

US government carries out first execution of federal prisoner in 17 years

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On Tuesday, the US government carried out the first federal execution in 17 years. Daniel Lewis Lee, 47, who was convicted and sentenced to death for the 1996 murder of a family of three in Arkansas, was executed just hours after the US Supreme Court rejected a last-minute legal challenge to the execution and vacated an injunction by a lower court.

The speed with which the high court ruled, in a 5–4 decision issued after 2 a.m. Tuesday morning, is indicative of the brutal determination of the most reactionary elements within the ruling elite to uphold the barbaric practice of capital punishment. A year ago, Attorney General William Barr directed the Bureau of Prisons (BOP) to reinstate the death penalty for federal prisoners.

The drive by the government leading up to Lee's death and the upcoming execution of three other federal prisoners is consistent with the current political landscape, promoted by both big business parties, in which the maintenance of capitalist rule is placed above the lives and health of the population.

In the modern history of the death penalty in the US, which is not short on gruesome details, Lee's execution stands out as a particularly egregious affront to due process and basic human rights. Coming as it does in the midst of the coronavirus pandemic, the government's obsession with seeing to it that these men are sent to their deaths is all the more abhorrent.

Lee had been set to be executed at 4 p.m. Monday local time at the federal prison in Terre Haute, Indiana. That deadline passed as the Supreme Court justices considered whether to vacate a preliminary injunction by the District of Columbia federal district court halting Lee's execution and those of three other federal prisoners. After their ruling, a last-minute appeal to the 8th Circuit Court of Appeals in Missouri held up the execution for several more hours.

During this time, Lee was kept strapped to a gurney in the execution chamber for four hours. Once given the green light to proceed, BOP officials wasted no time in carrying out his lethal injection, without his legal counsel present.

In a written statement, Lee's attorney, Ruth Friedman, said, "Over the four hours it took for this reckless and relentless government to pursue these ends, Daniel Lewis Lee remained strapped to a gurney: a mere 31 minutes after a court of appeals lifted the last impediment to his execution at the federal

government's urging, while multiple motions remained pending, and without notice to counsel, he was executed."

The *Indianapolis Star* described the scene: "About 20 witnesses watched the execution in four separate rooms. At 7:46 a.m., the shades on windows in each room were opened to reveal Lee strapped to the gurney with his arms out to his sides and two IV lines running from a port in the wall behind him."

In a final statement, Lee was defiant, claiming his innocence and criticizing the courts for ignoring DNA evidence in his case, which he said proved he and his codefendant were across the country when the murders took place. "I bear no responsibility for the deaths of the Mueller family," he said, referring to victims William Mueller, his wife Nancy and her eight-year-old daughter, Sarah Powell.

According to witnesses, it took two or three minutes after the drug was administered for Lee to die. As the lethal chemical, a one-drug dose of pentobarbital, was administered, he raised his head and looked around and then his breathing became heavy. In a few moments his chest remained still, his lips turned blue, and his fingers became ashy. He was pronounced dead at 8:07 a.m.

Attorney General Barr, in his directive last year ordering the BOP to reinstate the death penalty for federal prisoners, stated, "The Justice Department upholds the rule of law—and we owe it to the victims and their families to carry forward the sentence imposed by our justice system."

Members of the Mueller family, however, called on the government to halt the execution, saying that traveling across the country to witness the execution would raise the risk of their contracting COVID-19.

Earlene Peterson, the mother and grandmother of two of Lee's victims, said that Lee should receive the same sentence as his codefendant, Chevie Kehoe, who received life in prison. She also said, counter to Barr's claim, that the execution would not provide closure to the family.

In a written statement last month, Peterson said, "As a supporter of President Trump, I pray that he will hear my message: the scheduled execution of Danny Lee for the murder of my daughter and granddaughter is not what I want and would bring my family more pain."

