

URGENT ACTION

ARIZONA EXECUTION CANCELLED

The US Supreme Court granted a stay of execution to Daniel Cook on 4 April: he had been due to be put to death the following morning. The stay was to allow the Court more time to decide whether to take the case. The Arizona authorities have cancelled the execution.

Lawyers for Daniel Cook petitioned the US Supreme Court to review the question of his legal representation at trial and during his state appeals.

For his 1988 murder trial, Daniel Cook was appointed a trial lawyer who at the time was suffering from bipolar disorder and was drinking heavily. A few weeks before his trial, Daniel Cook decided to waive his right to counsel, later stating that he had believed that his only options were to continue with a lawyer he viewed as incompetent or to represent himself. He chose the latter (with the lawyer retained as "advisory counsel").

The petition to the US Supreme Court argued that "due to ineffectiveness of his trial and appellate counsel, a compelling mitigation case was never investigated or presented until 2010." It asserted that the delay occurred because the lawyer appointed to represent Daniel Cook in post-conviction proceedings in state court was himself ineffective, and the comprehensive mitigation case was only investigated by the federal public defender in 2010.

In a sworn statement signed in 2010, the lead prosecutor from the trial said that had he known about mitigating evidence, including Daniel Cook's severe childhood abuse and his mental disorders, he "would not have sought the death penalty in this case." The former prosecutor also recalled that the appointed trial lawyer was "at the low end of the competency scale for the handling of the defense of a standard felony" and "appeared neither capable nor willing to put forth the effort necessary to represent a defendant charged with a capital offense." He added that Daniel Cook "was clearly not competent to act as his own counsel."

On 4 April, the US Supreme Court issued a stay of execution pending its decision whether to review Daniel Cook's petition on its merits. The stay will end if the Court decides not to take the case. If that happens, the state will have to file a motion with the Arizona Supreme Court for a new execution date. If it does take the petition and eventually rules against Daniel Cook, again the state would seek a new execution date. If the Supreme Court takes the petition, it could order a new trial or sentencing.

After the Supreme Court issued the stay, the Department of Corrections cancelled the execution.

In separate litigation, lawyers for Daniel Cook had sought to have the execution halted, arguing that the state had violated federal law in its importation of lethal injection drugs from the UK, and that the drugs obtained from this federally unapproved source put the condemned man at risk of an unconstitutionally painful execution. The US District Court and the US Court of Appeals for the Ninth Circuit refused to issue a stay on this issue. The US Supreme Court has also been petitioned on the drug issue.

NO FURTHER ACTION IS REQUESTED FROM THE UA NETWORK. MANY THANKS TO ALL WHO SENT APPEALS.

This is the first update on UA: 76/11 Index: AMR 51/019/2011 Further information: <http://www.amnesty.org/en/library/info/AMR51/019/2011/en> Issue Date: 6 April 2011

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