

# US Supreme Court upholds execution of Alabama prisoner who cannot remember his crime

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8 November 2017

In a unanimous decision, the US Supreme Court ruled Monday that Vernon Madison, 67, a prisoner on death row for more than 30 years, can be executed despite having no memory of his crime. Without any noted dissents, the high court reversed a US Court of Appeals for the Eleventh Circuit ruling that had struck down Madison's death sentence.

The lower court had ruled that because Madison has suffered strokes in prison, rendering him unable to remember his killing of a police officer, he could not make sense of his punishment. But the Supreme Court ruled that there was a difference between condemned inmates not recalling their crimes and those who cannot "rationally comprehend the concepts of crime and punishment."

Madison was sentenced to death in 1994 for the 1985 shooting death of Julius Schulte, a police officer in Mobile, Alabama, as Schulte supervised Madison's move out of his former girlfriend's house. This was Madison's third trial after his first two convictions and death sentences, in 1985 and 1990, were thrown out on appeal for racial discrimination in jury selection and other prosecutorial misconduct. Madison is African-American and his victim was white.

The jury in his 1994 trial recommended a life sentence, but the judge overrode the recommendation and sentenced him to death. Earlier this year, the Alabama state legislature threw out the judicial override law, but kept in place a rule allowing juries to sentence prisoners to death on a 10-2 vote.

According to court papers, Madison has suffered several strokes in recent years, resulting in dementia and memory impairment. He is legally blind, speaks with a slur, and cannot walk on his own. On May 12,

2016, Madison was scheduled to die by lethal injection, but the execution was delayed awaiting a ruling from the Supreme Court. Only hours after the execution had been set to take place, the Supreme Court upheld a lower court's stay of execution.

In Monday's ruling, the high court reversed their view, writing: "Testimony from each of the psychologists who examined Madison supported the court's finding that Madison understands both that he was tried and imprisoned for murder and that Alabama will put him to death as punishment for that crime."

However, as the federal appeals court wrote in upholding Madison's stay of execution in 2016: "A finding that a man with no memory of what he did wrong has a rational understanding of why he is being put to death is patently unreasonable." In other words, an inmate who has no recollection of the crime for which he was sentenced die, but simply understands that the state has tried, convicted and sentenced him to death, has no reasonable comprehension of the nature of his killing by the state.

In an opinion separate from Monday's ruling, Justice Stephen Breyer wrote that Madison's case illustrated "the unconscionably long periods of time that prisoners often spend on death row awaiting execution."

Breyer noted that the amount of time condemned inmates spend on death row has increased from seven years in 1987 to more than 19 years in 2017. He wrote: "And we may well have to consider the ways in which lengthy periods of imprisonment between death sentence and execution can deepen the cruelty of the death penalty while at the same time undermining its penological rationale."

Vernon Madison's case highlights the compounded

torture faced by an aging death row population in America. The Fair Punishment project estimated earlier this year that about 40 percent of condemned inmates have spent more than 20 years on death row. Many of these years are in solitary confinement. And many, like Madison, have faced numerous dates with death.

Human Rights Watch notes that among the general state and federal prison population, the total number of prisoners age 65 or older grew at 94 times the growth rate of the overall prison population between 2007 and 2010. Increasing numbers of older prisoners are frail, have mobility, vision and hearing impairments, and suffer chronic, disabling, and terminal illnesses or diminishing cognitive capacities, HRW says.

A new execution date for Madison has yet to be set, but state officials have promised that he will be put to death “as soon as possible.”

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There are three executions scheduled in the US this week:

- The state of Texas plans to execute Ruben Ramírez Cárdenas, a Mexican national, tonight despite claims that he is innocent and that Texas violated US international treaty obligations by denying him access to legal assistance from his government. Senior Mexican diplomats called Cárdenas’ death sentence “illegal” and a violation of due process.

Cárdenas was convicted and sentenced to death in 1998 for the kidnapping, rape and murder of his 15-year-old cousin. No physical evidence links him to the crime, and his lawyers say there is no forensic evidence of any sexual assault.

- Florida is also scheduled to execute Patrick Charles Hannon, 53, this evening. Hannon was convicted and sentenced to death for the January 1991 murders of Brandon Snider and Robert Carter. In a unanimous decision, the Florida Supreme Court has rejected a request to stay his execution.

Hannon requested that his execution be stayed due to a 2016 US Supreme Court ruling that found problems with Florida’s death penalty process. The request was rejected because Hannon was sentenced to death prior to 2002, when the Supreme Court last upheld the death penalty process in Florida.

- On Thursday, November 9, Arkansas plans to execute Jack Greene, 65, who was sentenced to death for the 1991 murder of retired pastor Sidney Burnett.

Greene’s attorneys say he suffers from severe mental illness and delusions.

The condemned inmate claims in his will that the Arkansas Department of Corrections has caused him brain injuries and severe dementia. He has asked that his head be “surgically removed” from his body after execution and transported out of state to an independent medical examiner who could prove his claim.



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