The Supreme Court's unsigned ruling vacating the District

Court's injunction against the execution argued against the lower court's assertion that the use of pentobarbital likely constitutes cruel and unusual punishment prohibited by the Eighth Amendment to the US Constitution. Among reasons the court used to justify the use of pentobarbital was that US states have always been "developing new methods, such as lethal injection, thought to be less painful and more humane than traditional methods, like hanging, that have been uniformly regarded as constitutional for centuries."

The court also wrote that pentobarbital "[h]as been repeatedly invoked by prisoners as a *less* painful and risky alternative to the lethal injection protocols of other jurisdictions (emphasis in the original). How prisoners who are still alive are supposed to be the judge of the pain inflicted by the drug, they did not say.

Justice Stephen Breyer, in a dissenting opinion joined by Justice Ruth Bader Ginsburg, wrote that the District Court for the District of Columbia "explained that the 'scientific evidence before [it] overwhelmingly indicated that the [Government's] 2019 Protocol is very likely to cause Plaintiffs extreme pain and needless suffering during their executions.'"

In another dissenting opinion, Justice Sonia Sotomayor, joined by Justice Ginsburg and Justice Elena Kagan, wrote: "Among other things, respondents proffered expert evidence that the majority of those injected with pentobarbital suffer flash pulmonary edema, which can lead to a sensation akin to drowning and 'extreme pain, terror, and panic.'"

The justice added that by granting the last-minute application to vacate the execution stay, the court allowed "death-sentenced inmates to be executed before any court can properly consider whether their executions are unconstitutionally cruel and unusual."

The European Union released a statement from Brussels saying it "strongly opposes the decision of the United States Department of Justice to resume the federal death penalty after a 17-year hiatus." The EU said the resumption of federal executions "runs counter to the overall trend in the United States and worldwide to abolish the death penalty, either by law or in practice."

The Trump administration's drive to resume the execution of federal inmates also runs counter to growing opposition to the death penalty in the US population. The May 2020 Gallup Value and Beliefs poll, released June 23, found that the percentage of Americans who consider the death penalty to be morally acceptable fell to a record-low 54 percent, a 6 percentage-point decline over the previous year and the lowest in the 20-year history of the poll. Those who said the death penalty is morally wrong rose to a record high of 40 percent.

In a July 8 commentary, Robert Dunham, director of the Death Penalty Information Center (DPIC), criticized the planned federal executions, citing extensive evidence that the federal death penalty has been arbitrarily and discriminatorily applied. More than two-thirds of defendants facing capital prosecution are black or Latino, as are the majority of people

on federal death row. The federal death penalty, similar to the punishment in the states, is also arbitrarily applied geographically, concentrated in a few "hot spots"—Texas, Virginia and Missouri.

A recent DPIC analysis found that more than 85 percent of those facing federal execution have at least one serious impairment that significantly reduces their culpability. These include "severe mental illness, brain damage or intellectual disabilities, and long histories of childhood trauma and abuse."

All of the four federal inmates condemned to death by the Supreme Court's decision endured childhood abuse. According to DPIC, Daniel Lewis Lee endured chronic violence throughout his childhood, including beatings so severe he thought he would die.

Wesley Purkey's execution had been scheduled for July 15, although it has been temporarily put on hold due to an unrelated legal challenge. He was convicted of raping, murdering and dismembering a 16-year-old girl and was separately convicted of bludgeoning an 80-year-old woman to death. His attorneys argue that the combined effects of "Alzheimer's disease and dementia, schizophrenia, and a lifetime of trauma ... have left him unable to comprehend why the federal government plans to execute him."

Dustin Honken, who was convicted of shooting and killing five people, is set to die July 17. He was reportedly terrorized by his violent, alcoholic, criminal father, resulting in mental health problems, but the jury never heard evidence about his background.

Keith Nelson, sentenced to death for kidnapping, raping and strangling a 10-year-old girl, is scheduled for execution on August 28. He is among the 29 percent of federal death-row prisoners with developmental brain damage, traumatic brain injury and/or intellectual disability.

Of the approximately 2,500 prisoners languishing on death row in America, 65 are held by the US government and the military.



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