

US Supreme Court denies 11 death penalty appeals, states prepare to resume executions

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The US Supreme Court on Monday denied without comment the appeals of 11 death row inmates. The ruling followed a 7-2 decision last Wednesday rejecting an appeal by two prisoners in Kentucky, who had argued that the lethal injection method to be used in their executions constituted cruel and unusual punishment.

That decision had been widely interpreted as setting the stage for a resumption of executions nationwide, which had been in de facto moratorium pending the outcome of the Kentucky challenge. (See “US Supreme Court upholds lethal injection, opening the way to resumed executions”)

The high court rejected the appeals of three men whose executions had been put on hold awaiting the lethal injection ruling: Carlton Turner of Texas, Earl Berry of Mississippi and Thomas Arthur of Alabama. These inmates had received stays of execution, which are now lifted.

The justices also rejected appeals from seven other death row inmates in Arizona, Ohio, Georgia and Missouri. Because these men had not been facing imminent execution, stays had not been granted in their cases.

Carlton Turner, the inmate from Texas, was granted a last-minute stay last September when the Supreme Court agreed to take the Kentucky case. Turner was convicted of murdering his parents in 1998 in their home near Dallas.

Earl Berry, from Mississippi, had already eaten his last meal when he was granted a stay of execution last fall pending the Kentucky case. He was convicted of the 1987 abduction and murder of a woman near Houston, Mississippi. Berry had appealed his murder conviction on various other grounds before challenging the lethal-injection procedure.

Last Wednesday’s ruling will effectively put an end to the issuance of last-minute stays on the basis of lethal-injection challenges, although some additional appeals are still expected. Many states are expected to restart the assembly line of state-sponsored killing within a matter of weeks.

Virginia announced it was lifting its moratorium on executions, and Kevin Green, a condemned prisoner in that state, may be the first to be put to death. His execution, which was set before the lethal-injection ruling, is scheduled for May 27. The states of Florida, Oklahoma and Mississippi also said that they would move quickly to resume executions.

Although the high court’s decision in the lethal injection challenge did not speak to the constitutionality of the death penalty itself, the ruling asserted that the lethal injection procedure as it is practiced in 35 US states and by the federal government does not constitute cruel and unusual punishment, which is forbidden by the Eighth Amendment to the US Constitution.

Chief Justice John Roberts, author of the majority opinion in the lethal-injection ruling, made clear that the decision was aimed at sanctioning state-sponsored killings, writing, “Some risk of pain is inherent in any method of execution. ... It is clear, then, that the Constitution does not demand the avoidance of all risk of pain in carrying out executions.”

Roberts added, “Simply because an execution method may result in pain, either by accident or as an inescapable consequence of death, does not establish the sort of ‘objectively intolerable risk of harm’ that qualifies as cruel and unusual.”

When the Supreme Court agreed to hear the case last September, Justice Antonin Scalia expressed the contempt for civilized standards of decency by the right-

wing majority on the high court, writing of the lethal-injection procedure, “This is an execution, not surgery ... Where does that come from, that you must find the method of execution that causes the least pain?”

In fact, numerous instances of botched executions by lethal injection have been documented. The Death Penalty Information Center lists 28 known incidents, most involving difficulty in finding the vein to administer the drugs. Because of the potential for suffering, the three-drug cocktail has also been banned for use in euthanasia of animals.

The lethal-injection procedure involves the administration of three chemicals. The first, sodium thiopental, is supposed to render the prisoner unconscious. However, if it is not properly administered or wears off too quickly, the prisoner can be subject to excruciating pain when the other two chemicals are injected: pancuronium bromide, which paralyzes the muscle movement, and potassium chloride, which induces cardiac arrest.

In one case in December 2006, Florida prisoner Angel Diaz grimaced in pain and tried to speak after the first injection was given. An autopsy revealed that the deadly chemicals had been injected into soft tissue, rather than the vein, meaning the sodium thiopental had not induced unconsciousness.

Executions in the US fell last year to a 13-year low of 42, and about 20 prisoners received stays of execution as the Supreme Court considered the lethal-injection challenge. Amnesty international reports that the US still ranked fifth in the world in executions last year, behind China (470), Iran (317), Saudi Arabia (143) and Pakistan (135).

The barbaric practice has been banned in the vast majority of the more industrialized nations of the world, and is in violation of a number of international treaties. Since the reinstatement of the death penalty by the Supreme Court in 1976, 1099 condemned men and women have been sent to their deaths in the US. These have included the mentally impaired, foreign nationals not informed of their consular rights and individuals, convicted of crimes committed as juveniles.



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