

# In last words, Florida death row inmate denounces Governor Ron DeSantis

Kate Randall  
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On Thursday, Donald Dillbeck became the first death row inmate to be executed in Florida in more than three years. Dillbeck, 59, was sentenced to death in 1991 by a non-unanimous jury vote for the 1990 fatal stabbing of Fay Varn, 44, outside a Tallahassee mall.

As Dillbeck was strapped to the gurney in the execution chamber at Florida's Union Correctional Institution in Raiford, he took the opportunity to lash out against Florida Governor Ron DeSantis, as reported by Kathryn Varn of the Gannett-owned *Tallahassee Democrat*.

"I know I hurt people when I was young. I really messed up," Dillbeck said. "But I know Ron DeSantis has done a lot worse. He's taken a lot from a lot of people. I speak for all men, women and children. He's put his foot on our necks." Dillbeck died at 6:13 p.m. local time after receiving an injection of toxic chemicals, according to prison authorities.

Varn incurred the wrath of Jacksonville Mayor Lenny Curry for even reporting the condemned man's last words, commenting, "This is *USA Today* [also owned by Gannett]. Journalism is dead in the big legacy media organizations. They all sing from the same hymn book."

Nate Monroe of the *Florida Times-Union* shot back at Curry, writing sarcastically in Varn's defense, "How dare you straightforwardly report a thing that happened." Jeff Schweers of the *Tallahassee Democrat* wrote, "Covering an execution is one of the hardest jobs we have as reporters. We're there to bear witness and report the last words of the executed, whatever they say."

DeSantis has indeed put his foot on the necks of Florida's population in myriad ways, as Dillbeck alluded to in his final words. The governor, who is setting his sights on the Republican presidential nomination in 2024, has distinguished himself by presiding over the deaths of more than 86,000 Floridians from COVID-19, shipping two planeloads of immigrants to Martha's Vineyard in Massachusetts, and seeking to ban teaching on racial and

sexual discrimination in Florida public schools, to name but a few of his criminal and anti-democratic achievements.

DeSantis signed Dillbeck's death warrant on January 23, three weeks into his second term, on the same day that he floated a change to Florida law that would allow a person to be sentenced to death after a non-unanimous vote of a jury. Speaking before a Florida Sheriffs' Association conference, DeSantis said, "So maybe eight out of 12 [jurors] have to agree or something," he said, "but we can't be in a situation where one person can just derail this."

DeSantis and a group of Florida Republican lawmakers were outraged that a 9-3 split jury in the trial of Nikolas Cruz, who shot and killed 17 people five years ago at Marjory Stoneman Douglas High School in Parkland, derailed a death sentence in his case. DeSantis has also suggested expanding the death penalty in Florida to include certain sex crimes.

The jury vote that DeSantis seeks to revive in death penalty cases—eight in favor, four against—is precisely what led to a death sentence in Dillbeck's case. Varn wrote in the *USA Today* on Dillbeck's trial: "As the clerk read the sentence aloud, one juror wept uncontrollably. Readers wrote to the [*Tallahassee Democrat*] disturbed by how such an arbitrary split could still send someone to death row, or by how Dillbeck's history of childhood trauma seemed to have granted him some, but not enough, mercy."

Until 2016, only a simple majority—seven in favor, five against—was required to recommend a death sentence, and a judge could override a jury's recommendation and sentence an individual to death. However, in 2016 the US Supreme Court struck down parts of the Florida statute as unconstitutional, with the concurring justices finding that the state law did not give juries a big enough role in sentencing someone to death.

According to the Florida Supreme Court's interpretation of the high court's ruling, this meant that a unanimous jury vote was required to send a convicted defendant to his or her death. To do this, jurors must determine that there is at least one aggravating factor, which in Florida could mean the victim was a police officer, or that the defendant had been convicted previously of a violent felony.

They must also determine whether there are mitigating circumstances to spare a defendant of a death sentence, such as age or mental condition, and whether the aggravating factors outweigh the mitigating circumstances.

In 2020, a more conservative group of justices on the state's Supreme Court ruled that a jury must only be unanimous in establishing an aggravating factor making someone eligible for a death sentence. Florida legislators are now looking to revert to the previous statute, requiring only a simple majority to sentence a person to death. If passed by state lawmakers, DeSantis appears poised to sign this undemocratic and unconstitutional statute into law.

Alabama is the only state that currently allows a non-unanimous vote of a jury to sentence people to death, requiring 10 votes in favor. Both Missouri and Indiana allow a judge to impose the death penalty in cases where the jury is divided on the punishment.

Although Dillbeck's jury did not unanimously recommend death, his death sentence stood because he was sentenced prior to the 2016 ruling, and Florida authorities have chosen not to make this ruling retroactive.

The US Supreme Court denied a last-minute appeal on Dillbeck's behalf to stop the execution. And last week the Florida Supreme Court unanimously rejected an appeal that argued Dillbeck's execution was in violation of the US Supreme Court's 2002 ruling that capital punishment for individuals with intellectual disability is a violation of the Eighth Amendment's ban on cruel and unusual punishment.

Like so many people sentenced to death in America, Dillbeck endured severe abuse as a child. According to the petition filed by his lawyers seeking a review of his case by the Florida Supreme Court, Dillbeck's birth mother drank 18-24 beers per day throughout her pregnancy, resulting in "a catastrophic effect on Mr. Dillbeck's intellectual and adaptive functioning."

The lawyers added, "That Mr. Dillbeck suffered from Neurobehavioral Disorder associated with Prenatal

Alcohol Exposure (ND-PAE) is thoroughly medically documented, unrebutted, and factually beyond dispute."

A court document obtained by the *Tampa Bay Times* stated that testing of Dillbeck's brain revealed "widespread and profound neurological damage," including in areas "responsible for regulating planning, mood, judgment, behavior, impulse control and intentionality." The Florida justices said the claim was "too late to be newly discovered evidence" and rejected the appeal.

The *Tampa Bay Times* reported that Dillbeck was put in foster care when he was four years old and began using drugs by age 13. At the age of 15, he was tried as an adult and sentenced to life in prison for the shooting death of a Lee County sheriff's deputy after the officer caught him with a stolen car. He was reportedly sexually assaulted in prison repeatedly. He fatally stabbed Faye Vann after escaping from an off-site vocational program while serving this sentence.

In 2005, the US Supreme Court ruled that the US Constitution protects those convicted of crimes committed when they were under age 18 from being sentenced to death. The Court had ruled in 1987 that the cutoff age should be 16. Twenty-two executions of juvenile offenders were carried out in the US between 1976, when the Supreme Court reinstated the death penalty, and the 2005 ruling, according to the Death Penalty Information Center (DPIC).

Florida has sent 100 people to their deaths since 1976, including two women. The DPIC estimates that as of April 1, 2022, there were 323 individuals on death row in Florida, second in number only to California. Thirty death row inmates in the state have been exonerated of their crimes. Donald Dillbeck was the seventh person put to death in the US so far in 2023.



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