The newsletter of
Death Penalty Alternatives
For Arizona
A member of the
National Coalition to
Abolish the Death Penalty

Another Arizona Death Penalty Conviction Overturned

After more than 23 years on death row, all the while insisting on his innocence, Barry Lee Jones had his conviction thrown out by a federal judge on July 31. In a 91-page order, US District Judge Timothy Blackett found that the verdict in Jones’s 1995 trial was the product of a “rash to judgment” by law enforcement and wrote, “there is a reasonable probability his jury would not have convicted him of ANY of the crimes with which he was charged and previously convicted.” If the state does not initiate a retrial within 45 days, Jones must be released.

Arizona Stands at Four Years Without an Execution

The last execution by the state of Arizona was four years ago. Joseph Rudolph Wood III was put to death on July 23, 2014, at Florence State Prison. It was a two-hour lethal injection procedure that was generally described as “botched.” Wood gasped and groaned for an hour and 57 minutes after the drugs were injected. Experts calculate the execution should have taken about 10 minutes. Since Wood’s death, the court approved a settlement that required the state to develop and announce publicly an approved mix of drugs for any future execution. While 117 inmates await their trip to the Arizona gas chamber, no protocol has since been developed and no death warrant has been issued.

Arizona’s Out-Counties Can’t Afford Death Penalty

Prosecutors in Mohave County recently announced that they have dropped the pursuit of the death penalty in two murder cases in that county. Justin Rector and Darrell Ketchum were separately charged with first-degree murder, and officials said as of February their defense teams had spent more than $2.2 million preparing for trials that are still far from taking place. Mohave County Attorney Matt Smith said, “Everybody’s looking to save money and these death penalty cases are extremely expensive.” The numbers happened in 2009 and 2014, but because of the thorough investigation and preparation required to competently defend a capital murder case, the earlier case’s earliest release date is likely to be 10 years after the events charged, according to Smith. He went on to say that even if the defendants were sentenced to death, “there is no reasonable likelihood of the death penalty actually being imposed in a realistic and efficient timeframe given the current state of affairs surrounding persons sentenced to death.”

Bob Allison, whose granddaughter Ariel was allegedly killed by Ketchum, said, “he approves of the prosecutor’s decision, in part because his other grandchild were being bullied as a publicity thing.” For “We’re OK with it because we want to protect the kids,” he said. “It’s a waste of my money and the end results are going to be the same.”

Between fiscal years 2010 and 2018, Mohave County has spent nearly $3.6 million on defense costs in death penalty cases. Because no lawyers in the county public defender’s or legal defender’s office meet the state’s qualifications to handle death penalty cases, the county must contract out for those services, paying legal counsel at a rate of $125 per hour and $200 an hour for first-chair counsel. Those fees are a bargain when compared with more populous counties. In 2016, the Mohave County Board of Supervisors authorized $344,000 in county funds to cover the costs of hiring Rector and Ketchum, a budget that has far exceeded.

Between 2017 and 2019, 11 cases either in trial or pretrial for which the state has announced intent to seek the death penalty. Of those, 9 are in Maricopa County, 10 in Pinal and two in Yavapai. Two new death sentences have been imposed this year – Alyn Smith (sentenced March 19) and Alwanda Roberts (sentenced May 18). Both are Maricopa County Cases. For comparison’s sake, there were only four death sentences in all of Arizona in 2017 in Maricopa County in Yuma.

Three New Members Elected to DPAA Board of Directors

The Board of Directors of Death Penalty Alternatives for Arizona (DPAA) held its quarterly meeting in Flagstaff on Saturday, July 14. Three new board members were elected, including Antonio Trever and Jamarr Williams.

Antonio Trever was born and raised in Phoenix, Arizona, and currently resides in Surprise. He is an active and dedicated volunteer and brings his expertise as a mentor, tutor and member of several non-profit organizations to DPAA. Antonio has worked in the banking industry for more than 11 years and is currently an SBA Loan Underwriter for Horizon Community Bank. He has a Bachelor of Science degree in Global Business from Arizona State University and a Master in Public Administration with an emphasis in Government and Policy from Grand Canyon University.

