

URGENT ACTION

TEXAS EXECUTES MAN DESPITE MENTAL DISABILITY

Marvin Wilson was executed in Texas on 7 August for a murder in 1992. The state clemency authorities and the US Supreme Court refused to intervene despite evidence that the level of his intellectual disability rendered his execution unconstitutional.

In 2002, the US Supreme Court, in *Atkins v. Virginia*, outlawed the execution of people with “mental retardation” under the Constitution’s ban on “cruel and unusual punishments”. The Court left it to individual states to decide how to comply with the ruling. Ten years later, the Texas legislature still has not enacted a law to do so. In the absence of such legislation, in 2004 the Texas Court of Criminal Appeals (TCCA) issued temporary guidelines, now known as the “Briseño factors” after the death row case in which they were developed. In 2003, **Marvin Wilson’s** lawyers challenged his death sentence under *Atkins*. In 2004, a court-appointed neuropsychologist with 22 years of clinical experience concluded that Wilson had mental retardation. The state presented no expert testimony to rebut this, but the state courts rejected the *Atkins* claim under the TCCA guidelines and the federal courts upheld this denial.

As the execution approached, the Texas Board of Pardons and Paroles voted 7-0 against clemency. Governor Rick Perry declined to intervene. A few hours before the execution the US Supreme Court had also refused to issue a stay. In response, the lawyer for Marvin Wilson issued a statement, expressing the defence team’s disappointment and adding: “It is outrageous that the state of Texas continues to utilize unscientific guidelines, called the Briseño factors, to determine which citizens with intellectual disability are exempt from execution. The Briseño factors are not scientific tools, they are the decayed remainder of an uninformed stereotype that has been widely discredited by the nation’s leading groups on intellectual disability, including the American Association on Intellectual and Developmental Disabilities. That neither the courts nor state officials have stopped this execution is not only a shocking failure of a once-promising constitutional commitment, it is also a reminder that, as a society, we haven’t come quite that far in understanding how so many of those around us live with intellectual disabilities.”

There have been 25 executions in the USA this year, seven of them in Texas. Since judicial killing resumed in the USA in 1977, there have been 1,302 executions nationwide, 484 of them in Texas.

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

This is the first update of UA 227/12. Further information: <http://www.amnesty.org/en/library/info/AMR51/071/2012/en>

Name: Marvin Wilson

Gender m/f: M