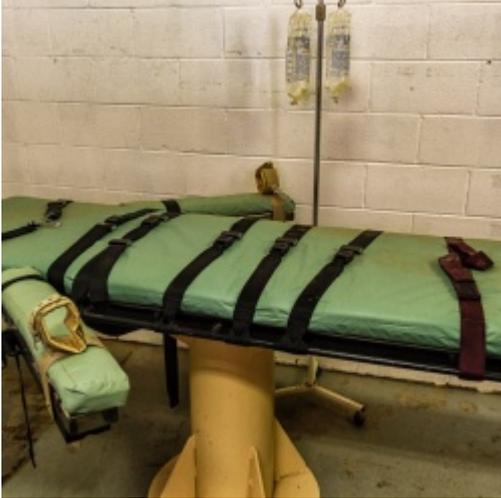


# Who Is Not Competent To Be Put To Death?



By *Jamie Wells, M.D.* — October 2, 2018



By Ken Piorkowski via Wikimedia Commons [1]

A [death row inmate](#) [2] convicted of a 1985 murder of a police officer has spent the last thirty-plus years awaiting his execution. Due to a reported series of strokes contributing to a [vascular dementia](#) [3] and a litany of physical and mental challenges, his lawyers maintain he has no memory of the brutal event. All told, facilitating the death penalty in this case begs the question: Would such an action violate the [Eighth Amendment](#) [4] guaranteeing no cruel and unusual punishment be inflicted?

And, that is why his competency is being questioned at the highest level. The [U.S. Supreme Court](#) [5] is now involved in [determining the legality](#) [6] of following through with such an irreversible measure when the subject is supposedly this impaired.

Is it ethical to execute someone who knew why they were sentenced for their crime at the time of their conviction, but now with protracted wait times, aging and development of degenerative neurological disease can no longer understand the situation? While many argue the stress of the prolonged period between sentencing and execution in itself violates the standard set by the Eighth Amendment, the question remains if dementia and other medical conditions that impact cognition should be disqualifying?

The particulars of this case involve disparate expert clinical status assessments and many legal challenges. But, the crux of the bigger picture is very significant to consider as this is and likely will be one of a number of situations that become ethically fuzzy. The tide tends to be shifting on the death penalty as an acceptable option for punishment and cultural tendencies are softening. Especially when botched executions are making the media rounds as of late, pharmaceutical companies are withholding use of their drugs for this non-therapeutic purpose, exonerations are

occurring due to advancements in DNA testing of the wrongfully accused; it stands to reason with time we are not drawing more distinct lines, but rather more questions from ever increasing ambiguity.

Is it more or less cruel to push the boundaries of how long an inmate has to live with the knowledge and anxiety that he will be put to death than to be given the sentence in the first place? Is it more or less cruel to know at the time of an execution that you are being executed? Is it more or less cruel to be unaware of the reason why you are being executed? Cruel and unusual punishment runs both ways.

For the person who is no longer competent secondary to the development of a medical malady, is our society accepting of carrying out the death penalty under these circumstances? What do you think? Please comment in the below section.

---

COPYRIGHT © 1978-2016 BY THE AMERICAN COUNCIL ON SCIENCE AND HEALTH

---

**Source URL:** <https://www.acsh.org/news/2018/10/02/who-not-competent-be-put-death-13465>

**Links**

[1] [https://commons.wikimedia.org/wiki/File:Penitentiary\\_of\\_New\\_Mexico\\_-\\_Lethal\\_Injection\\_Bed.jpg](https://commons.wikimedia.org/wiki/File:Penitentiary_of_New_Mexico_-_Lethal_Injection_Bed.jpg)

[2] <https://www.ozy.com/fast-forward/why-the-battle-over-dementia-patients-on-death-row-better-lawyers/89629%E2%88%9A>

[3] <https://www.newsweek.com/death-row-inmate-who-murdered-police-office-could-be-spared-execution-hercant-821881>

[4] <https://constitutioncenter.org/interactive-constitution/amendments/amendment-viii>

[5] <http://media.ca11.uscourts.gov/opinions/pub/files/201612279.pdf>

[6] <https://thehill.com/regulation/court-battles/409495-supreme-court-weighs-new-limit-on-death-penalty>