

# Arkansas pushes forward with plans to execute eight inmates in eleven days

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The state of Arkansas is pushing forward with plans to execute eight death row inmates over the course of eleven days, two executions at a time, between April 17 and 27.

Arkansas Governor Asa Hutchinson ordered the spree of executions on February 27 after learning that one of the drugs in the three-drug cocktail used in executions, midazolam, was set to expire at the end of April.

The scheduled executions of the death row inmates, four of whom are black and four white, will proceed with Don Davis and Bruce Ward on April 17, Ledelle Lee and Stacey Johnson on April 20, Marcell Williams and Jack Jones Junior on April 24, and Jason McGehee and Kenneth Williams on April 27.

“No state has attempted to carry out so many executions in such a short period of time,” Robert Dunham, executive director of the Death Penalty Information Center (DPIC), told KATV, an ABC affiliate in Little Rock. “We are seeing a state create an artificially constricted execution schedule in order to carry out executions by a ‘kill-by’ date—the date the drug expires.”

On Monday, lawyers for the eight death row inmates filed federal motions in US District Court to block the executions so that the court can hear the merits of the case. If the federal court does not grant an expedited hearing before the first execution date, attorneys will ask the Supreme Court to authorize a hearing.

Among the filings is a request to block the execution of Bruce Ward, whose attorneys say he is schizophrenic and mentally incompetent. “Since learning that Defendant Hutchinson had scheduled his execution for April 17, 2017, Mr. Ward has remained steadfast in his belief that he will walk out of prison,” said the filing, according to ABC News.

Another inmate, Stacey Johnson, is asking the state’s highest court to block his execution so that evidence from his trial can be retested.

“The rushed schedule appreciably increases the risk of harm to plaintiffs, falls far outside the bounds of modern penological practice, and disrespects the plaintiffs’ fundamental dignity—defects that all run against the Eighth Amendment’s protection,” the attorneys for the inmates argued in their request for a preliminary injunction, according to the Associated Press.

“The suit challenges the execution schedule,” Federal Public Defender John Williams, who represents three of the inmates, told NBC News. “It’s an unprecedented act and we think the pace of the schedule puts our clients at unnecessary risk.”

Governor Hutchinson announced the execution dates on February 27, giving defense attorneys less than two months to prepare.

“It is impossible to represent those clients and do the kind of work that needs to be done at the end of the process,” Dale Baich, an Arizona assistant federal defender, told NBC. “We had a situation here in Arizona where we had two clients scheduled a week apart, and we had to have two separate teams working on those cases.”

The Arkansas Parole Board recommended rejecting the clemency requests of the inmates on Monday, and rejected a third clemency request on Wednesday.

The executions, which have been on hold in Arkansas due to legal challenges and difficulties acquiring lethal injection drugs, will be the first in the state since the November 2005 execution of Eric Nance.

In a voice vote earlier this month, Arkansas lawmakers in the state legislature’s House Judiciary Committee rejected bills prohibiting the execution of individuals with severe mental illnesses and limiting death penalty sentences to cases where there is no doubt of guilt.

States have found it increasingly difficult to access drugs used for lethal injections since the European Commission banned their sale for this purpose in 2011 and 2012. This was followed by a boycott among American pharmaceutical companies.

In response, states have attempted to illegally import the drugs from overseas, or have turned to other execution methods such as the gas chamber, electric chair or firing squad. In January, Arizona’s Corrections Director Charles Ryan issued a new execution protocol that invited the lawyers of death row inmates to provide the drugs to be used to kill their clients.

One of the drugs that will be used to execute the Arkansas prisoners, midazolam, an unreliable sedative and anesthetic, has been responsible for a number of botched executions. In 2014, the use of midazolam in the executions of Dennis McGuire in Ohio, Clayton Lockett in Oklahoma and Joseph Wood in

Arizona resulted in grisly and drawn-out executions, lasting between 25 minutes and nearly two hours, during which the inmates kicked and struggled, gasped for air, and writhed in pain.

Despite the gruesome results from the use of midazolam, states continue to employ it in lethal injection drug cocktails. The Supreme Court ruled in 2015 that the use of midazolam did not constitute cruel and unusual punishment.

The use of midazolam and the accelerated execution schedule for the eight Arkansas inmates, which will place even greater pressure on the staff responsible for carrying out the killings, guarantees further botched executions.

“You are just asking for something to go wrong—they are putting their team in a really difficult spot,” Jennifer Moreno, a staff attorney with the Berkeley Law Death Penalty Clinic, told the *Guardian*.

Not surprisingly, Arkansas is having difficulties finding enough volunteers to witness the executions. State law requires six to twelve “respectable citizens,” over the age of 21 with no felony criminal history and not related to the death row inmate or victim, to witness the execution and confirm compliance with state death penalty laws.

Seeking volunteers, the state’s Department of Corrections Director Wendy Kelley recently spoke to members of the Little Rock Rotary Club 99.

“You seem to be a group that does not have felony backgrounds and are over 21,” she told the members, according to the *Arkansas Democrat Gazette*. “So if you’re interested in serving in that area, in this serious role, just call my office.”

According to the acting president of the Club, Bill Booker, members of the audience initially thought Kelley was joking. After a few uncomfortable laughs, it soon dawned on the audience that she was speaking seriously.

“What I suspect is that some people might support the death penalty, but when it comes to witnessing something like that, it’s a different story,” Booker told the *Gazette*. “It may cause emotional trauma for quite a while. It would be one of the most significant things you’ll ever see in your life.”

“I can’t imagine she will get a lot of volunteers,” Rotarian Charlotte Gadberry told the *Gazette*. “I don’t think I could handle it. I’m not real sure how I feel about the death penalty, but it seems like there should be a better way of treating our fellow man.”

Executions take a heavy toll not only on witnesses, but the staff charged with carrying out the barbaric practice. Dr. Allen Ault, who gave the order for five executions in 1994 and 1995 as the commissioner of the department of corrections in Georgia, still has nightmares about the men he sent to death. He later discovered that members of his team also suffered psychological distress.

“What I did was much more premeditated than any of the murders committed by those I executed,” he told the *Guardian* in a story on the planned Arkansas executions. “You are taking

a totally defenseless person, planning, premeditating, even rehearsing, then killing him—any sane person other than a psychopath would be dramatically affected by that.”

In a letter sent to Governor Hutchinson on Wednesday, nearly two dozen officials raised concerns over the multiple execution schedule, including the effects on the execution staff. These concerns were dismissed by Hutchinson, who argued that the accelerated execution schedule would be “more efficient and less stressful” for the staff.

“If the governor is so hot on this,” Ault remarked to the *Guardian*, “he ought to go down to the death chamber and do it himself. But he won’t, they never do. Politicians are never in the room when it happens, they never have to suffer anything.”

According to data from the DPIC, 1,148 people have been executed in the United States since 1976, when the Supreme Court reinstated the death penalty. There are currently 2,905 inmates on death row. Six inmates have been executed so far in 2017 and an additional 35 prisoners, including the eight death row inmates in Arkansas, are scheduled for execution this year.

While the number of executions in such a short period of time being planned by Arkansas is unprecedented, it is not a complete aberration. No state has carried out eight executions in one month since Texas did so twice in 1997.

Two or more executions on the same day has occurred only ten times in the past 40 years, four of which took place in Arkansas, according to the DPIC. No state has ever conducted more than one double execution in the same week, and a double execution has never been successfully completed using midazolam. When Oklahoma attempted a double execution on April 29, 2014 using midazolam, it had to block the second one after botching the execution of Clayton Lockett.



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