

After 34 years on death row, eight execution warrants

Thomas Arthur dies by lethal injection in Alabama

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The state of Alabama executed death row inmate Thomas Arthur on Thursday night at the Holman Correctional Facility in Atmore. Arthur, 74, had spent 34 years on death row and had seven previous death warrants served against him.

Arthur's execution began only a quarter hour before his death warrant was due to expire at midnight. The US Supreme Court denied his appeal for a stay of execution at 10:45 p.m. and his lethal injection began at about 11:45 p.m. He was killed using a three-drug protocol that begins with the sedative midazolam.

According to witness from al.com, Arthur read out the names of his children as he was strapped to the gurney. His request to have a photo of his children in the execution chamber had been approved by prison authorities. "I'm sorry I failed you as a father," he said with a quivering voice. "I love you more than anything on Earth."

Arthur began to slowly drift off after the first drug was administered, according to witnesses, and his breathing then became more shallow. He was pronounced dead at 12:15 a.m. His execution was apparently in sharp contrast to the December 8 execution of another Alabama inmate, Ronald Smith, who heaved and gasped for breath for 13 minutes before succumbing to the lethal drugs.

Arthur was convicted of capital murder in 1983 for the 1982 murder of Troy Wicker, Jr. That verdict was overturned, and he was retried in 1987 and convicted. That verdict was also overturned. He was convicted in his third and final trial in 1991 and sentenced to death.

Thursday's execution was set to begin at 6 p.m., but was delayed by final appeals to the US Supreme Court. His attorneys argued that the use of midazolam could subject their client to cruel and unusual punishment, which is forbidden by the Eighth Amendment to the US

Constitution.

Arthur's attorneys also requested that they have access to a phone in the witness room if any aspect of the execution went wrong so they could contact the courts. The US Supreme Court initially issued a temporary stay, signed by Justice Clarence Thomas. However, the high court lifted the stay at 10:45 p.m., allowing the execution to proceed.

In the sole dissent, Justice Sonia Sotomayor criticized the court's decision, arguing that she continued to doubt that midazolam was capable of rendering prisoners unable to feel the "excruciating pain" of the lethal injection procedure.

She said this risk was compounded by denying the condemned man's attorneys access to a phone in the witness room. "When Thomas Arthur enters the execution chamber tonight," Sotomayor wrote, "he will leave his constitutional rights at the door."

Arthur's execution was the first under the watch of Republican Governor Kay Ivey, who assumed office in April. Deciding against granting Arthur clemency, she stated, "Mr. Arthur was rightfully convicted and sentenced, and tonight that sentence was rightfully and justly carried out." Arthur's attorneys argued that their client was, in fact, denied access to crucial evidence.

The state contends that Arthur was having an affair with the victim's wife, Judy Wicker, and that he shot her husband in the right eye with a pistol. After the crime, Ms. Wicker told police she had been raped by a black man who knocked her unconscious and then shot her husband.

She later changed her story, testifying that she had paid Arthur \$10,000 to kill her husband, and that he had painted his face black and wore a wig when he committed the crime. Arthur's legal team maintained that their client

had been denied access to evidence, including a rape kit from Judy Wicker and the wig worn by the assailant that they claimed could prove Arthur's innocence.

"Neither a fingerprint nor a weapon, nor any other physical evidence, connects Thomas Arthur to the murder of Troy Wicker," said lead attorney Suhana Han in a statement. "If the state executes Mr. Wicker on May 25 as planned, he will die without ever having had a meaningful opportunity to prove his innocence—an outcome that is inexcusable in a civilized society."

In a statement after the execution, Sherrie Stone, Arthur's oldest daughter, expressed sympathy for the victim's family and said, "I hope what has transpired today will allow them to have some peace and closure. I've never known for certain whether my father killed Troy Wicker."

Stone added, "Over the decades you go through a roller coaster. Now I'll never know the truth because the evidence that could prove if my father was innocent or guilty has not been tested using the latest DNA testing procedure."

More than three decades on death row

Arthur's execution came a week after the Republican-dominated House of Representatives in Alabama approved a bill that would shorten the appeals process for death row inmates. Proponents of the measure argue the bill will spare victims' families the agony of supposedly frivolous legal appeals by death row inmates. Opponents counter that the bill increases the possibility that the state will execute an innocent person.

Near the end of Arthur's final trial in 1991, he asked for the death penalty. While insisting that he was innocent, he said that he had not yet been able to prove it due to "inadequate preparation." He felt that a death sentence would allow him more time and resources to devote to his appeal and exoneration.

"I am asking you, with as much emphasis as I can, to please give me the death penalty," he said, according to court transcripts. "I don't want to die. Hell, I'm not crazy. I'm not nuts. But giving me life and no parole will destroy my access to getting this thing back to court."

Arthur would spend more than three decades trying to prove his innocence, the majority of time spent on death row. Thirty-five years after Troy Wicker's death, and

with his legal options dwindling, he told the AP, "I won't give up 'til I draw my last breath. I won't give up." In the end, he lost the gamble he took when pleading for the death penalty, and was executed Thursday night.

Arthur was the 12th person put to death in the US in 2017 and the first in Alabama this year. Since the US Supreme Court reinstated the death penalty in 1976, Alabama has carried out 59 of the 1,454 executions nationwide, according to the Death Penalty Information Center (DPIC).

As of 2013, Alabama had handed down more death sentences per capita than any other state (DPIC). Until this year, Alabama was the only state that still allowed a judge to impose the death penalty against a verdict in favor of life imprisonment.

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There was a time not so long ago in America when the prospect of a man or women languishing on death row for decades shocked the conscience.

On January 23, 1948, Caryl Chessman was apprehended in a series of robberies and rapes in the Los Angeles area. In late January 1948, Chessman was indicted on 18 counts of robbery, rape and dubious charges of "kidnapping." Although he was not charged or convicted of murder, he was sentenced to death under a loosely interpreted law that defined kidnapping as a capital offense under certain circumstances.

Chessman's appeals ran out in April 1960 and he went to the gas chamber at San Quentin prison on May 2 that same year. At the time, the 11 years and 10 months Chessman spent on death row was the longest ever by a death row inmate in the US.



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