

BREAKING: Attny Statement: AR Supreme Court Stays Scheduled Execution of Death Row Prisoner With Severe Mental Illness

November 7, 2017

BREAKING: *The Arkansas Supreme Court granted the emergency petition to stay the execution of death row prisoner Jack Greene, a person with severe mental illness. Mr. Greene had been scheduled for execution on Thursday, November 9, 2017. Today's order can be accessed here: <http://bit.ly/2j83ljW>*

Statement from Attorney for Jack Greene in Response to Today's Stay of Execution:

"Today's order means that our client, Jack Greene, will have the opportunity to make the case that he should receive an independent hearing about his competency for execution.

"The U.S Constitution prohibits the execution of prisoners with mental illness so severe that they lack a rational understanding of the punishment, yet Arkansas law gives the Department of Correction Director sole discretion over such proceedings, denying the prisoners' due process rights.

"Mr. Greene's mental health must be the subject of a fair competency hearing with a neutral decision maker. We look forward to seeking such a hearing for Mr. Greene, whose severe mental illness is well-documented."

*- Scott Braden, Attorney for Jack Greene, Assistant Federal Defender of the Arkansas Federal Defender Office
-November 7, 2017*

Background on the Jack Greene Case

Jack Greene is Severely Mentally Ill

Until today's stay by the Arkansas Supreme Court, Jack Greene was scheduled for execution on Thursday November 9, 2017, despite his severe mental illness. Mr. Greene seeks an independent hearing to determine if he is competent for execution in adherence with U.S. Supreme Court precedent.

Mr. Greene began showing signs of mental illness almost a decade before the crime which led to his death sentence in 1992. His psychotic disorder "produces delusions that cause Greene to believe, falsely, that he is being physically injured by a coalition of Arkansas Department of Correction ("ADC") employees and his own attorneys to prevent him from being extradited to North Carolina, where he believes he will receive adequate medical care. Greene's illness manifests itself in extreme physical contortions and self-mutilation, which Greene considers necessary to alleviate pain from injuries such as the destruction of his central nervous system.... Greene's illness has gotten worse with time, such that he cannot now rationally comprehend the

purpose of his scheduled execution.” (p. 9, amended complaint) Mr. Greene’s amended complaint can be accessed here: <http://bit.ly/2z1D0KZ>

Among other behaviors caused by his delusions, Mr. Greene frequently stuffs his ears and nose with paper, and believes that guards are trying to harm him by slamming his door forcefully. He often causes his nose to bleed, leaving his face covered in blood. As the brief states, even the “ADC medical staff have recognized Greene is delusional” (amended complaint, p. 17).

Mr. Greene’s delusional thinking is apparent from his writings, which he frequently sends to government officials and which the Amended Complaint quotes from at length (amended complaint, pp. 11-17).

Here is a recent photo from the ADC of Mr. Greene: <http://bit.ly/2i2iDIY>

Twenty-eight mental health professionals, including 24 from Arkansas, and the American Bar Association are urging Governor Asa Hutchinson to “show mercy” on Mr. Greene due to his extreme mental illness. Hilarie Bass, President of the American Bar Association, stated, “While the ABA does not take a position for or against the death penalty per se, nor is Mr. Greene’s guilt in the tragic murder of Sidney Burnett in dispute, the ABA has significant concerns about whether the death penalty is the appropriate punishment in his case in light of his severe mental illness.”

The letter from mental health experts can be accessed here: <http://bit.ly/2gADA7b>.

The letter from American Bar Association can be accessed here: <http://bit.ly/2y3YyXh>

Mr. Greene Has Not Received A Competency Hearing

The U.S. Supreme Court requires that a death row prisoner be competent for execution, that is, that he have a rational understanding of the punishment he is about to suffer and the reason why he is to suffer it. (*Ford v. Wainwright* (1986) and *Panetti v. Quarterman* (2007)).

Ford v. Wainwright (1986) and *Panetti v. Quarterman* (2007) also guarantee condemned prisoners certain procedural rights under the Eighth Amendment to prove their incompetence to be executed. The prisoner must be given a “fair hearing” to determine competency, which includes an opportunity to present evidence and argument to a neutral decision-maker.

