

URGENT ACTION

US SUPREME COURT BLOCKS MISSOURI EXECUTION

The United States Supreme Court issued a stay of execution in the case of Ernest Johnson shortly before he was due to be put to death in Missouri on 3 November.

The stay relates to an appeal brought by **Ernest Johnson's** lawyers challenging the constitutionality of Missouri's lethal injection protocol as applied to their client. Since he underwent surgery in August 2008 to remove part of a brain tumour (it could not be removed in its entirety), Ernest Johnson has suffered seizures. His lawyers filed a complaint in federal court seeking to stop his execution, arguing that his lethal injection could cause him to have violent seizures which would render his execution unconstitutional. In an affidavit filed along with the complaint, an expert in anaesthesiology and surgery stated: "As a result of Mr Johnson's brain tumor, brain defect, and brain scar, a substantial risk of serious harm will occur during his execution as a result of a violent seizure that may be induced by Pentobarbital injection .I. am of the medical opinion that Mr Johnson faces a significant risk for a serious seizure as the direct result of the combination of the Missouri lethal injection protocol and Mr Johnson's permanent and disabling neurologic disease".

On 27 October the US District Judge denied the request for a temporary restraining order, and granted the state's motion to dismiss the civil action on the grounds that the defence lawyers had failed to state a claim upon which relief could be granted. On 30 October the US Court of Appeals for the Eighth Circuit refused to stay the execution, saying that there was not enough prospect of success on the merits to warrant blocking the execution. They stated: "Given the record before us and the State's strong interest in enforcing its criminal judgment without undue interference, we deny the motion for stay of execution pending appeal." On 3 November, the US Supreme Court issued a stay so that the appeal could be heard, requiring the Court of Appeals to decide whether the complaint had been "properly dismissed for failure to state a claim" or whether it should have been allowed to proceed further.

No further action is requested of the UA network at this time. Many thanks to all who sent appeals.

This is the first update of UA 242/15. Further information: www.amnesty.org/en/documents/amr51/2735/2015/en/

Name: Ernest Lee Johnson
Gender m/f: m

Further information on UA: 242/15 Index: AMR 51/2815/2015 Issue Date: 4 November 2015