

# Mississippi executes Thomas Loden despite ongoing lawsuit by inmates against state's lethal injection protocol

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Thomas “Eddie” Loden was executed Wednesday evening at the Mississippi State Penitentiary in Parchman. The execution went forward after a federal judge ruled that it could proceed despite an ongoing suit by Loden and other inmates challenging the state's lethal injection protocol.

Governor Tate Reeves, a Republican, also did not stop the execution by pardoning Loden or granting him clemency. Reeves supports the death penalty and has not called a halt to an execution since assuming office in 2020.

Loden, 58, was sentenced to death for the 2000 murder of Leesa Marie Gray, 16, a waitress who went missing after leaving her family's restaurant. Loden pleaded guilty to the kidnapping, rape and sexual abuse of Gray over several hours before killing her, after he found her stranded on the side of the road with a flat tire.

According to the *Mississippi Clarion Ledger*, Loden addressed the family at 6:01 p.m. from the execution chamber, saying in part, “If I could have a brief moment to let you know how deeply remorseful I am for everything I did. I know these are mere words and I cannot erase the pain that I have caused.”

The *Clarion Ledger* wrote that at 6:03 p.m., Loden's eyes began to glaze over, and at 6:05 p.m. his jaw dropped slightly, followed by silence for seven minutes. Sunflower Country Coroner Heather Burton pronounced Loden dead at 6:12 p.m.

Following the execution, Burl Cain, the commissioner of the Mississippi Department of Corrections (MDOC), said, “There was no problem with the process. The process worked perfectly. It went normally as far as that goes. I've seen it before several

times. They were all the same. No glitch. No problem.”

Loden's attorneys had asked US District Court Judge Henry Wingate last week to delay Loden's execution. Loden and four other death row inmates filed a lawsuit in 2015 challenging the state's three-drug lethal injection protocol as cruel and unusual punishment, which is banned by the Eighth Amendment to the US Constitution. Wingate ruled that Loden's status in that suit did not provide him a “shield against execution.”

Loden had also unsuccessfully challenged his conviction in state and federal courts, arguing that he did not receive adequate legal counsel at the time and that his attorneys had not considered how events in his life could have led to mental illness. Loden joined the Marines out of high school in 1982 and served in Desert Storm before he began operating as a Marine recruiting officer in Vicksburg in 1998.

Mississippi's most recent execution was on November 17, 2021, when David Cox was put to death. At that time, Cox's execution was the first in nine years. In July 2021, the state acquired three drugs for its lethal injection protocol: midazolam, a sedative; vecuronium bromide, a paralytic; and potassium chloride, which stops the heart. These were the drugs used in both Loden and Cox's executions.

Mississippi had revised its execution protocol to allow the use of midazolam if thiopental or pentobarbital could not be obtained. Midazolam is a benzodiazepine used for anesthesia and sedation. Its use in executions has come under criticism because it does not render the condemned inmate unconscious, meaning that the vecuronium bromide and potassium chloride can cause extreme panic when administered.

Midazolam has been used in a number of executions

in the US in which the prisoner has suffered visibly. These included, among others:

- Ohio's execution of Dennis McGuire in January 2014, when it took 24 minutes for the inmate to die after the procedure began, during which time he gasped and appeared to choke.

- The April 2014 execution of Clayton Lockett in Oklahoma, in which the inmate appeared to regain consciousness during the lethal injection procedure. Lockett died 40 minutes later of a heart attack.

Judge Wingate granted an injunction preventing the state from using compounded pentobarbital or midazolam, but the 5th US Circuit Court of Appeals reversed that ruling, sending the case back to Wingate, where it awaits a further ruling.

Like many of the 27 US states that still have capital punishment on the books, Mississippi has faced difficulty obtaining the drugs for executions as manufacturers in Europe and the US have stopped providing their drugs to be used in executions.

MDOC Commissioner Cain filed an affidavit in federal court showing that many of the execution drugs currently available for use at Parchman expire in 2024, leaving a limited window for their use. In 2017, Arkansas attempted to execute eight people in a 10-day period, reportedly due to the lethal drugs' approaching expiration. Four of these prisoners were ultimately executed in April 2017.

Earlier this year in Alabama, which neighbors Mississippi, corrections authorities were forced to abandon the executions of Kenneth Eugene Smith and Alan Eugene Miller after encountering difficulty finding a vein for lethal injection in both men, causing severe mental and physical suffering to the inmates. Alabama has temporarily put executions on hold as its methods are investigated.

Mississippi last year passed a law allowing officials to choose from among four execution methods: including by nitrogen gas, electrocution, firing squad or lethal injection. In ruling against granting a stay to Loden, Judge Wingate said that if he ruled in Loden's favor, Mississippi could simply choose another method for executing him.

Thomas "Eddie" Loden was the last person scheduled to be executed in the US in 2022. 18 men have been put to death this year: two in Alabama, three in Arizona, one in Mississippi, two in Missouri, five in Oklahoma

and five in Texas.

Since the US Supreme Court reinstated the death penalty in 1976, 1,541 men and 17 women have been executed in the US, including 23 men in Mississippi. According to the Death Penalty Information Center, as of April 1 there were 2,414 prisoners languishing on death rows across the US.



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