

# Supreme Court issues last-minute stay of execution of Alabama inmate

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Vernon Madison, 67, is one of the longest serving inmates on Alabama's death row. He was scheduled to be executed at 6 p.m. local time Thursday at the William C. Holman Correctional Facility in Atmore. However, 30 minutes before the scheduled execution the US Supreme Court issued a temporary stay and Madison was not put to death.

Madison has spent more than three decades on death row after being convicted and sentenced to death in 1994 for the murder of Mobile police officer Julius Schulte, in April 1985. By any reasonable human determination and psychiatric evaluation, Madison is a frail, mentally incompetent individual whose execution would constitute cruel and unusual punishment, as banned by the Eighth Amendment to the US Constitution.

In their January 18 petition filed with the Supreme Court for a stay of execution, Madison's attorneys argued that their client suffered "irreversible and progressive" vascular dementia that left him with no memory of the crime for which he was sentenced to death. They said that the courts had found him competent to be executed based on the testimony of Dr. Karl Kirkland, who had since been suspended from the practice of psychology and arrested on felony charges of forging prescriptions for substance abuse.

Madison's attorneys argued in the petition that their client had an IQ within the range of intellectual incompetency, and that strokes had left him unable to recite the alphabet beyond the letter G, legally blind, incontinent, and unable to walk unassisted. "His mind and body are failing," they wrote.

According to court filings, Madison shot Schulte as the police officer supervised Madison's move out of his former girlfriend's house. His conviction in 1994 was his third trial for the killing. His first conviction in

1985 was reversed after it was determined that blacks had been kept off the jury. Madison is African-American and his victim was white. His second trial, in 1990, was reversed after an appeals court found that the prosecution used testimony from experts "based partly on facts not in evidence."

After his final conviction, in 1994, Madison was sentenced to life in prison without parole by the jury, but the judge overrode their recommendation and imposed the death penalty. In 2017, the Alabama state legislature threw out the judicial override law, but it has not reversed death sentences retroactively. Alabama has kept in place a rule allowing juries to sentence prisoners to death by a vote of 10-2, instead of unanimously.

Thursday was Madison's second date with death. He was first scheduled to die by lethal injection on May 12, 2016, but the 11th US Circuit Court of Appeals issued a last-minute stay of execution, saying there should be more time to review Madison's claims of incompetency.

Upholding the stay, the federal appeals court wrote: "A finding that a man with no memory of what he did wrong as a rational understanding of why he is being put to death is patently unreasonable." Earlier the same week the Alabama Supreme Court had refused to halt the execution.

However, on November 6, 2017, the US Supreme Court struck down the appeals court decision, ruling that Madison could be executed despite having no memory of his crime. The ruling was unanimous, without any noted dissents. The high 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."

In their ruling, the high court justices wrote that

Supreme Court precedent had not clearly established that “a prisoner is incompetent to be executed because of a failure to remember his commission of the crime, as distinct from a failure to rationally comprehend the concepts of crime and punishment as applied in his [Madison’s] case.”

The court cited the 2016 testimony of Dr. John Goff, a psychologist hired by Madison’s counsel, who said that Madison’s strokes had rendered him unable to remember “numerous events that have occurred over the past 30 years or more,” including the 1985 murder.

However, they wrote, “Dr. Goff found that Madison ‘is able to understand the nature of the pending proceeding and he has an understanding of what he was tried for’; that he knows he is ‘in prison ... because of ‘murder’”; that he ‘understands that ... [Alabama is] seeking retribution’ for that crime; and that he ‘understands the sentence, specifically the meaning of the death sentence.’”

With this twisted logic, they upheld the state killing of a mentally and physically debilitated man who has no memory of the crime for which he was sentenced to die, but simply understands that he is being marched to the death chamber because the state has tried, convicted and sentenced him to death.

Madison’s execution was scheduled to be the second this year and the first in Alabama. Of the nation’s 23 executions in 2017, three-quarters took place in the southern states of Texas, Arkansas, Florida and Alabama, according to the Death Penalty Information Center (DPIC).

Shortly after the Alabama legislature threw out the judicial override bill in 2017, it enacted the “Fair Justice Act” to expedite executions through reducing death row inmates’ access to appellate courts. Through this legislation, the time allowed for death penalty appeals has been shortened, limiting inmates’ ability to appeal their convictions.

Alabama has another execution scheduled for February 22. Doyle Lee Hamm, 60, in prison since December 1987, was convicted and sentenced to death for the murder of Patrick Cunningham. According AL.com, Hamm’s attorney, Bernard E. Harcourt, a professor of law and political science at Columbia University, said his client is terminally ill and has been battling cranial and lymphatic cancer for more than three years.

According to documents filed by Harcourt, treatment for Hamm’s illness has compromised his veins, making it likely that lethal injection would cause “cruel and needless pain.”

According to DPIC, as of July 1, 2017, there were 191 inmates on death row in Alabama, and 2,812 nationwide in the 31 US states that still allow the death penalty, as well as five held by the US military.



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