 resentencing, and had deprived him of a rational understanding of the proceedings and the ability to assist effectively in his defence.

Please write immediately in English or your own language:

- Calling for clemency for Bruce Ward and for his death sentence to be commuted;
- Noting that Bruce Ward has been diagnosed with the serious mental disability of paranoid schizophrenia, with the same doctor concluding that the prisoner did not have a rational understanding of his punishment;
- Explaining that you are not seeking to condone violent crime or to downplay its consequences.

PLEASE SEND APPEALS BEFORE 17 APRIL 2017 TO:

The Honorable Asa Hutchinson
Governor of the State of Arkansas

State Capitol, Suite 250, , 500 Woodlane St, Little Rock, AR 72201, USA
Fax: +1 501 682 3597

Email: <http://governor.arkansas.gov/contact-info/> (NB this requires an address in the USA, please use AIUSA's address: 600 Pennsylvania Ave. SE, 5th Floor, Washington D.C., Zip code: 20003; Telephone: 202 544 0200)

Salutation: Dear Governor

Also send copies to diplomatic representatives accredited to your country. MR. LEWIS LUKENS, Chargé d'Affaires ad interim, American Embassy, 24 Grosvenor Square, London W1A 6AE, tel: 020 7499 9000. Salutation: Dear Mr. Lukens
Please check with your section office if sending appeals after the above date.

AMNESTY
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ADDITIONAL INFORMATION

International law and standards on the use of the death penalty clearly state that it may not be imposed or carried out on people with mental or intellectual disabilities. This applies whether the disability was relevant at the time of their alleged commission of the crime or developed after the person was sentenced to death.

In its *Panetti v. Quarterman* ruling, the US Supreme Court noted that “a concept like rational understanding is difficult to define”. In its 1986 *Ford v. Wainwright* ruling, four of the Justices had similarly noted that the evidence of whether a prisoner is incompetent for execution “will always be imprecise”. A fifth Justice had added that “unlike issues of historical fact, the question of [a] petitioner’s sanity calls for a basically subjective judgment.” For many people, one of the reasons to stop executions and to abolish the death penalty is precisely because of the impossibility of removing subjectivity and human error from an irrevocable punishment. At the same time, the power of executive clemency exists to compensate for errors and injustices that have not been remedied by the courts. In Arkansas, the Governor has independent clemency authority even without a clemency recommendation from the parole board.

When the Arkansas Supreme Court overturned Bruce Ward’s original death sentence in 1992, three of the seven judges dissented from the decision to uphold his conviction, arguing that judicial bias had rendered his trial unfair. A judge “should manifest the most impartial fairness in the conduct of a trial, especially in a capital case”, pointing to how the judge at Bruce Ward’s trial had “seemed to delight in denying the defense the opportunity to approach the bench” that he had provided to the prosecution. Here, the dissenting judges wrote, “it was manifest to the jurors that the defense attorneys were not treated the same as the prosecuting attorneys” and that this “might well have prejudiced the jurors against defense counsel”. However, they were in the minority and the 1990 conviction stands today. On appeal, the claim that Bruce Ward’s trial lawyer was ineffective for failing to seek the recusal of judge at the 1990 trial has been rejected. In 2005, the federal District Court dismissed the claim under the deferential standard federal courts have to give state court decisions under US law, adding that while the “record is filled with examples of the trial judge’s sarcasm and at times dislike for both the prosecution and defense”, they did “not rise to the level of an unfair trial”.

Like many states, Arkansas has faced problems sourcing chemicals for its lethal injection protocols and implementing protocols that courts find constitutional. On 23 June 2016, the Arkansas Supreme Court upheld the state’s three-drug execution protocol, which uses a barbiturate or midazolam as a sedative, vecuronium bromide as a paralytic agent, and potassium chloride to induce fatal cardiac arrest. After the US Supreme Court declined to intervene in February 2017, Governor Hutchinson set execution dates for the eight men on whose behalf the legal challenge to the protocol had been brought: Bruce Ward and Don Davis on 17 April; Ledelle Lee and Stacey Johnson on 20 April; Marcel Williams and Jack Jones on 24 April, and Jason McGehee and Kenneth Williams on 27 April. See <https://www.amnesty.org/en/documents/amr51/5816/2017/en/>.

There have been six executions in the USA this year, bringing to 1,448 the total since judicial killing resumed in the USA in 1977 under new capital statutes approved by the US Supreme Court in 1976. The last execution in Arkansas – its 27th since 1977 – was carried out in 2005. Amnesty International opposes the death penalty in all countries and all cases, unconditionally. Today some 141 countries are abolitionist in law or practice.