

# URGENT ACTION

## FEDERAL COURT BLOCKS SCOTT PANETTI EXECUTION

**A federal court issued a stay of execution for Texas death row prisoner Scott Panetti a few hours before he was scheduled to be put to death by lethal injection on 3 December.**

On 3 December, with the execution of **Scott Panetti** less than eight hours away, a three-judge panel of the US Court of Appeals for the Fifth Circuit issued a stay of execution to allow the court “to fully consider the late arriving and complex legal questions” surrounding the question of Scott Panetti’s competency for execution, that is, whether he has a genuine understanding of the reason for and reality of his punishment.

Scott Panetti’s lawyers had pointed out in a legal brief to the Fifth Circuit that “what the courts have previously decided is that Mr Panetti was competent for execution in 2008, based on evaluations conducted in November and December of 2007. His claim today is not that claim. That he was found competent then does not mean that he is competent now”. They appealed for Scott Panetti to be allowed to retain a mental health expert and an investigator, and for an evidentiary hearing to be held on the question of their client’s current competence for execution. The lawyers also reiterated that they had not been informed by the District Attorney that an execution date had been set for Scott Panetti, and that they had only learned of it on 30 October, two weeks after it had been set, when it was reported in the media. This reduced the time that they had to investigate and litigate the issues surrounding competency.

Among those who appealed for clemency as the scheduled execution approached were former prosecutors and judges, mental health professionals, faith leaders, the European Union, and two UN human rights experts. The UN Special Rapporteur on extrajudicial, summary and arbitrary execution said that “it is a violation of death penalty safeguards to impose capital punishment on individuals suffering from psychosocial disabilities. Implementing the death penalty under these conditions may amount to an arbitrary execution”. The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment said “International law considers the imposition and enforcement of the death penalty on persons with mental disabilities a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment”.

A former Governor of Texas, Mark White, whose term in office from 1983 to 1987 saw 19 executions, joined those opposing the execution. He said that the case for clemency for Scott Panetti was not a “close and difficult” one: “He is a severely mentally ill man. His trial was a sham. And executing Panetti would say far more about us than it would about the man we are attempting to kill”.

In less than a month, more than 97,000 people in Texas, the wider USA and around the world have signed a petition initiated by Scott Panetti’s sister calling on Governor Rick Perry to stop the execution.

On 1 December, the Texas Board of Pardons and Paroles voted unanimously against clemency for Scott Panetti. His lawyers immediately wrote to Governor Perry requesting a 30-day reprieve. The governor had not made any announcement by the time the Court of Appeals issued its stay.

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

This is the first update of UA 292/14. Further information: [www.amnesty.org/en/library/info/AMR51/053/2014/en](http://www.amnesty.org/en/library/info/AMR51/053/2014/en)

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### ADDITIONAL INFORMATION

Scott Panetti is a 56-year-old man with a history of serious mental illness that long predates and apparently contributed to the 1992 crime for which he was sent to death row in 1995 – the murder of his parents-in-law. Despite this serious illness, he was found competent to stand trial and was allowed to represent himself in proceedings that have variously been described by people who were there as a “farce”, a “joke”, a “circus”, and a “mockery”. For two decades, the State of Texas has defended the death sentence against Scott Panetti in order to get him to the execution chamber even as his mental illness has persisted.

On 4 February 2004, Scott Panetti was about 24 hours from execution when a federal judge issued a stay (as has now again occurred, the Texas Board of Pardons and Paroles (BPP) had already denied clemency). The case was eventually taken by the US Supreme Court, which noted that there is “much in the record to support the conclusion that [Panetti] suffers from severe delusions”. In 2008, the federal judge to whom it remanded the case found that “Panetti is seriously mentally ill. He has suffered from severe mental illness... since well before he murdered Joe and Amanda Alvarado. He was under the influence of this severe mental illness when he killed the Alvarados’ as well as when he insisted on representing himself at trial... Panetti’s deranged mental state may ‘wax and wane’, but it has continued to a significant degree throughout his incarceration and continues to this day... [I]t is not seriously disputable that Panetti suffers from paranoid delusions of some type, and these delusions may well have contributed to his murder of Joe and Amanda Alvarado... Panetti was mentally ill when he committed his crime and continues to be mentally ill today”. Nevertheless, the judge ruled that Scott Panetti was competent for execution in that he has “both a factual and rational understanding of his crime, his impending death, and the causal retributive connection between the two”.

In a five to four ruling on 25 November 2014, the Texas Court of Criminal Appeals (TCCA) refused to issue a stay of execution, deciding it lacked jurisdiction over the appeal. Four of the nine judges dissented, arguing that what was “at stake in this case” meant that the court should review the appeal. Its failure to do so, they wrote, could result in “the irreversible and constitutionally impermissible execution of a mentally incompetent person”.

In a second ruling on 26 November, this time six to three, the TCCA refused to review the claim that imposing the death penalty on someone with severe mental illness “offends contemporary standards of decency” and therefore violated the Constitution. In a strong dissent, one of the judges said that he would grant the claim, adding that it was “inconceivable” to him “how the execution of a severely mentally ill person such as [Panetti] would measurably advance the retribution and deterrence purposes purportedly served by the death penalty.” Judge Tom Price also revealed that after 40 years as a Texas judge, including 18 on the TCCA, he had now come to the belief that the death penalty should be abolished. He suggested that “evolving societal values indicate that the death penalty should be abolished in its entirety”. The two other dissenting judges said they would have blocked the execution so that the issue could be further considered.

Name: Scott Panetti

Gender m/f: m

Further information on UA: 292/14 Index: AMR 51/058/2014 Issue Date: 4 December 2014