

Missouri executes Ernest Johnson, intellectually disabled death row prisoner

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The state of Missouri carried out the execution of Ernest Lee Johnson on Tuesday after Governor Mike Parson denied clemency for the intellectually disabled prisoner. The US Supreme Court denied a final appeal Tuesday afternoon.

Johnson was put to death by lethal injection at the state prison in Bonne Terre. He died at 6:11 p.m., according to the Missouri Department of Corrections.

Aged 61 at the time of his execution, Johnson was convicted in 1995 of first-degree murder for the killings of Mary Bratcher, 46, Mable Scruggs, 57, and Fred Jones, 58, during a robbery at a Casey's General Store in Columbia, Missouri.

Johnson's lawyers and anti-death penalty advocates argued that his execution was illegal due to his intellectual disability and called for his sentence to be commuted to life in prison. In 2002, the US Supreme Court ruled in *Atkins v. Virginia* that the use of the death penalty against individuals with intellectual disability (known at the time as mental retardation) violated the Eighth Amendment to the US Constitution's prohibition of cruel and unusual punishment.

Missourians for Alternatives to the Death Penalty organized rallies around the state as the time of execution approached. "Ernest Johnson is someone with an intellectual disability," the group's executive director Elyse Max said. "He is very, very kind. He is a mentor to many people, he is strong in his faith ... There is no logical reason or no public safety issue. He's not a threat to future safety. It's not a deterrent. This is immoral to take away someone's life in the name of public safety."

Johnson's lawyers also said that the drug used by Missouri in its execution protocol could cause him painful and violent seizures, given that he still has part

of a benign tumor in his brain. He had about 20 percent of his brain removed in surgery in 2008 to treat the condition.

A press release from the governor's office quoted Parsons, a Republican, saying, "The state is prepared to deliver justice and carry out the lawful sentence Mr. Johnson received in accordance with the Missouri Supreme Court's order." The state's high court last month refused to halt the execution, ruling that Johnson was not intellectually disabled, in part because he had planned the murders.

Johnson's original death sentence in 1995 was overturned because his lawyers did not present testimony about his traumatic childhood and his drug addiction. His second conviction was overturned based on the US Supreme Court's 2002 ruling barring execution of the intellectually disabled.

According to advocates for the condemned man, Johnson had developmental delays since birth, when he was born with fetal alcohol spectrum disorder to a mother who battled addiction and drank regularly while she was pregnant. Johnson was assessed as reading at a third-grade level and has consistently scored in the intellectually disabled range on standardized tests since the age of 8.

In ruling against Johnson, Missouri's high court relied on "the opinion of a prosecution expert who was never called to testify and whose test results contradicted key opinions expressed in his own expert report," according to the Death Penalty Information Center. The court also repeatedly discounted defense evidence of Johnson's functional impairments, saying nonsensically that "Johnson failed to prove a causal connection between his [impairments in day-to-day-functioning] and his alleged intellectual impairment."

In the time leading up to Johnson's execution, Pope

Francis and two Democratic members of the Missouri congressional delegation issued calls for his sentence to be set aside. US Representatives Cori Bush and Emanuel Cleaver II petitioned Governor Parson to halt the execution. “The fact of the matter is that these death sentences are not about justice. They are about who has institutional power and who doesn’t,” they wrote. “Like slavery and lynching did before it, the death penalty perpetuates cycles of trauma, violence and state-sanctioned murder in Black and brown communities.”

Former Missouri Supreme Court Justice Michael Wolff, who voted with the majority of the court 13 years ago to deny Johnson’s appeal, as well as former Missouri Governor Bob Holden, a Democrat who oversaw 20 executions while in office, also called on Parson to grant Johnson clemency.

The *Kansas City Star*’s editorial board criticized Parson for failing to convene a board of inquiry into Johnson’s sentence, writing: “When the state, our state, does kill this man, as it almost certainly will, it will be yet another indictment of a system so bloodthirsty that it delights in vengeance against those who don’t even know why they’re being punished.”

While blacks and Latinos are disproportionately sentenced to death in the US, with Johnson’s execution Missouri’s death row is now comprised of six blacks and 14 whites. The death penalty is overwhelmingly reserved for workers and the poor, many of whom, like Johnson, are victims of an abysmal legal defense.

In keeping with the ruling elite’s homicidal herd immunity policy in the COVID-19 pandemic, the state-sponsored killing machine has not been put on hold.

So far during the pandemic, from January 2020 to the present, 19 death row prisoners have been sent to their deaths, including 10 in states that still practice capital punishment (Texas, Missouri, Alabama, Tennessee and Georgia) and nine by the federal government. The nine federal executions were pushed through by the Trump administration and its fascistic attorney general, Bill Barr, before Trump left office, ending a two-decade moratorium on federal executions.

Eight executions are scheduled for the remainder of 2021, including four in Texas, one in Alabama and three in Oklahoma.

Oklahoma is seeking to resume executions in the state after they were paused for more than five years after a series of executions went horribly wrong, leaving the

condemned writhing on the execution gurney, due to untested lethal injection protocols devised when the deadly chemicals formerly used were in short supply.



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