Jamarr Williams studied English Literature at Arizona State University, where he graduated with honors and later received his JD from the Sandra Day O’Connor School of Law. Williams has worked in community advocacy after becoming an alumus of the Cesar Chavez Leadership Institute and most recently completed the Bar Leadership Institute in Arizona. He currently practices criminal defense at the Maricopa County Public Defender’s Office in the Capital Defense Unit.

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“Gay” Death Sentence Appealed

During the sentencing phase in the South Dakota trial of Charles Rhines in 1993, jaws were sent to the judge. They had already found Rhines guilty of fatally stabbing an employee of a Rapid City donut shop during a robbery, but they had some questions. They wanted to know, if they didn’t vote for the death penalty, what would Rhines’ life in prison look like—would he be allowed to mix with the general inmate population, would he be able to form a group of followers or admirers, and would he have a cellmate? The judge said he couldn’t answer. The jury sent Rhines to death row where he remains, awaiting execution.

Those questions are now the basis of an appeal to the US Supreme Court. During the trial the jurors had been told the defendant was gay. One juror recalled that during deliberations there had been “lots of discussion about homosexuality.” Another juror said that because Rhines was “a homosexual...he shouldn’t be able to spend his life with men in prison.” A third juror recalled overhearing a fellow juror say that life in prison would mean “sending him where he wants to go.”

On appeal the defense is arguing the jury sent Rhines to death row because some jurors thought life in an all-male prison might be enjoyable for a gay man. The Supreme Court is considering the appeal.

Supreme Court Again Refuses Cases Challenging Death Penalty as Cruel

The US Supreme Court has decided to take up two challenges from Mississippi death row inmates to the constitutionality of the death penalty based on the Eighth Amendment.

The high court, with one dissent, refused to review Timothy Evans’ claim that the death penalty violates the amendment because of geographic arbitrariness. The justices also turned away Richard Jordan’s claim that incarcerating him for more than 40 years on death row also violates the Eighth Amendment because it fails to serve any legitimate penological purpose. Jordan is now 71.

Justice Stephen Breyer, who has repeatedly urged the justices to reconsider the death penalty’s constitutionality, dissented from the denial of review in both cases. Breyer said the Mississippi cases illustrate three problems with how the death penalty is administered: long delays, arbitrary application and unreliability. On unreliability, Breyer noted that since January 2017, six additional death row inmates have been exonerated based on evidence of actual innocence.

“In my view, many of the capital cases that come before this court, often in the form of petitions for certiorari, involve, like the cases of Jordan and Evans, special problems of cruelty or arbitrariness,” Breyer wrote. “Hence, I remain of the view that the court should grant the petitions now before us to consider whether the death penalty as currently administered violates the Constitution’s Eighth Amendment.”

Texas Execution Delayed to Consider New Evidence

On June 5, the Texas Court of Criminal Appeals issued a stay of execution for Clifton Williams, who was due to be executed that month. The stay was granted to allow a hearing into the claim that Williams has intellectual disability. Williams was sentenced to die for killing a 93-year-old woman in her home in Tyler, Texas, in July of 2005. According to the state, the defendant, then 21, broke into the home of the victim before sexually assaulting her, then stabbing and slapping her four times.

The Court granted additional stay to allow for a review of evidence relating to DNA probability statistics. Williams, also known as “Crazy C,” was due to be the tenth person this year to receive the lethal injection in Texas. The US Supreme Court denied a motion to halt the execution in April after Williams’ lawyers argued he had learning difficulties. The new delay comes as it emerged that two witnesses at Williams 2006 trial are thought to have used incorrect statistics provided by the FBI when testifying about population and DNA probabilities.

2018 Execution Toll Reaches 18

As of July 30, 14 individuals had been executed in the US, compared to 16 at the same time last year. Eight of the executions were in Texas, two each in Alabama and Georgia, and one each in Florida and Ohio. All were killed by lethal injection.

