URGENT ACTION

SUPREME COURT BLOCKS EXECUTION IN ALABAMA

The US Supreme Court granted a stay of execution in the case of Vernon Madison who was scheduled to be executed in Alabama on the evening of 25 January. The stay is to allow the Court time to decide whether to review the claim that Vernon Madison is not "competent" for execution due to his mental disability.

Vernon Madison, aged 67, was scheduled to be executed at 6pm on 25 January for the murder of Julius Schulte, a police officer, on 18 April 1985. Three decades after the crime, Vernon Madison has diabetes and chronic hypertension, is blind, cannot walk independently, is incontinent as a result of brain damage, and has slurred speech. He has suffered a number of strokes, most recently in May 2015 and January 2016. After each of these last two strokes, he exhibited signs of memory loss, as well as confusion, disorientation and difficulty communicating. His condition continues to decline.

In 2016, a trial-level judge agreed to hold a hearing into Vernon Madison's competency for execution – that is, whether he has a rational understanding of the reality of and reason for his punishment. A neuropsychologist retained by the defence concluded that the Vernon Madison had experienced "significant cognitive decline" because of his strokes, was operating in the borderline range of intelligence and with an IQ of 72, and had a "very substantial deficit" in memory. He diagnosed Vernon Madison with vascular dementia characterized by retrograde amnesia, and found that the prisoner could not remember the murder of Julius Schulte and did not believe he had killed anyone. However, a court-appointed psychologist concluded that despite his cognitive deficits Vernon Madison was competent for execution, which the judge accepted.

In March 2017, the US Court of Appeals for the 11th Circuit found that the court-appointed expert's assessment was inadequate and that the judge's decision was "plainly unreasonable" and therefore not owed the deference required under the 1996 Antiterrorism and Effective Death Penalty Act (AEDPA) limiting federal judicial review of state court decisions. The two judges in the majority held that "on the record before us it is uncontroverted that, due to his mental condition, Mr Madison has no memory of his capital offense". They concluded that "due to his dementia and related memory impairments, Mr Madison lacks a rational understanding of the link between his crime and his execution" and therefore "is incompetent to be executed". The third judge agreed that Vernon Madison was incompetent. On 6 November 2017, the US Supreme Court reversed the 11th Circuit's decision, on the grounds that under the AEDPA's "deferential standard", "Madison's claim to federal habeas relief must fail". The Court said that it was expressing "no view on the merits of the underlying question" of his competence for execution.

That question is now before the Supreme Court. Thirty minutes before the execution was due to be carried out, it issued a temporary stay. About two hours after that the Court granted the application for a stay pending its decision on whether to agree to review the petition filed by Vernon Madison's lawyers. If it decides not to take the case, the "stay shall terminate automatically". If it agrees to take the case, the stay will remain in effect until the Court issues its ruling. The order stated that three Justices, Justice Clarence Thomas, Justice Samuel Alito, and Justice Neil Gorsuch did not agree with the stay of execution.

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 11/18. Further information: www.amnesty.org/en/documents/amr51/7752/2018/en/

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