

Executions continue as US rejects worldwide moratorium on the death penalty

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The United Nations Human Rights Commission called on Wednesday for a worldwide suspension of the death penalty. Twenty-seven members of the 53-state commission approved a European Union motion asking countries for a moratorium on executions as a move towards the eventual abolition of capital punishment. The United States joined with a number of Arab, African and Asian states in voting against the non-binding motion, which also called for a ban on the execution of juvenile offenders.

The US has come under criticism for its continued use of the death penalty, a practice which has been effectively outlawed by all 43 member states of the Council of Europe. Renate Wohlwend, the Council of Europe's special representative on the abolition of the death penalty, may recommend that the US be expelled from its observer status with the Council of Europe, which it has held since 1996, due to its stand on executions. Japan is the only other country with observer status that practices capital punishment.

There have been signs that the US political establishment and judiciary are becoming uneasy over growing public opposition to the death penalty, prompted in part by revelations of wrongfully convicted death row inmates. For the most part, however, actions by the courts and state governments placing certain restrictions on the implementation of capital punishment are aimed at defending the "integrity" of the barbaric practice, not at abolishing it. Twenty-six men and one woman have been executed in the US so far this year, a rate comparable with last year's toll, when 85 condemned inmates were sent to their deaths.

So far in April, five men have been executed. **Jason Massey** died by lethal injection on April 3 in Texas for the murders of Christina Benjamin and James King. **David Lee Goff** was executed on April 25 for the 1990 murder of a drug counselor. Goff maintained his innocence. The crime occurred while Goff was on parole after serving 5 years of a 15-year term for two counts of attempted murder committed when he was 15 years old. Prosecutors had him certified to be tried as an adult in that case. Massey and Goff were the sixth and seventh inmates to be put to death in Texas this year. Since Texas resumed executions in 1982, 246 men and women have been put to death, far more than any other state. Particularly attention was focused on capital punishment in Texas during the recent presidential campaign. Republican candidate George W. Bush, the former Texas governor, presided over 152 executions during his five years in office.

The Texas state House on April 24 gave preliminary approval to

a bill that would block the execution of mentally retarded inmates. The bill must be approved by the state Senate and signed by Governor Rick Perry before it becomes law. The governor has indicated he would wait until the Supreme Court ruled on the issue before he would sign such a bill. Conservative estimates indicate that at least five mentally retarded people have been put to death in Texas since it resumed executions; advocates for the mentally impaired say the number is much higher. The bill would still allow the imprisonment of the mentally retarded, commuting their death sentences to life terms, and would not be retroactive to those inmates presently on death row.

South African national **Sebastian Bridges**, 37, was executed in Nevada on April 21 for the 1997 shooting death of his estranged wife's boyfriend. Bridges claimed that the crime was an accident and that he was unfairly convicted. He refused to appeal his conviction, saying he did not get justice at trial and believed he would not get it in any appeals. As officials prepared for Bridges' execution, the state Senate approved a measure to outlaw capital punishment in Nevada for two years in order to conduct a study to determine whether capital punishment was fairly meted out in the state. The bill, however, would not apply to death penalty "volunteers" like Bridges. Governor Kenny Guinn had not yet signed the bill at the time of Bridges' execution.

Mose Young was executed in Missouri on April 25 for a 1983 triple murder at a St. Louis pawn shop. Governor Bob Holden refused a clemency request. Young's attorney argued that the lawyer who represented Young at trial, John M. Walsh, failed to provide a proper defense, saying he was overworked, drinking heavily and was coughing up blood. Walsh subsequently surrendered his law license in 1988 and was disbarred after an investigation. Young was the third inmate to be put to death in Missouri this year and the forty-ninth since the state's death penalty was reinstated in 1989.

David Dawson, 46, died by lethal injection in Delaware on April 26 for the 1986 murder of Madeline Kisner, 44. The US Supreme Court denied a last minute appeal by Dawson's attorneys. Dawson was the first person put to death in Delaware this year and the twelfth since the state resumed executions in 1992.

Alabama is set to execute death row prisoner Tommy Arthur on Friday, April 27, barring any last minute reprieve. Marilyn Plantz, 40, is scheduled to be executed on May 1 at the Oklahoma State Penitentiary. She was convicted of hiring two men to kill her husband in 1988. The state Pardon and Parole Board voted

unanimously April 17 to deny her clemency. Plantz would be the second woman executed in Oklahoma since 1903. Since the US resumed executions in 1977, six women have been put to death.

Convicted Oklahoma City bomber Timothy McVeigh is set to be executed on May 16. He has waived all appeals in his case. His execution would be the first federal execution since the resumption of capital punishment in 1976.

