

Georgia woman's execution postponed for second time in a week

Kate Randall
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For the second time in less than a week, a Georgia woman's execution has been postponed only hours before her lethal injection was scheduled to take place. The move by prison authorities is the latest macabre twist in Georgia authorities' drive to execute the first woman in the state in 70 years.

Kelly Renee Gissendaner, 46, received a temporary reprieve last Wednesday when her execution scheduled for that day was postponed due to winter weather and "related scheduling issues." Her execution was then rescheduled for 7 p.m. local time the following Monday at the state prison in Jackson.

As the hour approached, the Georgia Department of Corrections (DOC) stated that prior to the execution, pentobarbital, the drug to be used in the lethal injection, had been sent to an independent lab to test its potency, and that it fell within the "acceptable" testing limits.

However in the hours leading up to the scheduled execution, "The Execution Team performed the necessary checks," according to DOC, and "at that time, the drugs appeared cloudy." Prison officials said they immediately consulted with a pharmacist, and that in "an abundance of caution," the execution had been postponed.

On news of the postponement, cheers went up outside the prison among the several dozen people who were standing vigil in support of Gissendaner, including some women who had been in prison with her. However, their relief will most likely be short lived. Although a new execution date has not yet been set, Gissendaner has exhausted all likely avenues of appeal.

Gissendaner was convicted and sentenced to death for the February 1997 murder of her husband, Douglas Gissendaner. Last Wednesday, the State Board of Pardons and Paroles, the only entity in Georgia authorized to commute a death sentence, denied

Gissendaner's appeal for clemency. A federal judge in Atlanta also rejected a request to halt her execution, a decision that her lawyers appealed to the 11th Circuit Court of Appeals.

With her execution approaching on Monday, Gissendaner's attorneys appealed to the Board of Pardons and Paroles to "bestow mercy" and commute her sentence to life without parole. Although the board said they would consider the last-minute appeal, at around 6 p.m. Monday they announced that their previous decision would stand, clearing the way for the execution. Also on Monday, the Georgia Supreme Court voted 5-2 to deny her appeal.

Gissendaner did not commit the murder of her husband, according to prosecutors, but plotted with her boyfriend at the time, Gregory Owen, who ultimately carried out the murder, stabbing the victim to death. Owen pleaded guilty and received a life sentence with eligibility for parole after 25 years and testified against Gissendaner at her trial. Gissendaner turned down a similar plea deal.

In a clemency petition, Gissendaner's attorneys cited the post-conviction testimony of her trial lawyer, Edwin Wilson, who said that he hadn't thought a jury would sentence her to death. "I guess I thought this because she was a woman and because she did not actually kill Doug," Wilson is quoted as saying, adding that he should have urged her to take the deal.

Gissendaner would be the first woman put to death in Georgia since the 1945 execution of Lena Baker, a black maid. Baker was executed after being convicted in a one-day trial for killing her white employer. She was issued a posthumous pardon by Georgia authorities in 2005, after six decades of lobbying by her family, who maintained that she likely killed her boss because he was holding her against her will. Baker said at trial

that he had threatened her life and appeared ready to hit her with a metal bar before she fired the fatal shot.

Since the US Supreme Court reinstated the death penalty in 1976, 1,402 executions have been carried out in the US states that practice the death penalty. Gissendaner would be the 16th woman put to death.

Capital cases in Georgia have been pivotal in charting the modern course of the US death penalty. A 1972 case involving a Georgia death row inmate, William Henry Furman, led to a de facto moratorium on capital punishment in the US from 1972 to 1976. The US Supreme Court ruling in *Furman v. Georgia*, however, did not outlaw the death penalty outright, but called only for consistency in its application.

Furman, an emotionally disturbed and mentally disabled African-American, was convicted of carrying out a murder during a home invasion and was sentenced to death after a one-day trial. Ruling in the case, a five-member majority on the Supreme Court called a temporary halt to executions because of “the discretion of judges and juries in imposing the death penalty,” which enable it “to be selectively applied, feeding prejudices against the accused if he is poor and despised, and lacking political clout.”

Another Georgia case, *Gregg v. Georgia*, led to the reinstatement of the death penalty in 1976. In the case of condemned inmate Troy Leon Gregg, the justices ruled that the death penalty serves two principal social purposes, retribution and deterrence, and does not violate the Eighth Amendment’s prohibition against “cruel and unusual punishment.” The high court held that the state of Georgia could constitutionally put Gregg to death. Gregg escaped from prison and died following a bar fight before he could be recaptured and executed.

As with all state-sponsored killings, Kelly Gissendaner’s execution will do nothing to contribute to the societal good. The drive on the part of authorities to see her death sentence carried out is based on vengeance and will not prevent similar brutal crimes. In fact, if anything her execution will worsen conditions for other incarcerated inmates.

In a vigil on the eve of her scheduled execution, those gathered argued that the mother of three had turned her life around in prison, earning a theology degree in 2011, and going on to counsel other prisoners on gaining education and training to prepare for life

outside prison. The condemned woman’s lawyers have argued that in an effort to keep this information out of the clemency proceedings, prison employees who might have testified to Gissendaner’s rehabilitation and model behavior behind bars were intimidated by prison authorities.

Douglas Gissendaner’s parents and sisters were intent on Kelly Gissendaner’s execution, but two of the couple’s three children asked the parole board to spare her life. In statements submitted with the clemency application, Kayla and Dakota Gissendaner wrote that they had moved from bitterness to anger to forgiveness in their relationship with their mother.

“The impact of losing my mother would be devastating. I can’t fathom losing another parent,” wrote Kayla Gissendaner. “My mom has touched so many lives. Executing her doesn’t bring justice or peace to me or to anyone.”

In their clemency petition, Gissendaner’s lawyers also emphasized that prosecutors had originally offered a deal to their client that would have spared her life. “At one time, therefore,” the lawyers wrote, “all the parties involved in the case thought a sentence less than death was appropriate for Ms. Gissendaner.”



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