

URGENT ACTION

TEXAS COURT STAYS EXECUTION OF JONATHAN GREEN

On 30 June, the Texas Court of Criminal Appeals stayed the execution of Jonathan Marcus Green less than four hours before it was due to be carried out. The stay was in order to allow the court to consider legal questions relating to his mental “competence” for execution.

Jonathan Marcus Green, aged 42, was sentenced to death in 2002 for the murder of 12-year-old Christina Neal in 2000. In an appeal filed in federal District Court in 2007, Jonathan Marcus Green’s lawyers argued that he was suffering from a serious mental disorder and was “actively psychotic”, experiencing a variety of hallucinations as well as paranoia. The appeal stated that Jonathan Marcus Green was convinced that he would be set free if only his current lawyers would present a judge with certain papers in the possession of his former lawyers. The appeal continued that “Mr Green believes that he is the victim of, or pawn in, some sort of game” involving guards and other prisoners on death row. In her decision in February 2008 upholding the death sentence, the US District Court Judge ruled that there was no categorical prohibition on the execution of people with mental illness under US law, and that the claim that Green was incompetent for execution (that he did not comprehend the reason for his punishment) could not be ruled upon until his execution was imminent. The US Court of Appeals for the Fifth Circuit later echoed this in its decision.

In 1986, in *Ford v. Wainwright*, the US Supreme Court ruled that the execution of an insane prisoner violates the US Constitution. In practice, this ruling has offered minimal protection for people with serious mental illness at the time of their execution (see USA: The execution of mentally ill offenders, January 2006, <http://www.amnesty.org/en/library/info/AMR51/003/2006/en>). In June 2007, in *Panetti v. Quarterman*, the US Supreme Court issued a decision in another Texas case which should somewhat increase the protection provided under *Ford* (See USA: Supreme Court tightens the standard on “competence” for execution, 29 June 2007 (<http://www.amnesty.org/en/library/info/AMR51/114/2007/en>)).

After a hearing on 28 June 2010, a Texas trial court judge ruled that Jonathan Green’s lawyers had not established by a “preponderance of the evidence” that he was incompetent to be executed. This ruling was forwarded to the Texas Court of Criminal Appeals (TCCA) for review. Less than four hours before the execution was due to be carried out on 30 June, the TCCA granted a stay. It ordered the parties to submit briefs to it within 15 days addressing the question of whether a *Ford* competence claim can be brought in a habeas corpus petition under the Texas Code of Criminal Procedure. In a separate order, the TCCA also ordered the trial court judge within 15 days to clarify in writing “the standard she followed in making her determination” on Jonathan Green’s competence for execution.

There have been 30 executions in the USA this year, 14 of them in Texas. There have now been 1,218 executions in the USA since judicial killing resumed there in 1977. Texas accounts for 461 of these executions.

No further action is requested at present. If the TCCA rules against Jonathan Green, Texas is likely to set another execution date, in which case we would call for more appeals. Many thanks to all who have taken action.

This is the First update of UA 112/10 (AMR 51/038/2010) <http://www.amnesty.org/en/library/info/AMR51/038/2010/en>
Further Information on UA: 112/10 Index: AMR 51/055/2010 Issue Date: 02 July 2010

**AMNESTY
INTERNATIONAL**

