

URGENT ACTION

CLEMENCY DENIED, MISSOURI EXECUTION GOES AHEAD

Kevin Johnson was executed in Missouri on the evening of 29 November 2022. He was sentenced to death in 2007 for the murder of a police officer in 2005. The courts refused to stop the execution, the Governor rejected clemency, and the lethal injection went ahead.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

Kevin Johnson's original trial in early 2007 for the murder of the police officer ended in a hung jury, which voted 10-2 for second-degree murder. On 23 November 2022, the US Supreme Court refused to stay the execution to consider the question of whether his retrial in late 2007 (at which he was sentenced to death for first-degree murder) had remedied the constitutional violation from the first trial at which two white jurors, repeating racially loaded arguments, had prevented a unanimous verdict on second-degree murder (which is not punishable by the death penalty). Kevin Johnson's lawyers had also asked the Supreme Court to consider whether the Constitution prohibits the death penalty for crimes committed by those who were under 21 at the time of the crime, or at least, as in this case, an individual who was 19 years old and had substantial psychosocial (mental) disabilities.

Meanwhile, Kevin Johnson's 19-year-old daughter had filed a lawsuit seeking to be allowed to witness her father's execution. Under Missouri law, those on death row may select five people to be present at their execution. Kevin Johnson selected his daughter, with whom he had maintained a very close relationship. The state refused to allow the witness request, because state law prohibits those under 21 years old to be present at executions. On 25 November 2022, the federal judge rejected the lawsuit.

In 2021, the Missouri legislature passed a law which allows a prosecuting attorney in the jurisdiction where the original trial took place to file a motion to vacate the conviction based upon information that the person may be innocent or at whose trial there was a constitutional violation undermining confidence in the outcome. In October 2022, a special prosecutor was appointed to examine Kevin Johnson's case, and on 15 November he filed a motion to vacate the conviction based on evidence of racial discrimination in prosecutorial decision-making on charging and during jury selection. After an expedited hearing on 28 November, the Missouri Supreme Court, by five votes to two, refused to issue a stay. The dissent argued that the execution should be stopped based on the probability that "the special prosecutor will succeed in establishing a constitutional error that undermines confidence in the judgment".

On 28 November 2022, Governor Mike Parson announced that he would not grant clemency and the state would carry out the execution. The Governor said that "Mr Johnson has received every protection afforded by the Missouri and United States Constitutions... There is not and never has been any doubt about Mr Johnson's guilt". On 29 November, the US Supreme Court denied a final petition for a stay of execution. Justices Sonia Sotomayor and Ketanji Brown Jackson would have granted the stay. Justice Jackson published her dissent on 30 November.

There have been 17 executions in the USA this year, two in Missouri. This brings to 1,557 the total number of executions in the USA since the US Supreme Court approved new capital statutes in 1976. Missouri accounts for 93 of these state sanctioned killings, fifth behind Texas, Oklahoma, Virginia (abolitionist since 2021), and Florida. Between them, these five states account for nearly two thirds (64%) of all executions in the USA since 1976.

THIS IS THE SECOND AND FINAL OUTPUT FOR UA 93/22

LINK TO PREVIOUS UA: <https://www.amnesty.org/en/documents/amr51/6166/2022/en/>

NAME AND PRONOUN: Kevin Johnson (he/him)