

Congress of the United States
Washington, DC 20515

November 22, 2022

The Honorable Michael L. Parson
Governor of Missouri
P.O. Box 720
Jefferson City, MO 65102

Dear Governor Parson:

We write to you today to urgently ask that you halt the execution of Kevin “KJ” Johnson, currently scheduled for November 29. As lawmakers, we are committed to building a Missouri that is a beacon of justice, and we strive daily to represent the needs and demands of Missourians in our districts and across the state. For this reason, we are urging you to immediately commute Mr. Johnson’s sentence.

Mr. Johnson is a 37-year-old son, brother, father, grandfather, and a dear friend to many. He was born and raised in St. Louis County. His father was incarcerated for much of his adolescent life, and he was left alone with his older brother for hours or days at a time. Mr. Johnson eventually went to live with different family members; a 2016 psychological evaluation noted that he was whipped, beaten and maced by various caregivers and directed by uncles and cousins to join in sex acts as a prepubescent child. One forensic psychiatrist found that Johnson’s repeated exposure to violent abuse and neglect “is among the most extreme cases ... in [my] 40 years of practice and 30 plus years of performing psychiatric evaluations in connection with capital litigation.”¹

Mr. Johnson’s execution would be a grave act of injustice. He committed the offense for which he was sentenced to death when he was 19 and shortly after witnessing the death of his 12-year-old brother. The U.S. Supreme Court has held that executing people under 18 constitutes cruel and unusual punishment under the Eighth Amendment, given those individuals’ lack of emotional maturity and thus diminished blameworthiness.² Research shows that people aged 18 to 21 have the same levels of emotional maturity and impulse control as younger teenagers.³ It is

¹ Monica Obradovic, *Kevin Johnson's date with the executioner*, ST. LOUIS PUBLIC RADIO (Nov. 2, 2022), <https://news.stlpublicradio.org/law-order/2022-11-02/kevin-johnsons-date-with-the-executioner>

² *Roper v. Simmons*, 543 U.S. 551, 569–70 (2005).

³ Ashley R. Smith, Jason Chein, Laurence Steinberg, *Impact of socio-emotional context, brain development, and pubertal maturation on adolescent risk-taking*, 64 HORMONES AND BEHAVIOR 2, 323-332 (2013), <https://www.sciencedirect.com/science/article/abs/pii/S0018506X13000688>; B.J. Casey, Sarah Getz, Adriana

equally unjust to execute someone for an offense committed at 18 as it is for an offense committed at 19. This may explain the exceptionally low execution rates of those aged 18-20; there was one in 2018, two in 2019, and none in 2020 or 2021.⁴ Furthermore, United Nations experts have condemned the United States' use of the death penalty and called for its total abolition. The federal government under President Biden has rightfully halted its use. Thirty-seven U.S. states have either abolished the death penalty or not carried out an execution in at least 10 years. We implore Missouri to take similar action and do away with executions altogether.

Mr. Johnson's death sentence is even more egregious given the evidence of his mental illness. He has a history of psychiatric hospitalization, a suicide attempt at the age of 14, a major depressive disorder, and auditory hallucinations. A neuropsychologist also diagnosed Mr. Johnson with a "focal deficit in frontal lobe executive functioning," which impairs planning, response inhibition, and impulse control.⁵

Moreover, Mr. Johnson's conviction is tainted by racism and misconduct.⁶ At his first trial, ten of twelve jurors favored a conviction on second-degree murder, which is not a capital offense. The two holdout jurors reportedly made racist comments during deliberations and caused a deadlock and mistrial. This failure of the criminal legal system was in no way rectified by Mr. Johnson's second trial, where the prosecuting attorney removed a Black juror for characteristics shared by white potential jurors who were not removed.⁷ Former Chief Justice of the Missouri Supreme Court Richard B. Teitelman concluded that "neither justification" for removing the Black juror was "race-neutral" and thus Mr. Johnson's conviction should have been overturned.⁸ The prosecuting attorney at issue convicted five people for killing police officers over the course of his career; yet he only sought the death penalty for the four who are Black (including Mr. Johnson), and not the fifth, who is white.⁹

Mr. Johnson currently has an application pending with the Conviction and Incident Review Unit in the St. Louis County Prosecuting Attorney's office regarding the racial discrimination that

Galvan, *The adolescent brain*, 28 DEV. REV. 1, 62-77 (2008), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2500212/>

⁴ Emergency Application for Stay of Execution Pending Petition for Writ of Certiorari, *Johnson v. Missouri*, No. 22-5947 (Nov. 8, 2022), https://www.supremecourt.gov/DocketPDF/22/22A414/246019/20221108120110884_22-11-08_Stay_Appn_Pending_Cert_Scotus.pdf

⁵ *Id.*

⁶ *Supra*, note 1; Monica Obradovic, *Special Prosecutor Alleges Racial Bias Tainted Kevin Johnson's Prosecution*, ST. LOUIS RIVERFRONT TIMES (Nov. 16, 2022), <https://www.riverfronttimes.com/news/special-prosecutor-alleges-racial-bias-tainted-kevin-johnsons-prosecution-38902416>

⁷ *Id.*

⁸ *State v. Johnson*, 284 S.W.3d 561 (Mo. 2009), <https://casetext.com/case/state-v-johnson-4324>

⁹ Special Prosecutor's Motion for a Stay of Execution and Suggestions in Support, *Missouri v. Johnson*, No. SC89168 (Nov. 16, 2022), <https://www.scribd.com/document/608344088/22-11-16-SPs-Motion-for-Stay-of-Execution-Scomo-1>

pervades his case. After a preliminary investigation, the Unit concluded that further investigation may be warranted and requested that Mr. Johnson’s execution not go forward.¹⁰ Yet the Missouri Supreme Court inexplicably proceeded to schedule the execution for Nov. 29. To execute Mr. Johnson despite this context would be morally and legally unconscionable.

Each of us is more than the worst thing we’ve ever done.¹¹ The same is true for Mr. Johnson. He has written two books, one about his childhood and the other about his time in prison. He has held multiple leadership roles while in prison. He talks to family and friends as much as he can. He reads the Bible. If he is spared the death sentence, he wants to do whatever he can for his daughter Khorry and grandson Kaius. And he wants to “motivate other inmates to turn their lives around.”¹²

As ordained ministers, we believe in accountability but also the sanctity of life, and do not think these tenets are mutually exclusive. We must therefore make investments in the social and economic well-being of all people. In order to do so, we must first acknowledge the moral depravity of executions. They are not about justice; they are about who has institutional power and who doesn’t. We urge you to correct these injustices using every tool available, including the power to grant clemency.

Mr. Johnson’s cruel execution will not solve any of the systemic problems facing Missourians and people all across America, including the scourge of gun violence. It will simply destroy yet another family and community while using the concepts of fairness and justice as a cynical pretext. We must dedicate ourselves to the actual fundamental principles of liberty and justice that animate our laws and our governance. We can collectively save the lives of people all across America. You have it in your power to save a life by granting clemency. We urge you to use it.

Sincerely,



CORI BUSH
Member of Congress



EMANUEL CLEAVER
Member of Congress

¹⁰ *Supra*, note 1.

¹¹ Bryan Stevenson, *JUST MERCY* (2014).

¹² *Supra*, note 1.