

URGENT ACTION

FLORIDA CARRIES OUT SIXTH EXECUTION OF 2023

Michael Zack was executed in Florida on 3 October 2023 for a murder committed in 1996. Twenty-seven years old at the time of the crime, he was 54 at the time of his death. The courts dismissed appeals that his execution would be unconstitutional based on a new scientific consensus that Fetal Alcohol Syndrome is the functional equivalent of intellectual disability. This was Florida's sixth execution of the year, its highest annual total since 2014.

NO FURTHER ACTION IS REQUESTED. MANY THANKS TO ALL WHO SENT APPEALS.

Michael Zack was sentenced to death in 1997 for a murder of a woman committed in 1996. The jury voted 11 to one for the death penalty, and on 14 November 1997, the judge accepted its recommendation. During the sentencing phase of the trial, the jury had been told of the appalling abuse Michael Zack suffered during his childhood. Four experts testified that he had Post-Traumatic Stress Disorder (PTSD), Fetal Alcohol Syndrome (FAS), chronic depression, possible brain damage, and the mental and emotional age of a 10 or 11-year-old child. An expert for the prosecution agreed with a defence expert that Michael Zack exhibited a profile similar to a person with intellectual disability.

An appeal filed in state court on 28 August 2023 pointed to "a new scientific consensus that individuals with [FAS] meet the functional criteria for intellectual disability" and claimed that, as such, Michael Zack's execution would be unconstitutional under a 2002 US Supreme Court ruling (*Atkins v. Virginia*) prohibiting the execution of people with intellectual disability. The appeal also argued that his execution would be unconstitutional because one juror voted to spare his life. The state court decided there was no need for an evidentiary hearing and summarily rejected both claims in an order issued on 31 August 2023. It declined to issue a stay of execution. The Florida Supreme Court affirmed the lower court's decision on 21 September.

Michael Zack's lawyers also sought to have the federal courts review the constitutionality of Florida's clemency process, but to no avail.

On 2 October, the US Supreme Court said it would not review any of the claims raised in the case, and rejected the appeal for a stay of execution.

There have been 19 executions in five states in 2023: Alabama (1), Florida (6), Missouri (4), Oklahoma (3) and Texas (5). These five states account for 62% of the 1,577 executions in the USA since 1976. Florida accounts for 104 of these executions.

NAME: Michael Duane Zack

THIS IS THE SECOND AND FINAL OUTPUT FOR UA 86/23

LINK TO PREVIOUS UA: <https://www.amnesty.org/en/documents/amr51/7163/2023/en/>

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