

URGENT ACTION

COURT BLOCKS EXECUTION AND REMANDS FOR HEARING

The Arkansas Supreme Court has issued a stay of execution for Stacey Johnson, who was due to be put to death in Arkansas on 20 April for a murder committed in 1993. It has ordered a lower court to conduct a hearing on a defence motion for DNA testing.

On 2 April 1993, Carol Heath's body was found in her apartment in DeQueen, Arkansas. Her throat had been cut and she had other injuries. Her six-year-old daughter said that a black male with a "girl sounding name" had come to the home, that he and her mother had fought, and that he had a knife. The girl selected **Stacey Johnson** from a photo line-up of seven black males shown to her by police. He was arrested on 14 April 1993 in New Mexico and brought to Sevier County, Arkansas for trial. He was convicted of the murder and sentenced to death in 1994. On appeal in 1996, the Arkansas Supreme Court ordered a retrial. The retrial was held in Pike County in 1997, and Stacey Johnson was convicted and condemned to death again. When the Arkansas Supreme Court upheld the conviction and death sentence in 2000, three of the Justices dissented, arguing that he had been denied a fair trial because of issues around a key prosecution witness, the young daughter of the victim.

On 17 April 2017, the trial level court in Sevier County denied the defence motion for post-conviction DNA testing of evidence from the crime submitted by lawyers for Stacey Johnson on 13 April. The judge ruled, among other things, that "Johnson has not established that the results of his proposed testing would significantly advance his claim of actual innocence" and denied an evidentiary hearing on the issue. On 18 April, the lawyers filed a motion in the Arkansas Supreme Court for a stay of execution and asking that the case be remanded to the lower court for an evidentiary hearing on his motion for post-conviction DNA testing. Along with the motion was an affidavit signed on 12 April 2017 by a forensic DNA analyst detailing how modern DNA technology is "considerably more sensitive and sophisticated" than the testing available 15 or 20 years ago, and that "testing on the evidence in this case is capable of yielding scientifically valid results" that could identify the person who killed Carol Heath.

On 19 April, by four votes to three, the Arkansas Supreme Court granted a stay of execution and remanded to the Sevier County court for a hearing on the DNA motion. In a dissenting opinion, three of the Justices accused the majority of "summarily issu[ing] an order in a death penalty case without providing any explanation for its decision" and of providing "uncertainty" rather than finality. Governor Asa Hutchinson issued a statement in which he said: "I am both surprised and disappointed at the last minute stay by the Arkansas Supreme Court. When I set the dates, I knew there could be delays in one or more of the cases, but I expected the courts to allow the juries' sentences to be carried out since each case had been reviewed multiple times by the Arkansas Supreme Court, which affirmed the guilt of each. The minority opinion was clear in its dissent, but I know the families of the victims are anxious for a clear-cut explanation from the majority as to how they came to this conclusion and how there appears to be no end to the court's review. I will continue to work with the attorney general as we evaluate our next steps."

Amnesty International opposes the death penalty unconditionally. To end the death penalty is to abandon a destructive, diversionary and divisive public policy. The death penalty has not been proved to have a special deterrent effect. It runs the risk of irrevocable error. It tends to be applied in a discriminatory way in the USA, on grounds of race and class. It denies the possibility of rehabilitation, prolongs the suffering of the murder victim's family, and extends the suffering to friends and relatives of the condemned.

No further action on this case is requested at present. Many thanks to all who sent appeals.

This is the first update of UA 67/17. Further information: www.amnesty.org/en/documents/amr51/5975/2017/en/

Further information on UA: 67/17 Index: AMR 51/6102/2017 Issue Date: 21 April 2017

