

US Supreme Court clears way for lethal injection

Ohio carries out first execution in more than three years

Kate Randall
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The state of Ohio on Wednesday morning carried out the execution of Ronald Phillips at Southern Ohio Correctional Facility prison in Lucasville. The execution was the first in the state since a lethal injection in January 2014 caused an inmate to gasp over a period of more than two hours before succumbing to the deadly chemicals.

Phillips, 43, was convicted and condemned to death in 1993 for the rape and murder of his girlfriend's three-year-old daughter, Sheila Marie Evans. He had faced three execution dates prior to Wednesday.

In a statement before he was injected with the lethal chemicals, Phillips said in part: "To the Evans family, I'm sorry. You had to live so long with my evil actions. ... Sheila Marie did not deserve what I did to her." Phillips was pronounced dead at 10:43 a.m., according to prison officials. According to reporters who witnessed the execution, the lethal injection was carried out without complications.

Phillips had appealed to the US Supreme Court for a last-minute stay. His defense questioned the state's planned method of execution and also argued that Phillips today "bears no resemblance to that teenager" who committed the gruesome crime.

Fifteen pharmacology professors filed a brief at the Supreme Court on Monday, calling for a halt to Phillips's impending execution on grounds that one of the drugs used, the sedative midazolam, is incapable of inducing unconsciousness or preventing severe pain. They called the record of the use of midazolam in executions "profoundly troubling" and said it was "unsuitable" as an execution drug.

The state used a three-drug protocol of midazolam, rocuronium bromide and potassium chloride for

Phillips's execution.

Earlier this year, a ruling of the full Sixth Circuit Court of Appeals in Cincinnati overruled a panel from the same court that had delayed the execution.

Governor John Kasich, a Republican, said in a statement last year, "Given the extremely brutal nature of the offense committed against an innocent 3-year-old child, I agree with the Ohio Parole Board's recommendation that clemency is not warranted in this case."

Late Tuesday, the US Supreme Court rejected Phillips's request for a stay, allowing the execution to proceed. Justice Sonia Sotomayor was joined by Ruth Bader Ginsburg in dissent, arguing that Phillips and two other inmates in his lawsuit should have gotten a chance to pursue their claim that "Ohio's execution protocol is a cruel and unusual punishment."

The execution that prompted Ohio's more than three-year halt to executions was that of Dennis McGuire on January 16, 2014. McGuire was executed using an untested cocktail of midazolam and hydromorphone, a centrally acting medication in the opioid class used for pain.

Family members who watched McGuire's execution witnessed him writhing in pain before being pronounced dead 25 minutes later by prison authorities. His son said, "I watched his stomach heave. ... I watched him repeatedly clench his fist," adding that it "appeared to me he was fighting for his life while suffocating."

McGuire's was the first of three executions that year that appeared to go horribly wrong, all utilizing midazolam. On April 29, 2014, in Oklahoma, Clayton Lockett's attorney said that the prisoner "was definitely

writhing around, his whole upper body was lifting off the table. What we saw was somebody coming back to consciousness.” The execution was called off, but his eventual death was later blamed on improper IV placement.

On July 23, 2014, in Arizona, Joseph Wood was executed using the same two-drug protocol as McGuire. The *Arizona Republic's* Michael Keifer wrote of Wood's ordeal that spanned nearly two hours, “He gulped like a fish on land. The movement was like a piston: The mouth opened, the chest rose, the stomach convulsed. ... It was death by apnea.”

The Ohio Department of Rehabilitation and Correction issued a report on McGuire's execution, rejecting accounts of his suffering and concluding that the lethal injection drugs “had their intended effect and that McGuire did not experience any pain or distress.”

Then several months later, in January 2015, the state said it would switch to another drug combination. The first inmate scheduled for execution under this new protocol was Phillips, who had been set to die about a month later. However, not long after this, Ohio said it would postpone executions once again to give the state the time to obtain new lethal injection drugs.

Two other executions involving midazolam have drawn scrutiny since 2014.

Alabama inmate Ronald Smith was executed on December 8, 2016. According to numerous witness reports, it took more than 34 minutes for Smith to die. *AL.com* reported that Smith appeared to be “struggling for breath and heaved and coughed and clenched his left fist after apparently being administered the first drug in the three-drug combination.”

Earlier this year, on April 27, Kenneth Williams was the last of four men to be executed over an 11-day killing spree in Arkansas. The state had originally planned to execute eight men during this time. Witnesses to Williams's execution said that his body lurched 15 times and that he was “coughing, convulsing, lurching, jerking” after the first drug, midazolam, was injected.

With Ronald Phillips's execution, Ohio, like Arkansas, is ramping up its state killing machine after years of inaction. As of last October, there were 142 prisoners on Ohio's death row, according to the Death Penalty Information Center (DPIC). There are three more prisoners set to die this year, and an additional 23

executions scheduled from 2018 through 2019.

Ohio has executed 53 prisoners since the turn of the century, more than any other northern US state. Ohio also ranks with Texas and Oklahoma as the only states to have executed at least one prisoner each year from 2001 to 2014.



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