

# Ohio death row inmate executed by one-drug lethal injection

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Kenneth Biros was executed at the Southern Ohio Correctional Facility in Lucasville, Ohio on Tuesday following the US Supreme Court's rejection of his final appeal and the Ohio governor's denial of clemency.

Biros, 51, died following the intravenous injection of one dose of sodium thiopental, a barbiturate anesthetic, the first time a lethal injection in the US has been carried out using only one drug. Biros was convicted of the 1991 murder of 22-year-old Tami Engstrom.

Biros was pronounced dead at 4:47 p.m., about 43 minutes after the prison's execution team began attempting to find usable veins to insert intravenous needles to deliver the lethal drug. Once the sodium thiopental was finally administered, it took about 10 minutes for the prisoner to die. Before death, Biros' chest heaved up and down several times, and he moved his head a few times over a period of about two minutes before his body stopped moving.

Ohio's use of the one-drug protocol was prompted by the September 15 botched execution of death row inmate Romell Broom. During the failed execution attempt, Broom was stuck with needles at least 18 times, and he repeatedly screamed out in pain. Governor Ted Strickland finally stopped the execution and ordered a one-week reprieve, which was extended.

The state also adopted the one-drug method in an effort to end a five-year lawsuit on behalf of Ohio's condemned inmates that claims that the three-drug lethal injection procedure can cause severe pain and violates the US Constitution's Eighth Amendment prohibition against cruel and unusual punishment. In cases where one drug fails to kill the prisoner, Ohio has also adopted a procedure involving an intramuscular injection of two drugs.

With the one-drug protocol and the "back-up" plan,

state officials hope to keep Ohio's killing machine moving. On Monday, the day before Kenneth Biros was put to death, the 6th US Circuit Court of Appeals ruled that his defense had not presented evidence that the state's new execution protocol would violate constitutional standards.

Thirty-four of the 35 US states that currently practice the death penalty use three drugs for execution. First, sodium thiopental is administered to induce unconsciousness. Then pancuronium bromide paralyzes all voluntary muscles and causes suffocation. Finally, potassium chloride is injected to induce cardiac arrest. Critics of the method charge that, without adequate anesthesia, pancuronium bromide can cause excruciating suffering as the inmate slowly suffocates while paralyzed and unable to cry out. Potassium chloride can also cause unbearable burning as it surges through the body.

There is no evidence Kenneth Biros' experience was any less painful. The exclusive administration of large doses of sodium thiopental has not been tested in the US. The main use of the drug is to euthanise animals. The fact that it took 43 minutes for prison officials to complete Biros' execution testifies to the brutality of the lethal-injection procedure in this case in particular, and the barbarity of capital punishment in general, a practice outlawed by the vast majority of the world's industrialized countries.

On Wednesday, the day following Kenneth Biros' execution, the 6th Circuit Court of Appeals ruled that Romell Broom's execution could now proceed. Following Broom's botched execution in September, District Judge Gregory Frost described it as a "debacle." But following the execution of Biros he stated, "We all agree that Mr. Broom suffered some pain from that attempted execution process," but then

added, “We all agree that the state of Ohio intends to proceed again on a second attempt.”

Broom’s attorneys, Timothy Sweeney and Adele Shank, argued following their client’s failed execution, “What happened to Broom on September 15, 2009, at defendants’ [state of Ohio] hands and under their direction was inhuman and barbarous. It should not be permitted to happen again.”

The state is intent on proceeding with Broom’s execution. Ohio Assistant Attorney General Charles Wille argued last month, “There is no evidence that Broom suffered pain of such severity as to rise to the level of severe pain prohibited by the Eighth Amendment.” The Circuit Court’s ruling has now cleared the way for the execution to proceed. Ohio has carried out five executions in 2009 and currently has more than 170 prisoners on death row.

The state of Texas has sent 24 prisoners to their deaths this year. All have died by an injection of three deadly chemicals. Since the US Supreme Court reinstated the death penalty, Texas has executed 447 individuals, more than any other state. These have included the mentally impaired, foreign nationals denied their consular rights, and those convicted of crimes committed as juveniles.



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## **Texas**

Last Thursday, December 3, the state of Texas executed Bobby Wayne Woods following the US Supreme Court’s refusal to grant him a last-minute reprieve. Woods, 44, was convicted of the 1997 murder of 11-year-old Sarah Patterson. Woods’ lawyers had argued that he was mentally impaired, making him ineligible for execution. They also said that previous appeals to spare his life had been unsuccessful because of the shoddy work of his attorney at the time.

Various tests had placed Woods’ IQ at anywhere from the 60s to the 80s. The US Supreme Court ruled in 2002 that the mentally impaired cannot be executed. The high court said a score of “around 70” indicated mental retardation, but left it up to the states to determine a prisoner’s condition. Although Woods’ scheduled execution was halted last year to allow for more hearings, Texas courts have repeatedly rejected his claims of mental impairment.

Last week, the Texas Board of Pardons and Paroles voted unanimously to reject Woods’ clemency request, and Texas Governor Rick Perry followed their recommendation. Before his execution, one of Woods’ attorneys, Maurie Levin, commented, “He’s transparently childlike and simple. It’s a travesty.”