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Judge in Yakima stays Dec. 3 execution of Stenson

By SHANNON DININNY
Associated Press Writer

Federal and state judges have indefinitely delayed the execution of Darold Stenson for the 1993 shooting deaths of his wife and a business partner in Clallam County.

The separate stays were issued Tuesday by judges in federal court in Yakima and in Clallam County Superior Court.

U.S. District Judge Lonny Suko issued his order Tuesday in a conference call with lawyers. State Attorney General Rob McKenna said his office was asking an appeals court to vacate Suko's order and allow the execution to proceed as scheduled on Dec. 3.

Stenson's lawyers this week asked Suko for a temporary restraining order blocking the execution on the grounds that the state last month revised its procedure for administering lethal injections, without previously announcing any changes or going through a rule-making process.

Furthermore, they argued that their client has Type 2 diabetes with veins that are difficult to access, making it more likely that he would suffer pain that constitutes unlawful cruel and unusual punishment.

Without the judge's intervention, they argued, Stenson "will die at the hands of an unreviewed, untested, never-before implemented lethal injection policy which is likely to cause him severe pain."

McKenna argued that Stenson is "using every means at his disposal to avoid execution."

"Every other avenue of appeal has been exhausted and even though the U.S. Supreme Court has already ruled on the question of lethal injection's constitutionality, he's making this argument anyway in a last ditch effort to avoid execution," McKenna said.

The other stay was issued by Judge Kenneth Williams in Clallam County Superior Court, according to Assistant Attorney General John Samson, one of the attorneys handling the case.

Samson said the judge reversed an earlier decision he made regarding DNA testing in the case. Williams had initially denied DNA testing requested by Stenson's attorneys. But on Tuesday, the judge decided to allow the testing and granted the stay.

The Clallam County prosecutor is handling that matter, and Samson said that they may ask the state Supreme Court to vacate the ruling. A message left with the prosecutor's office Tuesday was not immediately returned.

Samson that that if the 9th Circuit rejects the attorney general's request to vacate the federal stay, his office will go to the state Supreme Court as well.

Stenson's lawyers did not immediately return calls seeking comment.

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AP Writers Rachel La Corte in Olympia and Gene Johnson in Seattle contributed to this report.

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