

URGENT ACTION

TEXAS APPEAL COURT BLOCKS EXECUTION

On 7 April, the Texas Court of Criminal Appeals issued a stay of execution in the case of Paul Storey, who was scheduled to be put to death on 12 April. The case has been remanded to a lower court for further review of the claim that the prosecution presented false evidence at the trial.

On 31 March, lawyers for **Paul Storey** filed a petition in the trial level court in Tarrant County and in the Texas Court of Criminal Appeals. In it, they argued that at Paul Storey's 2008 trial for the 2006 murder of Jonas Cherry the prosecution had presented aggravating evidence it knew to be false and by suppressing mitigating evidence.

At the sentencing phase of the trial, the prosecutor had argued to the jury that while the defendant's "whole family got up here yesterday and pled for you to spare his life", it "should go without saying that all of Jonas [Cherry's] family and everyone who loved him believe the death penalty is appropriate". The new petition asserted that the parents of Jonas Cherry "were adamantly opposed to the death penalty for Mr Storey, and had communicated their strong opposition to the prosecutors months before the trial began". Given this, the prosecutor's argument to the jury "was both inaccurate and highly prejudicial". Paul Storey's trial lawyer, the petition continues, "was completely unaware that the prosecution's argument was false". He has signed an affidavit to this effect and said that if the prosecutor's argument was "in fact untruthful", then it was "particularly egregious and harmful to Mr Storey" because a large part of the mitigation case had "consisted of pleas from his family to spare him". The lawyer said that, had he known the statement was false, he would have "definitely objected to the statement as being untruthful and misleading to the jury".

In an order issued on 7 April, the Texas Court of Criminal Appeals (TCCA) issued a stay of execution. However, it said that the record was insufficient to establish whether lawyers for Paul Storey could have discovered the evidence earlier. The TCCA therefore remanded the case to the trial court for it to "develop the record" and to decide whether the information could have been ascertainable. If it decided that it could not have been found earlier through "the exercise of reasonable diligence", then the trial court should review the merits of the claims.

In a letter to the authorities in February 2017, Jonas Cherry's parents wrote to the authorities calling for commutation of the death sentence. They also made a video, explaining that "we absolutely do not want Paul Storey to be executed for the murder of our son and request that he be given life in prison without possibility of parole." His mother stated that "it pains us to think that due to our son's death, another person will be purposefully put to death", causing another family to suffer. She said that "An execution will not bring closure to us regarding the death of Jonas and will bring us more pain".

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

This is the first update of UA 72/17. Further information: www.amnesty.org/en/documents/amr51/5988/2017/en/

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