

Trump administration's state-sponsored killing spree continues with two more federal executions

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As Donald Trump presides over a pandemic that has so far claimed the lives of more than 300,000 Americans, his administration is rushing through the executions of five more federal death row prisoners before January 20. This accelerated state killing spree claimed the life of one inmate on Thursday and another on Friday, with three more scheduled the week before Inauguration Day.

Trump's Justice Department under Attorney General William Barr is proceeding with a blood-thirsty disregard for life that is in keeping with the administration's homicidal "herd immunity" policy, which is taking the lives of thousands of people a day as millions of workers are forced into COVID-ridden workplaces and students and teachers are sent into dangerously unsafe schools.

Thursday's execution of Brendon Bernard, 40, proceeded despite the fact that eight prison employees who took part in the November 19 execution of federal prisoner Orlando Hall, 49, at the federal prison in Terre Haute, Indiana, contracted COVID-19. Five of these employees were scheduled to work during this week's executions. The American Civil Liberties Union is representing two Terre Haute prisoners who are calling for a halt to the executions, justly arguing that they constitute super-spreader events at the facility.

Bernard was pronounced dead at 9:27 p.m. local time after receiving a single lethal dose of pentobarbital. He directed his last words to the family of the couple he and co-defendant Christopher Vialva were convicted of killing. "I'm sorry," he said. "That's the only words that I can say that completely capture how I feel now and how I felt that day." Vialva was executed September 24.

Like the five condemned federal prisoners who went before him this year, Bernard's execution proceeded after the US Supreme Court denied a last-minute request to delay it. The high court is stacked with a 6-3 ultra-conservative majority after three Trump appointments, including the most recent of Amy Coney Barrett, a mentee of the late Judge Antonin Scalia, a fervent supporter of the death penalty.

Bernard was sentenced to death for the 1999 killings of two youth ministers, Todd and Stacie Bagley, on the Fort Hood

military base in Texas. Bernard was just 18 years old at the time and had no previous record. By all accounts, he had been a model prisoner for the past two decades. But as with all death sentences, and the US prison system as a whole, the aim is not rehabilitation, but vengeance.

Bernard's current counsel argued that his lawyer at trial declined to give an opening statement and failed to present critical mitigating evidence, including that he was on the lowest rung of the gang implicated in the crime. All but one of the jurors that sentenced Bernard, who was black, were white. Five of the surviving nine jurors have stated in writing that they now believe a sentence of life without parole would be a more appropriate punishment.

Angela Moore, the federal prosecutor who defended Bernard's conviction and death sentence on appeal, now believes his death sentence should have been vacated. "Mr. Bernard did not shoot and kill the victims in this case," she told CBS News. "He was not the person who planned this robbery gone wrong."

The Court of Appeals for the Fifth Circuit in New Orleans denied Bernard's appeal and the US Supreme Court agreed. In a dissenting opinion, Justice Sonia Sotomayor criticized the appeals court ruling, writing that it "perversely rewards the Government for keeping exculpatory information secret until after an inmate's first habeas petition has been resolved." Justices Stephen Breyer and Elena Kagan also would have granted Bernard's appeal for a stay.

Alfred Bourgeois, 55, was executed Friday evening, pronounced dead at 8:21 p.m. He was convicted of capital murder in the beating death of his two-year-old daughter at Naval Air Station-Corpus Christi, Texas. He was also found guilty of physically and emotionally torturing the child.

Bourgeois' attorneys argued that his execution was unconstitutional due to his intellectual disability and that he could not fully understand his punishment. They submitted evidence on his behalf that showed IQ test scores of 70 and 75, well below what is considered mentally competent, and other assessments by experts. The Eighth Amendment to the US Constitution bans execution of the intellectually impaired as

cruel and unusual punishment.

