

URGENT ACTION

CLEMENCY DENIED, MISSOURI EXECUTION GOES AHEAD

Andre Cole was executed in Missouri on 14 April, for the murder of Anthony Curtis in 1998. He had been sentenced to death in 2001.

Among other legal challenges, **Andre Cole's** lawyers had claimed that he was mentally incompetent for execution under US constitutional law. They filed affidavits with the Missouri Supreme Court stating that his mental condition had deteriorated in recent years, and including a psychiatric report which concluded that Andre Cole was "depressed with prominent symptoms of psychosis". The psychiatrist asserted that Andre Cole's "hallucinations have compromised his understanding to the point he has gross delusions which prevent him from comprehending or forming a rational understanding of the reason for the execution to which he has been sentenced". The lawyers asked for an evidentiary hearing to have their client's competence adjudicated. The state Supreme Court denied the request on 9 April, by four votes to three. The three dissenting judges argued that the lawyers had made a "threshold showing of incompetence" and that an evidentiary hearing should be held "to determine whether Mr Cole's current mental capacity bars his execution".

The case went to the federal courts and a US District Court judge issued a stay of execution on 13 April, concluding that the Missouri Supreme Court had "denied Cole the process he is due for an adequate and fair determination of his competency". However, the stay was lifted the following day by the US Court of Appeals for the Eighth Circuit, by two votes to one. The dissenting judge argued that the execution should be stayed so that an evidentiary hearing on the competence question could be held.

On 14 April, the US Supreme Court refused to issue a stay of execution on the mental competence question and a number of other issues, and Governor Jay Nixon denied clemency. In a statement, Governor Nixon made no reference to the question of Andre Cole's mental competence or the claim of racially discriminatory jury selection tactics by the prosecution that had resulted in this African American man being sentenced to death by an all-white jury. The governor said: "I give both the process and power of clemency the respect and seriousness they deserve. My office has completed its review of the petition for clemency from convicted murderer Andre Cole, and after due consideration of the petition and of the facts in this case, I am denying his petition. There is no doubt of Cole's guilt in the murder of Anthony Curtis, whom he stabbed more than 20 times. Cole also attacked his ex-wife, Terri, at the same time, but she survived. This was a brutal crime, and my denial of clemency upholds the court's decision to impose a sentence of death. Tonight, I ask that the people of Missouri remember Anthony Curtis and keep his family in their thoughts and prayers."

Anthony Curtis's mother had opposed the execution, as had Andre Cole's ex-wife, who said that the execution would be "devastating" to her and their children. One of their sons had said: "If my father is executed, it will be devastating to my mother, my auntie, my uncle, my brother and to the rest of my dad's family".

There have been 1,406 executions in the USA since judicial killing resumed there in 1977. Missouri accounts for 83 of these executions. There have been 12 executions so far in the USA this year, three of them in Missouri.

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

Name: Andre Cole

Gender m/f: m

Further information on UA: 79/15 Index: AMR 51/1460/2015 Issue Date: 15 April 2015

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