

# Texas death row inmate granted last-minute stay of execution

**Kate Randall**  
14 May 2014

The 5th US Circuit Court of Appeals granted a stay of execution to Texas death row inmate Robert Campbell on Tuesday afternoon. In a unanimous decision, the court granted the stay to allow his lawyers to file a new petition arguing that he is developmentally disabled and therefore ineligible for the death penalty.

The ruling came less than three hours before Campbell, 41, was to be put to death in the execution chamber known as the Walls Unit in Huntsville, Texas. Campbell was convicted in 1991 for the robbery, rape and murder of 20-year-old Alexandra Rendon.

Attention has been focused on Campbell's impending execution, as it would have been the first since Clayton Lockett was put to death in Oklahoma on April 29. Lockett's lethal injection was a gruesome spectacle, during which the condemned prisoner writhed and moaned on the execution gurney before horrified witnesses.

Lockett was executed according to a lethal injection protocol utilizing untested drugs from an unknown source. According to prison officials, the vein into which a mix of three chemicals was pumped into his body "blew." The initial drug, a sedative, did not take full effect, subjecting Lockett to a torturous death. He eventually died of a massive heart attack three-quarters of an hour after the procedure began.

The horrifying events transpiring exactly two weeks ago in Oklahoma did not deter Texas authorities from vigorously pursuing Robert Campbell's execution. They were intent on carrying out his lethal injection despite the controversy—both in the US and internationally—generated by the Oklahoma execution, and despite substantial evidence that the condemned Texas inmate was developmentally disabled.

As in Oklahoma, the lethal injection protocol in Texas utilizes drugs from an undisclosed source. US states that practice capital punishment have increasingly turned to

compounding pharmacies, which are less strictly regulated than other drug manufacturers. European suppliers have stopped making their drugs available to prison authorities due to overwhelming international opposition to capital punishment.

Prison officials claim that the sources of the drugs must remain secret to protect the compounding pharmacies from harassment by anti-death-penalty protesters. Any disruption in the flow of lethal chemicals, they argue, will disrupt state killing machine operations.

Texas Governor Rick Perry has presided over 275 executions in Texas, far outstripping the 152 overseen by his predecessor as governor, George W. Bush. In an appearance May 4 on NBC's "Meet the Press," Perry defended the state's lethal injection protocol, saying he was "confident that the way that the executions are taken care of in the state of Texas are [sic] appropriate." Perry contends that the Texas protocol is "humane" on the spurious grounds that it utilizes only one drug, pentobarbital, as opposed to the three-drug cocktail used in the botched execution in Oklahoma.

Days before Campbell's scheduled execution, the Texas Court of Criminal Appeals voted 5-4 to reject a stay of execution in his case. His lawyers had argued that he received inadequate representation at his murder trial and that he was ineligible for execution due to his intellectual disability.

One of the four dissenting judges, Elsa Alcala, argued that recent testing of Campbell measured his IQ at 69, below the accepted threshold, making him intellectually disabled. She also noted that the Texas Department of Criminal Justice did not provide the result of a second test that they claimed showed Campbell to have an IQ of 84.

Following this ruling, on May 12 the 5th Circuit Court of Appeals denied a temporary stay of execution in Campbell's case. His attorneys asked that the court grant a temporary stay and order the state of Texas to disclose

information regarding the drug to be used in his execution.

Denying Campbell's claim, the court pointed to the 2013 case of *Whitaker v. Livingston*, in which the same 5th Circuit rejected a similar claim on behalf of three appellants, arguing that a death row inmate is entitled to an injunction only if he points to "some hypothetical situation, based on science and fact, showing a likelihood of severe pain" (emphasis in the original).

In that ruling, the court placed the appellants in the impossible position of proving "based on science and fact" the potential pain caused by a lethal injection procedure that they knew little about because it was shrouded in secrecy by authorities.

Dismissing the prisoners' claims, Judge Lynn Hughes wrote at the time that because the inmates "do not know the means that Texas will select for their execution, their claim of an injury from that unknown means is hypothetical," adding that "Courts do not address issues that are not yet ripe."

Such rulings take their cue from the US Supreme Court, which in a 7-2 ruling in *Baze v. Rees* on April 16, 2008 upheld the use of lethal injections. That decision allowed the resumption of executions, which had been on hold since the previous September pending a challenge to the procedure.

Justice Antonin Scalia argued in favor of the use of lethal injection from the standpoint that undue suffering during an execution does not constitute cruel and unusual punishment, which is banned by Eighth Amendment to the US Constitution.

"Where does that come from that you must find the method of execution that causes the least pain?" Scalia asked. "We have approved electrocution, we have approved death by firing squad. I expect both of those have more possibilities of painful death than the protocol here." Such statements epitomize the repugnant sentiments of the American ruling class as a whole.



To contact the WSWs and the  
Socialist Equality Party visit:

**[wsws.org/contact](http://wsws.org/contact)**