

Oklahoma executes Gilbert Postelle despite clear evidence that state's lethal-injection protocol causes extreme pain and suffering

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Oklahoma executed death row inmate Gilbert Ray Postelle, 35, on February 17 just days before the opening of a trial that will determine whether the state can continue to use its three-drug execution protocol. Postelle was declared dead at 10:14 a.m. at the Oklahoma State Penitentiary in McAlester. Prison authorities claimed that the execution was carried out without incident.

At the trial, set to begin February 28 in Oklahoma City federal court, more than two dozen death row inmates are asking a judge to find the state's execution procedure unconstitutional due to the danger of it causing severe pain to the condemned prisoner.

Autopsy results for John Marion Grant, who was executed in Oklahoma in October 2021, revealed that he likely suffered a torturous death. Despite this, Governor Kevin Stitt, a Republican, refused to delay Postelle's execution to await the outcome of the trial. Postelle was not included in the trial because he failed to designate an alternative method of execution in time.

Postelle was sentenced to die for his involvement in the 2005 shooting deaths of James Alderson, Terry Smith, Donnie Swindle and Amy Wright at a home in Del City. He was 19 at the time of the fatal shootings, acting along with his older brother David and their father.

Brad Postelle, Gilbert and David's father, had accused Swindle of causing his motorcycle accident the year before. Brad Postelle's case never went to trial because he was declared incompetent due to brain injuries sustained in the accident. David Postelle is serving life in prison without the possibility of parole for his role in the shootings.

As with many prisoners sent to their deaths in the US

states that continue to practice capital punishment, Gilbert Postelle suffered from intellectual deficits and mental illness. One IQ test put his score at 76. At his clemency hearing, his attorney Robert Nance told the parole board that he grew up poor and used methamphetamines for the first time at age 12 in his father's presence.

At his clemency hearing, Postelle said he had been high on meth for days at the time of the shootings. "I do understand that I'm guilty and I accept that," he said. "My life at that time was filled with chaos and drugs." The parole board voted 4-1 to deny his clemency request. The US Supreme Court denied his request for an emergency stay in January. Two other inmates with execution dates were granted stays. Julius Jones, a third prisoner, had his sentence commuted to life in prison without the possibility of parole.

John Marion Grant, referenced above, was the first Oklahoma inmate to be put to death at the state penitentiary's new "state of the art" execution chamber, built to facilitate the resumption of executions after a series of executions in 2014-2015, in which prisoners suffered horribly to the revulsion of witnesses.

Grant's autopsy was conducted by Tulsa Medical Examiner Jeremy Shelton, M.D. the morning after his October 28, 2021 execution. It revealed that he suffered pulmonary edema, intramuscular hemorrhaging and aspirated his vomit as a result of his lethal injection. Shelton's findings showed that Grant's lungs were "heavy" with fluid, an indication that he experienced "flash pulmonary edema," a rapid buildup of fluid that creates a feeling of suffocation or drowning experts have compared to waterboarding.

An NPR analysis of autopsies of more than 200 prisoners executed by lethal injection found that pulmonary edema was found in 84 percent of these autopsies. They were even more likely in multi-drug executions involving the drug midazolam. Oklahoma's lethal injection protocol uses a combination of the sedative midazolam, the paralytic drug vecuronium bromide, followed by potassium chloride that induces cardiac arrest.

The average human lung weighs between 400 and 450 grams. At the time of autopsy, Grant's lungs weighed a combined 1390 grams. The doctor also found that Grant had suffered intramuscular bleeding of his tongue, a common finding in fire deaths, drowning victims and victims of asphyxiation.

At the news conference following Grant's execution, media witness Sean Murphy of the Associated Press said that Grant began convulsing almost immediately after he was injected with midazolam. Murphy said that after injection of midazolam "he exhaled deeply, he began convulsing about two dozen times—full-body convulsions. ... Then he began to vomit, which covered his face, then began to run down his neck and the side of his face."

Oklahoma Department of Corrections (ODOC) officials disputed media accounts of Grant's suffering, with a prison spokesman saying, "Inmate Grant's execution was carried out in accordance with Oklahoma Department of Corrections' protocols and without complication." The ODOC's director called the eyewitness accounts of the execution "embellished."

The Death Penalty Information Center (DPIC) reports that Dr. Mark Edgar told the local Fox channel that the prisoners "would be aware of sensations of drowning, asphyxia, and terror if you have severe pulmonary edema like most of these inmates did."

Until Grant's execution, Oklahoma had not attempted a state sanctioned killing since September 2015, when then-Governor Mary Fallin called off Richard Glossip's execution after being told that the ODOC had received potassium acetate instead of potassium chloride to be used as the third execution drug. The state had actually obtained and used the same drug to execute another prisoner, Charles Warner, on January 15, 2015. Media witnesses reported that Warner had cried out during his execution, "It feels like

acid," and "My body is on fire."

Earlier, on April 29, 2014, inmate Clayton Lockett writhed and groaned on the execution gurney as he was injected with midazolam for the first time in an Oklahoma execution. Lockett's lawyer reported that "his whole upper body was lifting off the table." The prison director halted the execution, but Lockett died 43 minutes later, apparently from a heart attack.

DPIC reports that Oklahoma is paying an unnamed doctor \$15,000 per execution, plus \$1,000 for each day of training, to participate in the state's execution process. "Under the agreement," writes DPIC, "the doctor stood to receive an estimated \$130,000 over the course of the 19-week period between October 28, 2021 and March 10, 2022 in which the state had scheduled the executions of seven prisoners."

These payments were disclosed by ODOC officials during federal court hearings in January 2022 on unsuccessful motions by Donald Grant and Gilbert Postelle to stay their executions.

The doctor verifies that executioners are using the correct three drugs authorized in the state's lethal-injection protocol, places the intravenous lines, performs consciousness checks and verifies the prisoner's death.

The *Oklahoman* reported that during Grant's execution, the doctor performed an eyelid check on the prisoner, and the doctor and a nurse entered the execution chamber one time to clean Grant's face of vomit. The unnamed doctor's participation in executions clearly violates a physician's ethical duty to "first do no harm."

In 2015, then Oklahoma Attorney General Scott Pruitt convened a grand jury to investigate the execution of Warner with potassium acetate and its near-execution of Glossip with the same wrong drug. The grand jury issued a report in May 2016 characterizing the conduct of state officials as "negligent," "careless" and in some cases "reckless" in carrying out Oklahoma's execution protocol.



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