

URGENT ACTION

STAY OF EXECUTION FOR BRUCE WARD IN ARKANSAS

Bruce Ward, who was due to be put to death on 17 April in Arkansas, received a stay of execution. His lawyers maintain that his mental disability deprives him of a rational understanding of his punishment, rendering his execution unconstitutional.

Bruce Ward was one of two men who had been scheduled for execution in Arkansas on 17 April and one of eight scheduled to be put to death in an 11-day period between 17 and 27 April. Litigation challenging the Arkansas lethal injection procedures led to a preliminary injunction order being issued by a federal judge on 15 April, which would have prevented the state from conducting any of the eight executions while that litigation continued. However, on 17 April the US Court of Appeals for the Eighth Circuit overturned the order by a vote of seven to one and granted the state's motion to vacate the stays of execution.

On 29 March, lawyers for Bruce Ward had filed a complaint in trial level court arguing that his execution would violate the constitution as a result of paranoid schizophrenia, a serious mental disability with which he has repeatedly been diagnosed. 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". Along with the petition, Bruce Ward's lawyers submitted hundreds of pages of supporting evidence, including psychological reports, affidavits from his previous lawyers, and prison medical records.

On 31 March, the state filed a motion asking that its expert be allowed to observe an evaluation due to be conducted on 1 April by the doctor retained by the defence. The judge entered an order allowing the state to videotape the session. Bruce Ward's lawyers objected on the grounds that their expert did not consider that he could ethically conduct the evaluation under such circumstances, given his obligation to inform Bruce Ward of them and given his "profound state of delusion and paranoia". After further litigation, on 13 April the court issued a one-page order dismissing the case. Bruce Ward's lawyers immediately filed an emergency petition in the Arkansas Supreme Court seeking a stay of execution. On 14 April, the Court granted the stay, by a vote of four to three.

On 15 April, the state filed an emergency motion in the Arkansas Supreme Court asking it to reconsider the stay of execution. On 17 April, the Court reaffirmed the stay of execution. In addition, as it did in the case of the other prisoner who had been scheduled for execution on 17 April (Don Davis), the Arkansas Supreme Court issued a stay of execution pending the US Supreme Court's decision in an Alabama death penalty case pending before it, and due for oral argument on 24 April. That case centres on whether the Supreme Court's 1985 decision *Ake v. Oklahoma*, which established that an indigent defendant is entitled to meaningful expert assistance at trial, requires that the expert be independent of the prosecution. It is alleged in the cases of both Bruce Ward and Don Davis, they were denied the expert psychiatric assistance to develop mitigating evidence for their trials.

No further action by the UA Network is requested at present. Many thanks to all who sent appeals

This is the first update of UA 66/17. Further information: www.amnesty.org/en/documents/amr51/5946/2017/en/

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