

# Nebraska carries out first execution in US using the opioid fentanyl

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The state of Nebraska carried out the execution Tuesday morning of Carey Dean Moore, marking the state's first execution in more than two decades. The state used a lethal injection protocol including fentanyl, the powerful synthetic drug at the center of the US opioid crisis that claimed more than 70,000 lives last year alone.

Nebraska Governor Pete Ricketts and the state's prison authorities have the dubious distinction of pioneering the use of fentanyl for state-sanctioned murder.

The execution proceeded after both a federal district court and a US Court of Appeals refused a request by a German pharmaceutical company for a temporary restraining order to halt the execution. Fresenius Kabi said it had "grounds to believe" that two drugs of the four-part lethal injection protocol were the company's products. Nebraska has not identified the source for its lethal injection drugs.

Moore, 60, was convicted and sentenced to death for the 1979 killings, five days apart, of two Omaha cabdrivers, Reuel Van Ness and Maynard Helgeland, both 47. Moore reportedly targeted the two because he knew they carried cash.

Moore was transported in advance of his execution from death row at the Tecumseh State Correctional Institution to a holding cell at the Nebraska State Penitentiary in Lincoln, which houses the state's execution chamber. He had served 39 years on death row.

Moore, who had seven previous execution dates that were delayed for various legal reasons, did not fight his final date with death, telling his family, friends and reporters that he was tired of living so long on death row, according to the *Omaha World-Herald*. As a born-again Christian, he said he had received forgiveness

from God for his crimes.

*World-Herald* reporter Joe Duggan, a witness to the execution, said Moore looked composed but slightly shaken when he referenced a statement he had delivered earlier to prison officials. In it he wrote that he wanted his twin brother released from parole. He also said that he believed 4 of the state's remaining 10 death row inmates might be innocent.

Scott Frakes, Nebraska Department of Correctional Services director, said the first of four execution drugs, the sedative diazepam, was administered at 10:24 a.m. local time. Media witnesses reported that Moore mouthed the words "I love you" toward his official witnesses.

The *World-Herald* reported that Grant Schulte, an official witness from the Associated Press, said that "Moore went still at 10:31 a.m....and his face gradually turned slightly red, then purple." At 10:39 a.m., Frakes had the curtain to the execution chamber lowered. The Lancaster County coroner declared him dead at 10:47 a.m.

Frakes claimed the execution was carried out with "professionalism, respect for the process and dignity for all involved." The state killing described by the corrections director as dignified included a four-drug protocol never before used in a US execution.

The execution team is composed of prison staff who volunteer to participate in the grisly process. On the orders of the corrections director, the IV team leader begins the injection of the drugs, beginning first with diazepam, a sedative, followed by fentanyl. Fentanyl is an opioid pain killer that is around 100 times stronger than morphine, while some similar compounds such as carfentanil are around 10,000 stronger. Nebraska is the first US state to use fentanyl in its execution protocol.

The third drug is cisatracurium, a paralyzing drug to

stop the inmate's breathing, followed finally by potassium chloride, to induce cardiac arrest.

Fresenius Kabi contends that the cisatracurium and potassium chloride may have been its products. It also argued that the drugs may have been obtained illegally and that they may have been stored and handled inappropriately. The company asked Governor Ricketts for assurances that the drugs wouldn't be used in Tuesday's execution, but received none.

The state has refused to say where it obtained the drugs. A statement from the office of Nebraska Attorney General Doug Peterson said simply: "Nebraska's lethal injection drugs were purchased lawfully and pursuant to the State of Nebraska's duty to carry out lawful capital sentences."

Initial witness reports have said nothing went awry in Moore's execution. Executions proceeding according to protocol generally take 10 minutes, Robert Dunham, director of the Death Penalty Information Center (DPIC), told the *World-Herald*. However, Moore's execution took 23 minutes, according to prison officials, which could indicate problems with the lethal injection.

If the IV team misses a vein and the drugs are injected into the inmate's muscles, death can be prolonged and painful. If the inmate regains consciousness, the inmate can experience excruciating, burning pain. Death penalty opponents also warn that if the cisatracurium has paralyzed the inmate, but the person is still conscious and feeling pain, the inmate would be unable to indicate this was occurring.

In several executions in 2014, including in Oklahoma and Ohio, condemned inmates were victims of lethal injections in which the first drugs used did not adequately sedate them. On January 9 of that year, Oklahoma used a three-drug protocol including pentobarbital obtained from an unidentified compounding pharmacy in the execution of Michael Lee Wilson. During the execution, he cried out, "I feel my whole body burning," an indication that the pentobarbital was not fully effective and he was suffering excruciating pain.

Before Tuesday, the most recent execution in Nebraska was in 1997, when Robert Williams was put to death in the electric chair. The state has carried out four executions since the US Supreme Court reinstated the death penalty in 1976. Between 1879 and 1976,

Nebraska executed 34 inmates, according to the ESPY File, database of executions in the US. Before 1914, the executions were carried out by hanging, and between 1914 and 1997, electrocution was the method.

In 2015, state lawmakers voted to abolish the death penalty in Nebraska. Governor Ricketts, a Republican, then "helped finance a ballot drive to reinstate capital punishment after lawmakers overrode his veto," the Associated Press reported. Ricketts "contributed \$300,000 of his own money to a petition drive organized by several close associates to place the issue on the November 2016 general election ballot," AP said. Nebraska voters approved the measure by a 61 percent majority.



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