

High court issues stay in Polk death penalty case



Staff photo by WALLY PATANOW

Deputy Theron Burnham was shot and killed in 1981 while investigating a kidnap call.

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Paul Beasley Johnson

TALLAHASSEE - Polk County Sheriff Grady Judd has waited 28 years for Paul Johnson's execution. It looks like he's going to have to wait a little longer.

The Supreme Court of Florida today issued a [stay of execution](#) for Johnson, who was scheduled to be put to death on Nov. 4.

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 was sentenced to death for killing a Polk County deputy and two others in January 1981. Judd launched an online petition Sept. 30 asking Gov. [Charlie Crist](#) to sign Johnson's death warrant. A week after the campaign on [GoPetition.com](#) garnered more than 2,050 signatures, Crist signed the warrant, though the governor's office says there was no connection.

In its short order announcing the stay of execution, the state Supreme Court said the stay was being issued to consider the defense's claims of prosecutorial misconduct.

McClain it's the first time an execution had 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.

"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.

Judd is out of town but released a statement after hearing of the stay.

"Paul Beasley Johnson, the man who murdered William Evans, Darrell Ray Beasley, and Deputy Sheriff Theron A. Burnham 28 years, 9 months, and 20 days ago, has once again delayed justice," Judd said in the statement. "The time for his continued victimization of the families of the three men he murdered in cold blood so long ago has come to an end. There is no question of Paul Beasley Johnson's guilt; the only question is how long our criminal justice system will allow delay after delay to occur."

Only five justices heard the case. Two recused themselves.