

URGENT ACTION

STATE COURT BLOCKS TENNESSEE EXECUTION

On 29 November, the Tennessee Supreme Court granted a stay of execution in the case of Stephen West, who was due to be put to death on 30 November. The stay is to provide more time for litigation to continue on the constitutionality of Tennessee's lethal injection procedures.

Stephen West had been due to be executed on 9 November 2010 for the murder in 1986 of Wanda Romines and her 15-year-old daughter Sheila. On 6 November, the Tennessee Supreme Court rescheduled the execution for 30 November to allow more time for proceedings in relation to Stephen West's legal challenge to the state's three-drug lethal injection procedures.

On 19 November, a Tennessee county judge ruled that the state's lethal injection procedure was unconstitutional, on the grounds that, by not specifying a sufficient quantity of one of the three drugs, the anaesthetic sodium thiopental, the procedure "allows for death by suffocation while conscious". On 24 November, the Tennessee authorities produced a revised lethal injection protocol. The new procedure included a process to assess the consciousness of the condemned prisoner after administration of the sodium thiopental, and to provide for an additional dose of this drug if the inmate was found to be conscious after the first dose. On 29 November, the Tennessee Supreme Court issued a stay of execution to Stephen West to allow the lower court judge to determine whether the revised protocol was sufficient to eliminate the deficiencies she had pointed to in the previous version of the protocol. At the same time, the state Supreme Court ruled that the burden was on Stephen West to show that the revised protocol carried a risk of harm that qualifies as "cruel and unusual" under the US Constitution.

The stay applied not only to Stephen West, but also to three other prisoners whose executions had been scheduled to be carried out in Tennessee in the next two months.

No further action by the UA Network is requested at present. Thank you to all who sent appeals.

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EXECUTION LOOMS AFTER 23 YEARS ON DEATH ROW

ADDITIONAL INFORMATION

In 1998 Stephen West's father signed an affidavit stating "his mother and I severely abused Stephen from the time he was born in a mental institution in Indiana until he left home to join the army. We physically abused him by hitting him with our hands, sticks, bottles or anything else we had. This abuse was extreme and always very violent. Stephen was slammed against a wall so hard when he was a baby that he was knocked cross-eyed and required surgery." In 2001, a forensic psychologist stated "it is clear that Mr West suffered from intense psychological trauma and anxiety as a child directly due to the severe physical and emotional abuse of his parents". She concluded that he likely suffered from Posttraumatic Stress Disorder (PTSD), and that the "extreme trauma and anxiety during childhood set the stage for Mr West's having an acute stress response [during the crime] and becoming emotionally overwhelmed by the situation". In 2002, another doctor specializing in clinical and forensic psychiatry noted that Stephen West's family has a "significant history of mental illness", including bipolar disorder, and that his mother attempted suicide when pregnant with him. The expert wrote that "Stephen survived prolonged, life threatening maltreatment at the hands of his mother and her husband", including being beaten, kicked, punched and thrown into walls, and that the boy was also subjected to other "acts of cruelty", including public humiliation, degradation, captivity and isolation. He concluded that this kind of abuse "breaks the bonds that children need to develop into healthy adults" and from it Stephen West had developed an "insidious progressive form" of PTSD that "controlled and constricted his entire life", and that affected his conduct at the time of the crime. A third mental health expert drew similar conclusions, also in 2002.

The trial jury heard no evidence of such abuse or expert opinion about the effects it might have had on Stephen West. In 2008, a three-judge panel of the US Court of Appeals for the Sixth Circuit upheld the death sentence. The two judges in the majority wrote that if Stephen West's trial lawyers had discovered the evidence of his childhood abuse, they might have chosen to portray him "as the product of an unstable and abusive home" and that the jury "might have believed that the abuse made West the kind of person who was psychologically unable to confront or disobey strong, threatening people such as [Ronald] Martin" and might have chosen to spare his life. The two judges further speculated, however, that "the very same evidence may have had the opposite effect on the jury"; that the jurors "might have believed that violence begets violence and that West's past abuse made him the kind of person" who could have committed such a crime; and that they "might have despised West and sentenced him to death with greater zeal". The third judge dissented, accusing her two colleagues of taking an approach that "flies in the face of Supreme Court precedent". She concluded that had the trial lawyers "presented evidence of abuse and its effects on West, it is extremely likely that at least one juror would have determined that West's explanation for what happened to him while the crime took place – essentially that he froze – was plausible, making the death penalty unwarranted"

A review in May 2010 of Stephen West's prison records revealed that from 2001 to 2006 he had been diagnosed with major depressive disorder with psychotic features. In 2006, the diagnosis was changed to one of chronic paranoid schizophrenia", and it was noted that he was suffering "anxiety, depression and auditory hallucinations". In 2008, the diagnosis was again changed, this time to schizoaffective disorder, reflecting the prison doctor's view of Stephen West as having symptoms of schizophrenia – delusions and hallucinations – and of bipolar disorder – mania and depression. Stephen West has been prescribed various medications on death row, including high doses of the anti-psychotic drug Thorazine. Stephen West had no criminal record prior to the crimes for which he is facing execution. He is reported to have committed no acts of violence in his 23 years on death row.

Amnesty International opposes the death penalty unconditionally in all cases. The USA has carried out 1,229 executions since it resumed judicial killing in 1977, 41 of them this year (see also <http://www.amnesty.org/en/library/info/AMR51/095/2010/en>).

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