

# Last-minute reprieve for California death row inmate

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The execution by lethal injection of California death row inmate Michael Morales was temporarily put on hold Tuesday, just hours before his death warrant expired. Although given a temporary reprieve, the circumstances surrounding his case speak volumes about the gruesome and sadistic practice of capital punishment in the United States.

Morales was brought to the brink of death twice within the space of 18 hours before his state killing was called off. He spent a full day in the “death watch” cell, 15 feet from the execution chamber at San Quentin, before prison officials halted the execution and returned him to the death row cell he has occupied since his incarceration.

Michael Morales, 46, was sentenced to death for the brutal rape and murder of 17-year-old Terri Winchell in 1981. He admits to the crime, and says he was high on PCP at the time. As his February 21 execution date approached, he was running out of options. California Governor Arnold Schwarzenegger denied Morales’s petition for clemency last Friday, and the US Supreme Court turned down a pair of appeals on Monday.

A week earlier, however, in response to arguments by Morales’s attorneys that California’s lethal-injection procedures constitute “cruel and unusual punishment,” barred under the US Constitution’s Eighth Amendment, US District Judge Jeremy Fogel ruled that the state would have to modify them or halt the execution until a full hearing could be held on the process. California prison authorities worked to comply with the judge’s order and scheduled his execution for 12:01 a.m. Tuesday.

Lethal injection, the method used for execution in 37 of the 38 states practicing the death penalty, consists of a three-drug cocktail. First, the condemned inmate is injected with sodium thiopental, a barbiturate; next comes pancuronium bromide, which paralyzes the muscle system and stops the person’s breathing; finally, a dose of potassium chloride stops the heart. Death results from

anesthetic overdose and respiratory and cardiac arrest.

Critics of the procedure argue that if the proper dose of sodium thiopental is not administered, the condemned can die an excruciating death as breathing and heartbeat are stopped. Judge Fogel ordered that the prison have two anesthesiologists on hand to advise the execution team if Morales woke up during the execution or appeared to suffer pain, and intervene with the administration of additional barbiturates.

The two unidentified anesthesiologists withdrew their agreement to monitor the execution just hours before midnight, and prison authorities called off the execution—for the first time—around 10 p.m. Monday. In a written statement Tuesday, the two doctors explained, “Any such intervention would clearly be unethical.”

Richard Dieter, director of the Death Penalty Information Center (DPIC), said, “I don’t know of any other case where a physician has sat through and ordered an increased drip or whatever. That seems to be participation in the execution.”

“Physicians are healers, not executioners,” commented the American Society of Anesthesiologists in a statement. “The doctor-patient relationship depends upon the inviolate principle that a doctor uses his or her medical expertise only for the benefit of patients.” To the credit of the state’s medical community, California was unable to come up with alternate anesthesiologists to participate in the grisly procedure.

However, prison officials were determined to execute Morales before his death warrant expired. They received permission from Judge Fogel to go forward with the execution later in the day, and they set a new time of 7:30 p.m. This time around, in lieu of the three-drug mix, a single lethal dose of sedative would be administered.

This proposal proved problematic for several reasons. Judge Fogel had authorized the administration of 5 grams of sodium thiopental, which was expected to lengthen the

duration of Morales's execution from the usual 11 minutes to as much as 45 minutes. But it was impossible to determine precisely how long it would take him to die because, to the knowledge of prison officials and legal experts, the procedure has never before been attempted. In effect, Morales's execution would serve as a type of macabre experiment in an attempt to sidestep the "cruel and unusual punishment" label.

In addition, the fatal drug would be administered directly into Morales's veins by a "licensed medical professional" stationed inside death chamber itself, rather than by the usual "unseen hand" from an outside room. The judge's order additionally added that the individual administering the injection could wear "appropriate clothing to protect their anonymity." One can envision, according to this scenario, a masked or hooded doctor approaching the condemned prisoner with the loaded syringe.

Again, just two hours before the 7:30 p.m. deadline, a deputy attorney general told court officials that the execution had been called off. San Quentin spokesman Vernell Crittendon said the state "was not able to find any medical professionals willing to inject medication intravenously, ending the life of a human being." Commenting on the potential pool of executioners—including doctors, nurses, dentists and other medical technicians and practitioners—Crittendon stated, "How would it affect their careers by being involved in the execution process in the manner we're been discussing?"

Morales—who had spent Monday evening saying farewells to his family and friends by telephone, and had eaten what he thought was his last meal—was informed for the second time that day that his execution had been temporarily cancelled, and he was returned to his cell. The federal judge will hold a hearing in May on the state's lethal injection process, and Morales's execution remains on hold.

Michael Morales is one of 3,373 condemned prisoners on death rows across the United States. Like him, many of these men and women have languished for many decades, awaiting execution. California has the largest death-row population, with 649, followed by Texas with 409 and Florida with 388.

Of the 1,012 executions in the US since the Supreme Court reinstated the death penalty in 1976, 844 have been carried out with the supposedly "more humane" method of lethal injection. Bryan Stevenson, executive director of the Equal Justice Initiative of Alabama, who specializes in

death penalty appeals, told the *Los Angeles Times*, "Government officials don't want the American public to view the death penalty as a lethal, destructive, violent act that isn't really necessary. Therefore we sanitize and obscure the act of killing a person, who is no longer a threat to anyone, with protocols and procedures that are aimed at comforting the public."

The spectacle of California authorities maneuvering to devise a method to put Michael Morales to death within the "window of opportunity" is more likely, however, to fuel revulsion. Public opinion has been influenced as well by the numbers of prisoners who have been incarcerated on death row, only to be exonerated many years later. According to the DPIC, since 1973, 122 prisoners in 25 states have been released from death row following evidence of their innocence, including 6 in California.

Despite these shifting attitudes, politicians of both big business parties are still determined to demonstrate their support for the death penalty. California Governor Schwarzenegger, a Republican, has denied clemency in the five cases that have come before him. This included his rejection of clemency last December for Stanley Tookie Williams, a former gang member who had renounced his past, written several children's books and warned of the perils of gang life. Williams's December 13 execution provoked international protest.

Legislation introduced in the California State Assembly to temporarily suspend the use of capital punishment in the state died in committee last month, ending its chances for the year. The bill would have placed a two-year moratorium on executions while the California Commission on the Fair Administration of Justice completes its review of the state's death penalty to determine whether any condemned inmates have been wrongly convicted.

Even this toothless bill—which would not abolish the death penalty but work for its "fair" application—could not win support of enough Democratic state legislators to assure its passage. Democratic Assemblyman Paul Koretz, who sponsored the bill, blamed election-year politics for failure of the bill to pass the Democratic-controlled Assembly, saying Democrats feared being painted as soft on crime by their Republican opponents.



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