Three capital cases in Virginia have cast light on the way in which death sentences have been imposed and executions carried out in that state. Death penalty opponents have exposed racial disparities in the administration of the death penalty, and have criticized a law that imposes a 21-day deadline for the introduction of new evidence after trial. The Virginia Supreme Court ruled last year that the 21-day deadline should not apply to death penalty cases.

In Alexandria, Virginia on April 16 a federal judge ruled that prisoners convicted of felonies have a constitutional right to DNA testing. Judge Albert V. Bryan Jr. said the Fairfax County prosecutor violated the civil rights of prisoner James Harvey by refusing to allow tests of evidence left from Harvey's 1990 rape and sodomy trial. Prosecutors had denied a request by the New York-based Innocence Project to consent to the DNA testing in Harvey's case. While the US Supreme Court has yet to rule on this issue, the ruling sets a precedent for prisoners convicted of felonies, including many death row inmates, to demand DNA testing in an effort to prove their innocence.

Also on April 16, the US Supreme Court halted the execution of Walter Mickens, Jr., convicted of murdering 17-year-old Timothy Hall in Newport News, Virginia in 1992. The high court agreed to hear arguments that Mickens' constitutional rights had been violated because his court-appointed lawyer had represented the murder victim in another case. Timothy Hall was murdered before his case went to trial.

The 4th US Circuit Court of Appeals had earlier ruled that, by itself, a conflict of interest is not enough to warrant a new trial unless the defendant can show the conflict impaired his attorney's performance, a burden the court said Mickens had not met. The US Supreme Court will consider whether Mickens' right to effective counsel was violated as protected under the Sixth Amendment. Over the last three years the high court has taken seven Virginia death penalty cases and overturned three. Virginia has put 82 people to death since it resumed executions in 1982, second only to Texas. But while the state executed 14 people in 1999 and 8 in 2000, only 1 inmate, Thomas Akers, has been executed so far this year.

On April 20, the Virginia Supreme Court overturned the capital murder conviction and death sentence of Paul Warner Powell and ordered a new trial for the 22-year-old man. Powell confessed to the 1999 murder of a Manassas teenager and the rape of her sister. Powell's lawyers argued that the jurors in his trial were confused over whether they could sentence him to life in prison instead of the death penalty. The state Supreme Court ruled more broadly that all of Virginia's capital juries need to be better informed of their sentencing options when considering the death penalty. Powell's case was sent back to circuit court for a new trial, in which he will be prosecuted for first-degree murder but will not

face the death penalty.

On April 10, after 21 years behind bars, Idaho death row inmate Donald Paradis was released from prison a free man. Paradis had been scheduled to die three times—by hanging in 1982, by a firing squad in 1986 and by lethal injection in 1995. Paradis, 52, admitted he helped bury the body of a 19-year-old woman murdered by his friends, but insisted he didn't participate in her murder.

Paradis's attorneys argued before a federal appeals court that he received ineffective counsel and that the prosecution withheld evidence from his defense. Paradis was represented at his 1981 trial by William Brown, a former New York City police officer who retired and became an attorney and had only been practicing law for six months. In addition, Brown was a reserve officer in the Coeur d'Alene police department and may have been acquainted with some of the sheriff's deputies involved in the case. Paradis pled guilty to the lesser charge in connection with burying the slain woman's body and was sentenced to time served.

In another reprieve, on April 17, only 53 minutes before he was scheduled to die by lethal injection, the Ohio Supreme Court ruled 6-0 to indefinitely suspend the execution of Jay D. Scott. Scott, a diagnosed schizophrenic, was convicted of the 1983 murder of Vinnie Prince, 74, during a 1983 robbery in Cleveland. The state's high court halted the execution to allow a state appellate court more time to consider arguments from Scott's attorneys that his execution should not go forward because of his mental impairment.

In Maryland, an appeals court ruling has effectively placed a temporary moratorium on executions in that state. The court ruled that it would not schedule a hearing on death row inmate Steven Oken's appeal until its 2001 term, which begins in September. Oken's lawyers argue that Maryland's death penalty law fails to meet the standard established by the US Supreme Court last year in its ruling in *Apprendi v. New Jersey*. The high court ruled in that case that in order to increase a defendant's prison sentence beyond a statutory minimum, as allowed by New Jersey's hate-crimes statute, prosecutors must prove the existence of aggravating factors beyond a reasonable doubt. A lesser standard in used by Maryland juries.

While a filibuster in the Maryland Senate earlier this month stopped a vote on a moratorium on executions in the state, the appeals court ruling effectively blocks the execution of three other death row inmates whose appeals are nearly exhausted and who are expected to raise similar arguments questioning the constitutionality of Maryland's death penalty statutes.



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