

# Executions in Missouri and Texas

## Courts reject condemned inmates' appeals on lethal injection drugs

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The states of Missouri and Texas both sent condemned prisoners to their deaths on Wednesday. The executions proceeded after courts rejected the two inmates' appeals related to the drugs used by prison authorities in the lethal injections.

Appeals by death row prisoners across the US have challenged the secrecy surrounding the source and quality of lethal injection drugs and the execution protocols of prison authorities. States have increasingly turned to compounding pharmacies, which are less rigorously regulated, for execution drugs, as European sources have stopped exporting them to the US for use in executions.

According to prison authorities at the state penitentiary in Bonne Terre, Missouri, Earl Ringo, Jr., 40, received a lethal dose of pentobarbital at 12.22 a.m. He was pronounced dead at 12.31 a.m. A Department of Corrections (DOC) spokesman reported that he wiggled his feet as the process began, breathed deeply a few times, then closed his eyes before succumbing to the toxic chemical.

Ringo had been on death row since his conviction in 1999 of a double homicide in Columbia, Missouri in 1998, in which deliveryman Dennis Poyser and manager-in-training Joanna Baysinger were killed. His execution was the eighth carried out in Missouri this year.

Ringo reportedly declined to take any sedative, including midazolam, prior to being injected with pentobarbital, the DOC reported. On September 3, St. Louis Public Radio reported that since November 2013 nine death row inmates in Missouri have been injected with midazolam before being given a lethal dose of the barbiturate pentobarbital. Before this exposure, state authorities had denied that any drugs aside from pentobarbital were being used in their execution

protocol.

In an appeal to the Eighth Circuit Court seeking a stay of execution, Ringo's attorneys argued that the midazolam is not being used simply to calm the nerves of the condemned inmates, but to "mask the symptoms of the lethal injection drug." Because the midazolam has been administered before the time the death warrant takes effect, prison authorities have used the spurious claim that the drug was not part of the protocol.

In their efforts to keep the state execution machine going, Missouri authorities appear to be administering the midazolam in order to avoid the appearance of suffering on the part of the condemned inmates. Since the beginning of the year, four prisoners have been subjected to particularly gruesome lethal injection procedures:

\* In Oklahoma on January 9, Michael Lee Wilson called out, "I feel my whole body burning" after a three-drug cocktail including compounded pentobarbital was injected into his veins.

\* A week later in Ohio, Dennis McGuire struggled and choked for about 10 minutes during his execution—the first to use manufactured midazolam—as his horrified family members looked on.

\* On April 29 in Oklahoma, it took 43 minutes for prisoner Clayton Lockett to die after he was injected with a three-drug protocol including midazolam. He heaved and gasped on the execution gurney during the procedure, causing prison authorities at one point to call off the execution.

\* In Arizona on July 23, the execution of Joseph Wood took nearly two hours to complete, during which "He gulped like a fish on land," according to one witness. Wood was put to death using an experimental combination of midazolam and hydromorphone.

Earl Ringo, Jr.'s attorneys warned that "Missouri, if

not stopped, will sedate Mr. Ringo to such a degree as to guarantee, unlike Clayton Lockett in Oklahoma, he will be physically unable to writhe in agony from suffering that he is indeed experiencing despite being unable to display signs of it.”

Seven of the Eighth Circuit’s ten judges denied the stay of execution, with three dissenting. Judge Kermit Bye wrote for the dissent that the use of midazolam is a violation of a prisoner’s Eighth Amendment protection against cruel and unusual punishment, which forbids the execution of an inmate whose incompetence “prevents him from comprehending the reasons for the penalty or its implications [or who is] unaware of the punishment they are about to suffer and why they are to suffer it.”

The dissenting opinion also noted, “Missouri’s use of such large doses of midazolam, just minutes prior to an execution, indicates Missouri’s claim that the drug is not part of its actual execution protocol should be viewed with a healthy dose of judicial skepticism.”

The US Supreme Court also denied a last-minute appeal in Ringo’s case; Missouri Governor Jay Nixon, a Democrat, also denied Ringo’s clemency bid.

At a news conference a day after revelations about the DOC’s use of midazolam, Nixon said: “This is the way the protocol has been and, quite frankly, there’s been a significant amount of litigation about it and the courts have continued to say that it’s a proper and just way to complete the ultimate punishment.”

Also on Wednesday, the state of Texas carried out the execution of Willie Tyrone Trottie, who was sentenced to death for the 1993 murders of his ex-girlfriend Barbara Nell and her brother Titus Canada. Trottie, 45, who was injected with a one-drug protocol of pentobarbital at the Walls Unit in Huntsville, was pronounced at 6:35 p.m. by prison authorities. His execution was the eighth carried out this year in Texas.

Trottie’s lawyers filed an appeal with the Fifth Circuit Court of Appeals claiming the compounded drugs the Texas Department of Criminal Justice (TDCJ) intended to use for their client’s lethal injection were expired and had not been tested for sterility or potency in six months. A TDCJ spokesman claimed that the two vials of pentobarbital to be used for Trottie’s execution had a “by use date” of September 30 and that “The drugs have been tested for potency and defect.”

In their appeal, Trottie’s attorneys questioned the use of the testing lab contracted by TDCJ, Eagle Analytical Services of Houston, which had been cited in 2013 by the Food and Drug Administration for not using “scientifically sound and appropriate specifications, standards and test procedures to assure that components conform to appropriate standards of identity, strength, quality and purity.”

As in the Ringo case in Missouri, Trottie’s lawyers pointed to the four executions this year that have gone horrifically wrong, which can all be traced to either untested combinations of lethal drugs or those sourced from compounding pharmacies.

The Fifth Circuit rejected Trottie’s appeal and the US Supreme Court also failed to halt the execution.

The death penalty is legal in 32 US states, as well as for punishment of federal crimes and in the military. So far this year, 29 individuals have been sent to their deaths in seven states: Missouri (8), Texas (8), Florida (7), Oklahoma (3), and one each in Ohio, Georgia and Arizona.

The executions this week of Earl Ringo, Jr. and Willie Trottie demonstrate the determination on the part of sections of the ruling elite, including the Obama administration, to keep the barbaric practice alive despite growing opposition within the US population to its use.



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