

# URGENT ACTION

## US SUPREME COURT ALLOWS ARIZONA EXECUTION

**Jeffrey Landrigan, a 50-year-old Native American man, was executed in Arizona, USA, on 26 October. The execution went ahead after the Governor of Arizona denied clemency and the US Supreme Court decided by five votes to four to lift a stay imposed by a lower federal court.**

Jeffrey Landrigan was sentenced to death for the 1989 murder of Chester Dyer. At his trial in 1990, his lawyer did not present any mitigating evidence on his background of abuse and deprivation or its effects on him. In 2007, the retired trial judge said that she would not have passed a death sentence if she had heard such mitigating evidence, especially the sort of expert mental health evidence that had been presented during the appeals process. The former judge was among witnesses who appeared at a clemency hearing in front of the Arizona Board of Executive Clemency on 22 October 2010. She told the board that in her view Jeffrey Landrigan should have received a life sentence.

The Board voted by two votes to two on whether to recommend that the state governor commute the death sentence. Because it was a tied vote, the Board did not forward a recommendation for commutation to the governor. The Board did recommend, by three votes to one, that the governor grant a temporary reprieve to allow time for the Arizona courts to resolve motions that had been filed by Jeffrey Landrigan's lawyers for testing of DNA evidence from the crime scene. The Arizona courts subsequently denied these pending motions on DNA testing and on 25 October, Governor Jan Brewer issued an official proclamation denying a temporary reprieve.

Meanwhile in the federal courts, his lawyers were challenging the manner and means by which the state was intending to execute Jeffrey Landrigan. Arizona uses three drugs for executions by lethal injection – pancuronium bromide, potassium chloride, and sodium thiopental. There is currently a nationwide shortage of sodium thiopental; the pharmaceutical company Hospira is the sole manufacturer of it in the USA approved by the Food and Drug Administration (FDA) and Hospira is reportedly unable to make more of the drug available until March 2011. In early October, the Director of the Arizona Department of Corrections asserted in state court that "the Department has lawfully obtained the necessary chemicals...in sufficient quantity for an execution". On 25 October, the Arizona Attorney General revealed that the state had obtained the sodium thiopental from an unidentified source in the UK. In an order issued on 25 October, a District Court judge concluded that "the use of sodium thiopental from a non-FDA approved source raises issues regarding its efficacy and possible side-effects", and issued a stay of execution.

The state appealed to the US Court of Appeals for the Ninth Circuit. On 26 October, a three-judge panel of the Court of Appeals ruled that the District Court judge had not abused her discretion in granting a stay. The state appealed to the Ninth Circuit to rehear the case in front of the full court. This was also denied. The state then appealed to the US Supreme Court to lift the District Court's stay of execution. Five of the Justices voted to do so, stating that "there is no evidence in the record to suggest that the drug obtained from the foreign source is unsafe" and "there was no showing that the drug was unlawfully obtained". Four Justices voted against lifting the stay. Jeffrey Landrigan was put to death shortly after 10.15pm on 26 October.

There have been 44 executions in the USA this year, bringing to 1,232 the total number of executions carried out nationwide since judicial killing resumed in 1977.

**No further action is requested. Many thanks to all who sent appeals.**

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