

EXECUTIVE ORDER
98-02

JAN 23 1998

Rebecca McDowell Cook
SECRETARY OF STATE

WHEREAS, Elroy Preston is currently under a sentence of death and incarcerated at the Potosi Correctional Facility awaiting execution of said sentence which is currently to occur on January 28, 1998; and

WHEREAS, Section 552.060.1 RSMo. provides that "No person condemned to death shall be executed if as a result of mental disease or defect he lacks capacity to understand the nature and purpose of the punishment about to be imposed upon him or matters in extenuation, arguments for executive clemency or reasons why the sentence should not be carried out;" and

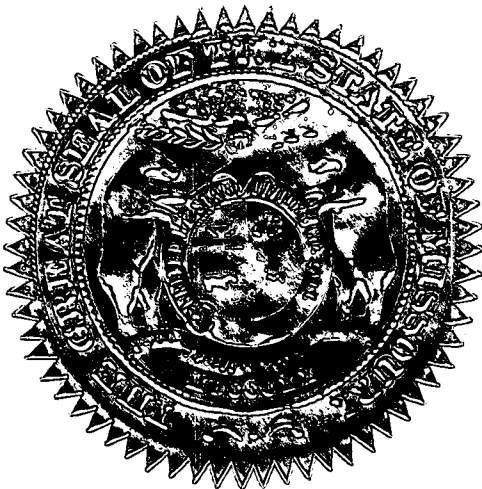
WHEREAS, Section 552.060.2 RSMo. provides that "If the director of the department of corrections has reasonable cause to believe that any inmate then in confinement in a correctional facility and sentenced to death has a mental disease or defect excluding fitness for execution, he shall immediately notify the governor who shall forthwith order a stay of execution of the sentence if there is not sufficient time between such notification and time of execution for a determination of the mental condition of such person to be made in accordance with the provisions of this section without such stay;" and

WHEREAS, Dr. Dora Schriro, Director of the Department of Corrections, has notified the Governor of the State of Missouri that she has a reasonable cause to believe that Elroy Preston, who is currently incarcerated at the Potosi Correctional Facility awaiting execution scheduled for January 28, 1998, has a mental disease or defect excluding fitness for execution; and

WHEREAS, there is not sufficient time between such notification and time of execution for a determination of the mental condition of Elroy Preston to be made in accordance with the provisions of Section 552.060 RSMo.

NOW, THEREFORE, I, Mel Carnahan, Governor of the State of Missouri, by the powers vested in me by the Constitution and the laws of the State of Missouri, do hereby order a stay of execution for Elroy Preston until such time as a final determination can be made pursuant to Section 552.060 as to whether or not Elroy Preston has a mental disease or defect excluding fitness for execution.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 23rd day of January, 1998 .



Mel Carnahan
GOVERNOR

ATTEST:

Rebecca McDowell Cook
SECRETARY OF STATE