A three-judge panel on the Seventh US Court of Appeals in Chicago, while acknowledging that Bourgeois may be deemed intellectually disabled under current medical standards, denied his appeal. “We are unwilling to accept Bourgeois’ sweeping argument that a fresh intellectual-disability claim arises every time the medical community updates its literature,” the panel wrote. “The question in this appeal is not whether Alfred Bourgeois is intellectually disabled. It is, instead, whether he was able to litigate his intellectual-disability claim.”

Under federal death penalty law, federal executions must be carried out according to the regulations in the states where inmates are sentenced. Both Bernard and Bourgeois were sentenced in Texas, where executions must be set at least 91 days in advance, allowing time for inmates to petition the governor to delay their executions or change their sentences.

While Bernard’s execution was set only 55 days in advance, and Bourgeois only received three weeks’ notice, courts rejected timing as a reason to halt their executions. In Bourgeois’ case, extending his notice would have delayed his execution date until after the inauguration of President-elect Joe Biden, who has said he opposes the death penalty.

The Trump administration is on track to shatter a gruesome record on its way out of office, seeking to carry out 10 executions of federal prisoners before he leaves office, more than have been carried out over the previous three decades. The Justice Department also published a regulation on November 27 which permits the federal government to perform executions using any form of lethal injection “or by any other manner prescribed by the law of the state in which the sentence was imposed or which has been designated by the court”—including nitrogen gas, electrocution and firing squad.

There are three federal executions scheduled the week before Inauguration Day. Lisa Marie Montgomery, 52, is scheduled to be put to death January 12. Her December execution was temporarily stayed in district court because her attorneys contracted COVID-19, most likely from visiting her in prison, and said they could not prepare her clemency application.

Montgomery’s history involves being a victim of gang rape, incest and child sex trafficking, as well as severe mental illness. If Montgomery’s execution goes forward it would be the first federal execution of a woman in almost seven decades.

Cory Johnson, 52, is scheduled for execution January 14 for the killing of seven people as part of a drug trafficking conspiracy. Johnson’s attorneys argue that he has an intellectual disability and needs to present evidence of this in court.

The following day, January 15, Dustin John Higgs, 48, is set to be put to death. He was sentenced for the kidnapping and killing of three women in Maryland in 1996. Higgs’ friend, Willis Mark Haynes, was convicted of murder but his jury did not recommend that he be executed.

The federal death penalty takes on a particularly grotesque

form under the Trump administration. The president’s foul enthusiasm for state execution is not something he has adopted recently. In 1989 he took out a full-page ad in four New York City newspapers calling for New York state to reinstate the death penalty after the brutal rape of a jogger in New York City.

The young men accused of the crime, who came to be known as the Central Park Five, were eventually exonerated and their convictions exposed as a frame-up at the hands of the New York Police Department (NYPD). Trump railed in the 1989 ad headlined “BRING BACK THE DEATH PENALTY. BRING BACK OUR POLICE!”: “I want to hate these murderers and I always will. I am not looking to psychoanalyze or understand them. I am looking to punish them.”

When the case of the young men gained prominence due to a television dramatization in 2019, Trump was asked about his 1989 ad. “You have people on both sides of that,” he said at the White House. “They admitted their guilt.” In fact, their “admissions” were the product of intimidation at the hands of the NYPD and deliberate prosecutorial misconduct.

The president’s outlook, however, is not confined to his own sadistic personality. In a society riven by massive social inequality, as the vast majority of the population is subjected to hunger and poverty as the coronavirus pandemic is allowed to run rampant while the ruling oligarchy racks up untold wealth, the ruling elite looks for repressive measures to use against workers and their families who are coming into struggle against this rotten state of affairs. Capital punishment is one of the weapons of the capitalist state in this ruling-class arsenal.

In an article published in the *New-York Daily Tribune* on February 17, 1853, Karl Marx wrote, “It would be very difficult, if not altogether impossible, to establish any principle upon which the justice or expediency of capital punishment could be founded, in a society glorifying in its civilization.” His words more than a century and half later speak to the character of current American society that embraces a barbaric practice that has been abandoned by the vast majority of the world’s industrialized nations.



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