

# URGENT ACTION

## TEXAS SET TO EXECUTE SEVERELY MENTALLY ILL MAN

**Scott Panetti, a 56-year-old man whose serious mental illness predated and contributed to the 1992 double murder for which he was sent to death row, and which infected his trial and persists to this day, is scheduled to be executed in Texas on 3 December.**

**Scott Louis Panetti** was hospitalized more than a dozen times between 1981 and 1992 as a result of his mental illness, including schizophrenia. When he and his wife, Sonja Alvarado, separated in August 1992, she took their three-year-old daughter and went to stay with her parents, Amanda and Joe Alvarado. On 8 September 1992, Scott Panetti shaved his head, dressed in military fatigues and drove to the Alvarados' home, where he shot his parents-in-law. He allowed Sonja and their daughter to leave. Later that day he changed into a suit and gave himself up to the police. He stated that "Sarge" (an auditory hallucination) controlled him during the crime, that divine intervention had meant that the victims did not suffer, and that demons had been laughing at him as he left the house.

In July 1994 a hearing to determine whether Scott Panetti was competent to stand trial was declared a mistrial after the jury was unable to reach a verdict. A second hearing before another jury was held in September 1994. His lawyer testified that in the previous two years, he had had no useful communication with Scott Panetti because of his delusional thinking. A psychiatrist for the defence concluded that Panetti was not competent to stand trial. A psychiatrist for the prosecution agreed with the previous diagnoses of schizophrenia, and that Scott Panetti's delusional thinking could interfere with his communications with his legal counsel, but concluded that he was competent. The jury agreed. Scott Panetti waived his right to counsel and the case went to trial in 1995 with him acting as his own lawyer. During the trial, Scott Panetti dressed as a cowboy and gave a rambling defence. Numerous people, including doctors, relatives and lawyers, who attended the trial described it as a "farce", a "joke", a "circus", and a "mockery". A lawyer appointed as stand-by counsel later recalled: "I have copies of the 200-plus subpoenas he filed. Scott wanted to subpoena Jesus Christ, JFK, actors, actresses, and people who had died".

Scott Panetti's current lawyers have filed a clemency petition and are also seeking a judicial stay of execution so that his competency for execution can be assessed, that is, whether he has a genuine understanding of the reality of and reason for his punishment. His competency has not been assessed since 2008. The lawyers have filed information from prison records indicating that his mental illness, delusions and irrational conduct persist. They also state that he reports "hearing voices", and claims the prison authorities have planted a "listening device" in his tooth and want him executed to shut him up "about the corruption" and to stop him from "preaching the Gospel."

### **Please write immediately in English or your own language:**

- Calling for plans to execute Scott Panetti to be immediately halted and for his death sentence to be commuted;
- Noting that Scott Panetti's serious mental illness predates and contributed to his crime, infected his trial and apparently persists to this day, and that his execution would be against international standards.

### **PLEASE SEND APPEALS BEFORE 3 DECEMBER 2014 TO:**

Clemency Section, Board of Pardons  
and Paroles 8610 Shoal Creek Blvd.  
Austin, Texas 78757-6814, USA  
Fax: +1 512 467 0945  
Email: [bpp-pio@tdcj.state.tx.us](mailto:bpp-pio@tdcj.state.tx.us)  
**Salutation: Dear Board members**

Governor Rick Perry  
Office of the Governor  
PO Box 12428  
Austin, Texas, USA  
Fax: +1 512 463 1849  
**Salutation: Dear Governor**

**And copies to:**  
Governor's Press office  
Fax: +1 512 463 1847

Office of the General Counsel  
Fax: +1 512 463 1932

**A petition by Victoria Panetti to stop her brother's execution is at <http://chn.ge/1v3cc5m>. Please help maximize numbers signing.**

**Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:**

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

**AMNESTY  
INTERNATIONAL**



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### ADDITIONAL INFORMATION

On 4 February 2004, Scott Panetti was 24 hours from execution in the Texas death chamber when a federal court issued a stay. The case was eventually taken by the US Supreme Court, which on 28 June 2007 used it to clarify a ruling it had made 21 years earlier. In *Ford v. Wainwright* in 1986, the Court had affirmed that the execution of the “insane” violates the US Constitution’s Eighth Amendment ban on “cruel and unusual punishments”. However, the *Ford* ruling neither defined competence for execution, nor did a majority mandate specific procedures that had to be followed by the individual states to determine whether an inmate was incompetent. The result was different standards in different states, judicial uncertainty, and minimal protection against the death penalty for seriously mentally ill inmates (see <http://www.amnesty.org/en/library/info/AMR51/003/2006/en>).

In its *Panetti v. Quarterman* ruling in June 2007, the Supreme Court levelled strong criticism at Texas, finding that its courts had failed to provide Scott Panetti with the minimum process required under *Ford*, and that the federal US Court of Appeals for the Fifth Circuit’s standard for competency was “too restrictive to afford a prisoner the protections granted by the Eighth Amendment”. The Supreme Court ruled that “A prisoner’s awareness of the State’s rationale for an execution is not the same as a rational understanding of it. *Ford* does not foreclose inquiry into the latter... Gross delusions stemming from a severe mental disorder may put an awareness of a link between a crime and its punishment in a context so far removed from reality that the punishment can serve no proper purpose.” It blocked Panetti’s execution and remanded the case for further proceedings to establish an evidentiary record. The majority wrote: “Expert evidence may clarify the extent to which severe delusions may render a subject’s perception of reality so distorted that he should be deemed incompetent”. The majority also noted that there is “much in the record to support the conclusion that [Panetti] suffers from severe delusions” but also noted that a “concept like rational understanding is difficult to define” (see <http://www.amnesty.org/en/library/info/AMR51/114/2007/en>).

In 2008, after a hearing in which various expert and other witnesses testified, the federal judge to whom the case was remanded 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 under the *Ford/Panetti* standard, 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 2008, the US Supreme Court ruled in *Indiana v. Edwards* that the Constitution allows states to insist upon legal representation for those defendants “competent to stand trial but who suffer from severe mental illness to the point where they are not competent to conduct trial proceedings by themselves”. Scott Panetti’s lawyers filed an appeal in the wake of the ruling. In 2012, the same federal judge who had earlier ruled Scott Panetti competent for execution, found that while it was “beyond dispute” that his mental illness affected his ability to represent himself at trial, he was not incompetent to do so, just “unskilled and ineffective”. He ruled that Panetti’s trial had not been unconstitutional under the *Edwards* rule.

Texas accounts for 518 of the 1,391 executions carried out in the USA since judicial killing resumed under revised capital statutes in 1977, and for 10 of the 32 this year. Amnesty International opposes the death penalty in all cases, unconditionally. For the organization’s 2004 report on Scott Panetti’s case see <http://www.amnesty.org/en/library/info/AMR51/011/2004/en>

Name: Scott Panetti

Gender m/f: m

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