

URGENT ACTION

FEDERAL JUDGE BLOCKS OKLAHOMA EXECUTION

Jeffrey Matthews received a 60-day stay of execution from a federal judge on 17 August, a few hours before he was due to be put to death. This was his third stay of execution in three months.

US District Judge Stephen Friot granted the stay of execution after lawyers for Jeffrey Matthews filed an emergency motion on 17 August relating to the lethal injection procedure to be used in the execution scheduled for 6pm that day. The lawyers had learned in a telephone call the previous day from a state Assistant Attorney General that the Department of Corrections had been unable to obtain the sodium thiopental, the anaesthetic used under the state's lethal injection protocol. The lawyers were informed that for the execution of Jeffrey Matthews, the state intended to use another drug, Brevital, also known as methohexital. According to the motion, this drug has never been used by any state in any execution, and the lawyers characterized the state's intention to use it on their client as "nothing more than experimental." Their motion argued that the "last-minute variation from their protocols creates a risk that Mr Matthews will incur unnecessary conscious suffering and pain during his execution."

The motion also questioned why the state had left it until the eleventh hour to notify the lawyers of the intended change. The Department of Corrections had apparently learned in mid-July that the dose of sodium thiopental intended for the execution of Jeffrey Matthews had expired. In his order granting the stay, Judge Friot concluded that "the very weighty considerations which ordinarily compel denial of eleventh hour applications such as these are inapplicable here." The stay of execution is currently scheduled to expire on 16 October 2010. Judge Friot scheduled a hearing for the morning of 15 October.

Jeffrey Matthews was originally scheduled to be executed on 17 June 2010. On 26 May, the state Pardon and Parole Board voted by three votes to two to deny clemency to Jeffrey Matthews. In early August its Director announced that the Board would not hold a second clemency hearing to reconsider its decision.

In Oklahoma, the governor cannot commute a death sentence without the Board first recommending this course of action. The governor has the power to grant temporary reprieves, however. On 16 June 2010, Governor Brad Henry granted a stay until 20 July. On 15 July, Governor Henry extended the stay until 17 August. The stays were issued to allow the defence lawyers more time to examine fingerprint evidence in the case.

There is no physical evidence – hair, fibre, blood, DNA, fingerprints or gunshot residue – linking Jeffrey Matthews to the crime he was sentenced for in 1995. In 2007, one of the police officers involved in investigating the crime signed a sworn statement saying that he believed "there is a reasonable likelihood that Matthews is innocent."

There have been 36 executions in the USA this year, bringing to 1,224 the total number of men and women put to death there since it resumed judicial killing in 1977.

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

This is the second update of UA 140/10. Further information: www.amnesty.org/en/library/info/AMR51/054/2010/en

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