

URGENT ACTION

CLEMENCY REJECTED, TEXAS EXECUTION PROCEEDS

Brent Brewer was executed in Texas on 9 November 2023. His 1991 death sentence was overturned in 2007, but he was resentenced to death in 2009. In 1991 and again in 2009, the prosecution relied on unscientific and unreliable testimony of a psychiatrist who asserted that Brent Brewer would likely commit future acts of violence, a prerequisite for a death sentence in Texas. Nineteen years old at the time of the crime, Brent Brewer was 53 at the time of his execution. He had been an exemplary prisoner, with no record of violence during his three decades on death row.

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

Brent Brewer was sentenced to death in 1991 after being convicted of the 1990 capital murder during a botched robbery of a 66-year-old man. In 2007, the death sentence was overturned, but he was resentenced to death in 2009. In Texas, a prerequisite for a death sentence is a jury finding that the defendant will likely commit future acts of criminal violence. At the resentencing, the prosecution presented a psychiatrist (Dr C.) who testified he would likely commit future violence, the same as he had opined at the 1991 sentencing. In 2009, he added that despite Brent Brewer's lack of violent conduct during nearly two decades on death row, he still believed he would commit such acts in the future. As in 1991, Dr C. had not met or evaluated Brent Brewer, but still testified that he had no conscience, violence "doesn't seem to bother him", he would join a gang in prison, and had a "preference for a knife".

As long ago as 1983, the American Psychiatric Association (APA) informed the US Supreme Court in a Texas capital case that "the unreliability of psychiatric predictions of long-term future dangerousness is by now an established fact within the profession". The Court did not dispute the APA's assertion but placed its faith, "at least for now", in the adversarial process "to sort out the reliable from the unreliable evidence and opinion about future dangerousness".

On 3 November, an article by a juror from Brent Brewer's resentencing was published in the Houston Chronicle. She said: "After I heard all the evidence, I was convinced that Brent did not act with premeditation and did not intend to kill the victim. It seemed to me that he was trying to steal a truck and things simply got out of hand, with a tragic outcome. I also did not believe that Brent would be dangerous in prison. For these reasons, I felt a life sentence was warranted. At least one of my fellow jurors agreed. But because of a deeply misleading aspect of Texas law, we were not told that if any one juror voted for life, that would be Brent's sentence. The way the jury instructions read, it seemed like at least 10 people had to agree on a life sentence. Believing – incorrectly – that my vote was meaningless, I acquiesced in the majority's death penalty verdict... The Texas Board of Pardons and Parole can remedy this injustice by recommending clemency for Brent Brewer, and Gov. Greg Abbott can commute Brent's death sentence to the life sentence that should have been the outcome of his trial." On 7 November, the Board voted unanimously against making a clemency recommendation, despite the evidence of the unreliable testimony and the juror's revelations.

Brent Brewer's lawyers had sought to have the case allowed back into court on the claim that the prosecution had "presented expert testimony from [Dr C.] at his punishment retrial that was false and misleading". On 7 November 2023, the Texas Court of Criminal Appeals dismissed the application as not meeting the requirements under Texas law and "without reviewing the merits of the claims raised". The US Supreme Court refused to intervene.

Brent Brewer's lawyers issued a statement, "Brent Brewer will be executed by Texas tonight. His execution is the farthest thing from justice. Brent's story is one of complete redemption. He recognized and repented for the deeds he had done and totally redeemed himself during his thirty-four years in prison. The Brent that Texas wished to execute is long gone. The Brent they are killing tonight is a kind, generous, peaceful and thoughtful man who spent the vast majority of his time repenting and in religious studies. He is profoundly remorseful for his crime, committed when he was just nineteen, and he would have done anything to take back the pain he caused the victim's family". In his own final statement before being killed, Brent Brewer said: "I would like to tell the family of the victim that I could never figure out the words to fix what I have broken. I just want you to know that this 53-year-old is not the same reckless 19-year-old kid from 1990. I hope you find peace." The lethal injection of pentobarbital was administered at 6:23 pm. Brent Brewer was pronounced dead 15 minutes later.

There have been 21 executions in the USA in 2023: Alabama (1), Florida (6), Missouri (4), Oklahoma (3) and Texas (7). These states account for 62% of the 1,579 executions in the USA since 1976. Texas alone accounts for 585 (or 37%) of these executions.

NAME: Brent Ray Brewer

THIS IS THE SECOND AND FINAL OUTPUT FOR UA 93/23

LINK TO PREVIOUS UA: <https://www.amnesty.org/en/documents/amr51/7274/2023/en/>

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