

## **Fla. justices stay death row inmate's execution**

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By Bill Kaczor, Associated Press Writer

TALLAHASSEE, Fla. — The Florida Supreme Court stayed the execution of a triple killer Wednesday after expressing frustration over a death warrant Gov. Charlie Crist signed in response to a sheriff's request and petition campaign.

Crist signed the warrant while Paul B. Johnson still had appeals pending. That put the high court in a "difficult position," Justice Barbara Pariente said at the start of oral argument in one of those appeals just a week before Johnson's scheduled Nov. 4 execution.

The justices did not immediately rule on the appeal. They ordered the indefinite stay seven hours after the argument, writing that it's needed to give the high court time to "consider significant issues raised" in the appeal.

Johnson, 60, was convicted of fatally shooting a sheriff's deputy and two other people 28 years ago in Polk County. After smoking marijuana and injecting crystal methedrine, he told a couple of friends he was going to go out and get more drugs and money even if he had to shoot someone.

His lawyer, Martin McClain, argued Johnson's three murder convictions and death sentences should be reversed because newly discovered evidence -- notes written by a prosecutor in 1981 -- shows a jailhouse snitch had been improperly allowed to testify at trial.

Assistant Deputy Attorney General Candace Sabella said the notes are nothing new and it's too late to bring them up. She also argued other evidence is strong enough to sustain the death sentences without the snitch's testimony.

Johnson has another appeal pending in federal court in Tampa. He asked the Supreme Court for a stay of execution until those cases and a new appeal in Polk County are resolved.

The Polk appeal challenges the way the death warrant was signed, contending it violated the Eighth Amendment, which bans cruel and unusual punishment.

Polk Sheriff Grady Judd personally asked Crist to sign a warrant in August during a chance encounter at the funeral of a Tampa police officer. Since then about 3,000 people have contacted the governor's office through an online and paper petition campaign the sheriff started.

"This is unprecedented," McClain said after the oral argument.

He said it's the first time an execution has been ordered for an inmate who has not yet had a habeas corpus hearing in federal court since a 1996 law permitted death warrants without expiration dates. Johnson cannot get the federal hearing until after the Supreme Court decides the appeal argued Wednesday, McClain said.

"It's obvious there are no standards," McClain said. "You have to have a principled way to distinguish between who gets executed and who doesn't."

Getting the most signatures on petitions doesn't meet that criteria, he said.

McClain said he's not a politician and cannot say if the governor, who is running for the U.S. Senate, is playing politics with the death penalty.

"All I can say is ... his spokesperson has acknowledged that the online petition for the Polk County sheriff's department was a significant factor," McClain said.

Only five justices heard the case. Two recused themselves.

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