Seven were white, five black, and two Latino. The shortest time from execution to execution was nine years, the longest, 32 years. Since 1976, 1,479 US death-row prisoners have been executed. While executions have been declining, executions have increased. Since 1973, more than 162 people have been released from death row with evidence of innocence. Executions averaged three per year from 1973-1999, and then increased to an average of five per year.

Public Health Experts and Pharmaceutical Association Warn Lethal-Injection Policies Put Public Health at Risk

State lethal-injection practices may have collateral consequences that place public health at risk, according to briefs filed in the US Supreme Court on July 23 by public health experts and an association representing generic drug manufacturers. Amicus briefs were filed in connection with a challenge brought by death-row prisoner Russell Bucklew (see Alternatives newsletter, Spring 2018) to Missouri’s use of lethal injection. The Association for Accessible Medicines (AAM) and 18 pharmacy, medicine and health policy experts warn that questionable practices in obtaining and boarding drugs for use in executions undermine how law enforcement efforts to combat black market sales and jeopardize the availability of some medications for individuals in other therapeutic uses.

REFLECTION: Dispensing with Justice

Scott Raymond Dozier was scheduled to be executed in Nevada on July 11, 2018. Dozier said he preferred execution to a life behind bars and didn’t mind if his execution was painful. An Army veteran and former methamphetamine user, he had attempted suicide in the past. A Nevada judge halted the execution because of a lawsuit filed by New Jersey-based pharmaceutical company Algoran, which produces midazolam, the drug to be used in his execution.

The lawsuit alleges Nevada corrections officials obtained the drug illegally, and that it is not approved for use in this manner. Nevada officials turned to midazolam because their dwindling supply of the previously used diazepam had expired. Nevada refused to return the expired drug to Algoran, its manufacturer, despite the company’s demand.

Algoran and Pfizer are just two of the companies that are increasingly vocal in opposing the use of their drugs in executions. McKeen was the first to sue over the use of its product in an Arizona execution last year, and although the Arizona Supreme Court ruled against McKeen and allowed the execution to proceed, the Arizona court is the first to actually halt an execution.

This growing opposition is a promising sign for elimination of the death penalty, but as drugs become less available, state officials may turn to illegal means of obtaining their drugs, rely on compounding pharmacies, or simply change their methods of execution. In July, Alabama began to allow the use of nitrogen hypoxia as a method of execution, the state already allows electrocution (along with eight other southern states). Eleven states allow lethal gas, and three states allow firing squad and/or hanging.

Using illegal means to obtain execution drugs has been an issue of contention in Arizona, where it is especially concerning because Arizona hides execution details. State law allows the identity of executioners “and other persons who participate or perform ancillary functions in an execution” to remain confidential and not subject to disclosure (see A.R.S. 13-757(C)). Further, if a person who “participates in or performs ancillary functions in an execution” is licensed by a board, the licensing board cannot suspend or revoke the person’s licenses as a result of the participation in the execution (see A.R.S. 13-757(D)). If executions are not wrong, why can executions hide their identity? Why the lack of transparency? Why indemnify those who participate in executions? The immunity from consequences is troubling, and I fear it is a trend that seems to apply only to those in position of power.

Alan Tavassoli, President
Death Penalty Alternatives for Arizona

New Format for Future Newsletters

At its July board meeting, it was acknowledged that the future of communication is the internet. This will be the last quarterly Alternatives newsletter to be mailed. The newsletter will continue to be produced, but distribution will change, with digital publication on the Death Penalty Alternatives for Arizona Facebook page and website, and email distribution on request. An annual publication will be mailed, summarizing the state of the death penalty and DPA’s efforts. This will also save money which can be directed at other marketing and educational efforts. The board encourages you to visit our Facebook page and website: deathpenalty.org. To receive the newsletter via email, please send your email address using the Contact link on our website or by returning the enclosed envelope.
Help end the death penalty by donating to Death Penalty Alternatives for Arizona.
Donors will receive our newsletters as well as updates on DPAA activities, rallies, vigils and events.

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