

After last-minute reprieve for one prisoner

Arkansas determined to execute five death row inmates by end of April

Kate Randall
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Arkansas death row inmate Don Davis was 15 minutes away from execution Monday night when his lethal injection was halted after the US Supreme Court declined to overturn a stay handed down earlier that day by the Arkansas Supreme Court. He was the first of eight inmates originally scheduled to be put to death in a state killing spree over 11 days this month in Arkansas.

Davis, 52, was convicted and sentenced to death in the 1989 killing of 18-year-old convenience store clerk Rebecca Lynn Doss in Little Rock, Arkansas. He has been on death row for more than 25 years.

There is evidence that Davis suffers from intellectual impairment, scoring low on childhood IQ tests. He also suffered a serious brain injury, which along with his ADHD and low IQ has likely led to “double deficits” in cognitive function.

Davis was set to be executed by lethal injection at 8:15 p.m. Monday. According to a report by the *Arkansas Democrat-Gazette*, the inmate had been placed in a windowless cell, just steps away from the death chamber at the Cummins prison unit near Pine Bluff.

Bruce Ward, another inmate who had been set to die Monday, was never moved to a Cummins holding cell because Arkansas Attorney General Leslie Rutledge declined to appeal court stays blocking his execution. A diagnosed paranoid schizophrenic, Ward appears to not understand that he faces the death penalty, and believes instead that he is preparing for a “special mission as an evangelist.”

The state has acknowledged that they do not have time to procure new execution warrants for Davis and Ward before the end of April. The state parole board

recommended clemency last week for Jason McGehee, a third prisoner among the initial eight scheduled to die. A federal judge blocked his execution.

Arkansas Governor Asa Hutchinson has vowed to press forward with plans to execute the five remaining inmates before the state’s supply of one of the execution drugs, midazolam, expires at the end of April. Strict distribution controls imposed by dozens of drug companies in the US and Europe have made it difficult for US states practicing the death penalty to acquire the chemicals to use in lethal injections.

The Republican governor’s spokesman, J.R. Davis, stated: “We will continue, on Thursday, on Monday and then Thursday,” referring to the remaining five men the state is seeking to put to death—in two double executions, on April 20 and April 24, and in one on April 27.

The moments leading up to Davis’s last-minute reprieve exemplify the barbarous character of Arkansas’ rush to execute condemned death row inmates who as a group have been “defined by mental illness, intellectual disability, and bad lawyering,” according to the Fair Punishment Project, a legal advocacy group.

According to the *Democrat-Gazette*’s account, Davis was delivered his “last meal” as he awaited the Supreme Court’s decision. After several hours, Arkansas Department of Corrections spokesman Solomon Graves said that prison officials didn’t yet know the outcome, but they were standing by, ready to execute Davis.

According to a *Democrat-Gazette* reporter who was part of the group set to witness the execution, some time after 11 p.m. three media witnesses were allowed

to leave the media center and travelled by car to the Cummins unit, stopping behind a van of witnesses outside the death chamber. The driver of the van entered the building, returning to tell the media that the execution was “a no-go.”

In a one-sentence order moments earlier, the US Supreme Court had declined to vacate the hold on Davis’s execution that the state Supreme Court had granted Monday afternoon. The full US high court heard an appeal by Arkansas Attorney General Leslie Rutledge for several hours and issued its order about a quarter-hour before the state’s death warrant expired at midnight.

Scott Braden, an assistant federal public defender for the inmates, said the high court justices, including new Associate Justice Neil Gorsuch, heard evidence that Davis had been denied proper independent counsel on the issue of his mental health. “Mr. Davis has organic brain damage, intellectual disability, a history of head injuries, fetal alcohol syndrome, and other severe mental health conditions,” Braden said, according to the *Guardian*.

Arkansas authorities justify this tortuous treatment of Davis—holding him steps from the execution chamber until just minutes before his impending lethal injection was called off—on the basis of “justice” for the victim’s family. In reality, their actions are based on vengeance and retribution.

The legal rollercoaster ride Davis, the other death row inmates, and their attorneys have been subjected to will provide no “closure” for victims’ families or the citizens of Arkansas. Rather, the state’s drive to kill is aimed at stoking reactionary sentiments and acclimatizing the population to the daily murder and brutality of class rule in America.

On Saturday, federal district judge Kristine Baker issued a temporary stay of the inmates’ executions. She questioned the reliability of the sedative midazolam used as the first chemical in Arkansas’ three-drug lethal injection protocol. “If midazolam does not adequately anesthetize plaintiffs, or if their executions are ‘botched,’ they will suffer severe pain before they die,” Baker wrote in her 101-page ruling.

On Monday afternoon, the 8th Circuit Court of Appeals in St. Louis, Missouri, reversed Judge Baker’s decision, ruling 7-1 that the evidence did not show the state’s execution procedure is very likely to “cause

severe pain and needless suffering” for the prisoners.

Also on Monday, the Arkansas Supreme Court granted a stay of execution for Davis. Attorneys had requested stays for Davis and Ward while the US Supreme Court takes up an Alabama case concerning inmates’ access to independent mental health experts.

At about 7 p.m. Monday, Attorney General Rutledge appealed the state high court’s stay of Davis’s execution. The last-minute US Supreme Court ruling meant that Davis could not be put to death Monday.

Despite these setbacks to their planned assembly-line state killing schedule, Rutledge said Arkansas would press forward with the other planned lethal injections. “There are five scheduled executions remaining with nothing preventing them from occurring, but I will continue to respond to any and all legal challenges brought by the prisoners,” Rutledge said.

No state has attempted a double execution since the 2014 execution of Clayton Lockett in Oklahoma. Lockett writhed in pain for 43 minutes during the execution. Prison officials halted the execution after his vein had blown and Lockett succumbed to a heart attack shortly thereafter, forcing Oklahoma officials to cancel the second planned execution.

Undeterred by the possibility that their lethal injection protocol could end in similar gruesome spectacles—and barring future unfavorable legal rulings and last-minute reprieves—Arkansas is determined to pursue the executions of five inmates before the end of the month: Ledell Lee and Stacey Johnson, on Thursday, April 20; Jack Jones and Marcel Williams, on Monday, April 24; and Kenneth Williams, on Thursday, April 27.



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