Tennessee carries out first execution in nearly a decade

Inmate “gulped for an extended period of time” and was “choking,” “gasping”

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Tennessee executed Billy Ray Irick on Thursday in the first execution in the state in nearly a decade. Irick, 59, was convicted and sentenced to death for the brutal 1985 rape and murder of 7-year-old Paula Dyer in Knoxville. He spent more than three decades on death row.

Irick’s lethal injection was allowed to proceed at the Riverbend Maximum Security Prison in Nashville after both the Tennessee and US Supreme Courts denying his request for a stay. Governor Bill Haslam, a Republican, did not exercise his power to grant Irick clemency.

Irick’s attorneys had argued both that their client should not be put to death because he suffered from severe mental illness, and that one of the drugs to be used in his lethal injection could cause severe pain. There is evidence that Irick did indeed suffer a torturous death.

Journalists witnessing the execution reported that the blinds between the witness room and the death chamber were opened at 7:26 p.m. local time. Asked if he had any final words, Irick at first said “No,” and then said, “I just want to say I’m really sorry and that, that’s it.” The lethal injection drugs then began to flow.

A minute later, the Associated Press (AP) reported, his eyes closed and snoring and heavy breathing could be heard. At 7:34 p.m. there was “coughing, huffing and deep breaths,” and an attendant called out to him and grabbed his shoulder to check for consciousness.

According to the Death Penalty Information Center (DPIC), federal public defender Kelley Henry said Irick exhibited signs of pulmonary edema (fluid filling the lungs) during the execution, which took more than 20 minutes. She said media witnesses reported that “Mr. Irick ‘gulped for an extended period of time,’ was ‘choking,’ ‘gasping,’ ‘coughing,’ and that ‘his stomach was moving up and down.’”

Henry described Irick moving his body, including his head, after the attendant’s consciousness check. “This means that the second and third drugs were administered even though Mr. Irick was not unconscious,” Henry said. This suggests that the first drug, midazolam, did not sufficiently sedate Irick, making the second two drugs in the protocol extremely painful.

After Irick’s coughing and huffing, according to the AP, he was not making any noise and “began to turn dark purple.” He was pronounced dead at 7:48 p.m.

By many accounts, Irick suffered from severe mental illness. According to Knoxville TV station WBIR, he was an uncontrollable child who was regularly tied up and beaten by his parents. As a young child he underwent psychological evaluation for what a teacher described as “extreme behavioral issues.”

A clinical social worker said Irick may have suffered mild organic brain damage since birth. He was briefly institutionalized before being sent to an orphanage for emotionally disturbed children.

He eventually found a job as a dishwasher at a Knoxville truck stop in 1983, where he met Kenny Jeffers, the father of the little girl who would become his victim. He eventually moved in with Kenny, his wife Kathy and five of their eight children. He often took care of the children while Kenny and Kathy

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worked long hours and overnight shifts.

On the morning of April 15, 1985, Kathy kicked Irick out of the house after a fight. However, later that day when she was called in to work and neither her regular babysitter nor Kenny was able to take care of the children, she called Billy to come back.

After receiving a disturbing call from Irick that he couldn't wake Paula up, Kenny arrived home to find Irick standing on the porch and Paula unconscious on the floor covered in blood. He rushed her to the hospital, but she died of her injuries, having been raped and asphyxiated.

Irick was found by police the following day. According to WBIR, he was cooperative and remorseful, confessing to the crime immediately. A Knox County jury found him guilty of first-degree murder and two counts of aggravated rape after a six-day trial. A jury sentenced him to die in the electric chair, scheduled for May 4, 1987.

Irick's execution was postponed over the following decades as debate ensued over acceptable methods of execution after the state's electric chair was retired. His case was also appealed over claims of testimony that he suffered from mental illness.

Leaders of the National Alliance on Mental Illness sent a letter to Tennessee authorities calling on Irick to be given life without parole instead of the death penalty.

"From all reports, Irick's severe mental illness has continued unabated during his many years of incarceration," the letter reads. "The fact that eight experts, working for both the state and defense, agree that he suffers from severe mental illness is powerful evidence in support of this point."

Attorneys for 33 Tennessee death row inmates, including Irick, filed suit claiming that the drugs the state planned to use in Irick's and other lethal injections would cause the inmates to be tortured to death. The state's execution protocol calls for the use of midazolam, a sedative, followed by vecuronium bromide, a muscle relaxer, and finally potassium chloride to stop the heart.

At issue is whether midazolam is effective at rendering a person unconscious and unable to feel pain from the other two drugs. In numerous executions in recent years, inmates have heaved and gasped for breath and called out that they felt their bodies were on fire.

On Monday, the Tennessee Supreme Court refused to block Irick's execution, saying that the lawsuit brought by the inmates over midazolam was unlikely to succeed.

The US Supreme Court denied a petition to spare his life hours before the execution. Irick's lawyers had argued that he suffered from psychosis throughout his life and that putting him to death would violate the high court's previous decisions barring the execution of people with severe mental disorders or disabilities.

The lawyers also argued that his execution should have been halted to give time for an appeals court to render a decision on the Tennessee inmate's lawsuit over midazolam. Justice Sonia Sotomayor cast the only dissenting vote in the Supreme Court's decision denying Irick a reprieve.

She wrote, "In refusing to grant Irick a stay, the Court today turns a blind eye to a proven likelihood that the State of Tennessee is on the verge of inflicting several minutes of torturous pain on an inmate in its custody, while shrouding his suffering behind a veneer of paralysis. I cannot in good conscience join in this 'rush to execute' without first seeking every assurance that our precedent permits such a result. If the law permits this execution to go forward in spite of the horrific final minutes that Irick may well experience, then we have stopped being a civilized nation and accepted barbarism."

Sotomayer's predictions appeared to prove true. While the Supreme Court has ruled against the death penalty in specific instances—including for the mentally ill and for crimes committed by juveniles—it has consistently upheld the barbaric practice in principle. Billy Ray Irick was the 15th execution carried out this year and the 1,480th since the Supreme Court reinstated the death penalty in 1976.

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