

Texas carries out ninth execution of 2015

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The state of Texas executed Gregory Rousseau on Thursday evening at the Walls Unit death chamber in Huntsville. Rousseau, 45, was the ninth inmate to be sent to death this year in Texas, making the state the most active executioner in the US so far in 2015.

Rousseau was given a single dose of pentobarbital after 6 p.m. local time and he was pronounced dead at 6:49 p.m., prison officials reported. According to a bill signed into law last month by Texas Governor Greg Abbott, the source of the drug used in lethal injections remains confidential from the condemned prisoner, the inmate's attorneys and the public.

Rousseau was convicted and sentenced to death for the 2001 bludgeoning death of 75-year-old auto mechanic James Syvertson at a repair garage in Tyler, Texas. A previous death sentence for Rousseau was overturned on appeal in 2005, when a court ruled that he had not been allowed the right to confront witnesses at trial. A jury re-sentenced him to death in 2007.

There were no appeals pending in Rousseau's case. The Texas Board of Pardons and Paroles rejected a clemency petition on his behalf earlier this week. The US Supreme court refused in October to review his case.

Rousseau's execution follows the June 4 execution of Lester Bower, whose guilt has been widely called into question. Bower, 67, was executed after spending three decades on death row. He was accused of killing four people in an aircraft hanger near Dallas in 1983.

Bower's conviction rested entirely on circumstantial evidence. In 1989, a witness came forward to report that she knew who the actual killers were, but a state judge rejected Bower's appeal for a retrial, stating that although the new evidence "could conceivably have produced a different result at trial, it does not prove by clear and convincing evidence that [Bower] is actually innocent."

Those executed in Texas this year also include

several individuals who were clearly mentally incompetent. The US Supreme Court ruled in 2002 that US states could not execute the "mentally retarded." The justices held that execution of the mentally incompetent is a violation of the Eighth Amendment to the US Constitution's ban on "cruel and unusual punishment," but left it up to the states to determine what constitutes mental incompetency.

Derrick Dwayne Charles, 32, was put to death on May 12 for the 2002 killings of his girlfriend and her mother and grandfather. The US Supreme Court declined to review whether he had been wrongly refused help in developing a mental incompetency claim. Charles' attorneys argued in a series of unsuccessful appeals that Charles received psychiatric care as an adolescent and most likely suffered from attention deficit disorder, depression and a brain injury.

On April 9, Kent Sprouse, 42, was executed for the 2002 murder of a Texas police officer. Earlier that year, Sprouse had been admitted to a mental institution, but he was released several days later. He mother testified that he thought the CIA and FBI were trying to kill him and that voices on television were talking to him.

Robert Ladd, 57, died by lethal injection on January 29 despite significant signs of mental impairment. He was convicted of the 1996 beating death of Vicki Ann Garner in east Texas. Ladd's attorneys argued before the US Supreme Court that he was ineligible for the death penalty because he was mentally disabled. They cited a psychiatrist's 1970 determination that Ladd, 13 at the time, had an IQ of 67, below the generally accepted threshold for mental impairment, and that "Ladd's deficits were well documented, debilitating and significant."

Since the reinstatement of the death penalty by the US Supreme Court in 1976, Texas has sent 521 men and six women to their deaths, far more than any of the US states that have continued to practice the death

penalty. These have included not only the mentally incompetent, but those convicted for crimes committed as juveniles and foreign nationals denied their consular rights.

Recent developments point to the near certainty that innocent people on death row in Texas have been executed. For those exonerated, such as the two men below, there are undoubtedly numerous others who were unable to prove their innocence and escape the ultimate punishment.

On June 8, Harris County, Texas prosecutors announced they had dismissed charges against death row inmate Alfred Dewayne Brown, who had been sentenced to death for the 2005 murders of a Houston police officer and a store clerk during a robbery. He was released from prison that same day after a spending a decade on death row for a crime he did not commit.

Last year, the Texas Court of Criminal Appeals overturned Brown's conviction because prosecutors had withheld a phone record supporting Brown's alibi. Brown had maintained that he had been alone at his girlfriend's apartment at the time of the murders. Prosecutors presented no physical evidence pointing to his guilt.

A series of Pulitzer prize-winning columns by Lisa Falkenberg in the *Houston Chronicle* uncovered that Brown's girlfriend had faced intimidating questioning and threats of perjury by the police officer that served as grand jury foreman in his trial. She was jailed for seven weeks until she changed her testimony to implicate Brown. She recently recanted her testimony.

Since 2007, Brown's attorneys worked to compile strong evidence that another man committed the murders. Despite a 2008 motion to test this suspect's DNA, no such test was ever conducted. Brown is the 13th Texas inmate to be exonerated from death row since 1973, and the 154th exonerated nationwide.

On June 12, the State Bar of Texas disbarred Burleson County District Attorney Charles Sebesta, whose misconduct led to the wrongful conviction of Anthony Graves. In 2006, the US Court of Appeals for the Fifth Circuit overturned Graves' multiple-murder convictions. He was exonerated and released from prison in 2010 after spending more than 18 years on death row.

The Texas bar found that as prosecutor in Graves' case Sebesta violated no fewer than five of the Texas

Disciplinary Rules of Professional Conduct, including making a false statement to the court, failing to disclose exculpatory evidence to the defense and using evidence known to be false.

Sebesta continued to persecute Graves following his exoneration. According to a grievance filed by Graves' attorneys in 2014: "Mr. Sebesta continued to claim he had done nothing wrong in prosecuting Mr. Graves. Grotesquely, Mr. Sebesta continued to torment Mr. Graves and his family by insisting both in public statements and on a web site he maintained that Mr. Graves really was a murderer and was guilty of the crimes."



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