On October 20, 2017, attorneys for Mr. Greene filed an amended complaint in the Circuit Court of Jefferson County to halt his scheduled execution on the ground that his severe mental illness renders him incompetent to be executed and sought a competency hearing. The amended complaint notes that Mr. Greene was examined by Dr. Garrett Andrews, a neuropsychologist, on October 10, 2017; Dr. George Woods, a psychiatrist, in 2011 and again on September 14, 2017; and Dr. Dale Watson, a neuropsychologist, in 2009. All of these doctors agree he has severe mental illness. On November 3, 2017, Judge Jodi Raines Dennis of the Jefferson County Circuit Court dismissed Mr. Greene’s amended complaint.

State officials have opposed Mr. Greene's attorneys' request for a competency hearing on the ground that state statute places the decision with the Director of the Department of Correction. The Director determined Mr. Greene competent by relying on a single evaluation from 2010. Attorneys for Mr. Greene argue that by denying Mr. Greene a court hearing and by giving unreviewable discretion over competency determinations to the Director – the individual responsible for carrying out executions – the state violates U.S. Supreme Court rulings. The state's statute fails to meet the "fair hearing" requirement of those rulings by placing competency decisions with a member of the executive branch instead of a neutral decision-maker. The Emergency Petition for Stay of Execution can be accessed here: <http://bit.ly/2Ae8mdX>.

According to Mr. Greene's attorneys, allowing the Director to make a competency determination also violates the separation of powers under the Arkansas Constitution because it gives this power to a member of the executive branch whose duty is to carry out warrants of execution, rather than a judge.

Attorneys for Mr. Greene argue that the Arkansas Supreme Court's April 2017 stay in the Bruce Ward case required a stay in Mr. Greene's case, noting, "As Greene has done, Ward made a significant showing of his incompetence to be executed. Like Greene, Ward challenged the constitutionality of Ark. Code Ann. § 16-90-506(d), arguing that vesting sole discretion in the Director to determine competence violates due process. And as has occurred here, the circuit court dismissed the complaint without having any sort of evidentiary hearing on competence. In recognition of the complex questions the case presented and the gravity of the claimed constitutional violations, the Court stayed Ward's execution. . . . Ward's appeal has not been decided, and the circuit court has not benefited from this Court's guidance. The equitable outcome is for the Court to stay Greene's execution while considering his appeal. The Court should not allow the State to avoid the substantial questions presented here by executing Greene before the Court can address them—as it has already committed itself to do in another case" (stay motion, pp. 9-10).

Jack Greene's Family History of Mental Illness and Horrific Childhood of Abuse

On October 2, 2017, attorneys for Jack Greene filed a clemency petition seeking mercy in his case. Mr. Greene's clemency petition contains information about his horrific childhood of extreme poverty and abuse, including sexual abuse at the notorious Stonewall Jackson Juvenile Training School, and family history of mental illness and suicides, among other issues.

As the petition states, mercy is warranted in light of Mr. Greene's extreme mental illness. The execution of this severely unwell man, whose "face is usually smeared with [his own] blood" (p. 1), "will not satisfy society's need for punishment, because his understanding of his sentence is light-years from reality," (p. 2) and would be a "miserable spectacle" (p. 1).

The clemency petition can be accessed here: <http://bit.ly/2x9se4R>

A 14-minute clemency video sheds light through interviews with family members on Mr. Greene's tragic family history and childhood. The video also includes interviews with attorneys and a mental health expert who discuss Mr. Greene's severe mental illness and how his

“traumatic life history primed him to develop the mental illness that ran in his family” (clemency petition, p. 2).

The video is a public record document and can be accessed here: <https://vimeo.com/236030806>

On October 5, 2017, the Arkansas Parole Board voted against mercy for Jack Greene. Governor Hutchinson has the executive authority to grant clemency if he so chooses, the Parole Board’s recommendation notwithstanding.

For more information or to speak with one of Mr. Greene’s attorneys, please contact Laura Burstein: Laura.Burstein@Squirepb.com; @LauraBurstein1.

###