

Fourth Florida execution this year after US Supreme Court denies death row inmate's appeal

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Duane Owen was executed Thursday evening at the Florida State Prison in Raiford. He was one of Florida's longest-held death row inmates, having been imprisoned for nearly four decades. He was the fourth individual put to death in the state so far this year. He was pronounced dead at 6:14 p.m. after a three-drug lethal injection, according to the *Palm Beach Post*.

Owen, 62, was sentenced to death for the March 1984 rape and stabbing death of Karen Slattery, 14, and the rape and bludgeoning death of Georgianna Worden, 38, in May 1984, both in Palm Beach County. Owen also attacked two other women in Palm Beach County, who survived. All four attacks took place just before and after Owen's 23rd birthday.

His was the fourth death warrant signed by Florida Governor Ron DeSantis and carried out by state prison authorities after a temporary execution hiatus during the first three years of the coronavirus pandemic. DeSantis, who recently announced his bid for the 2024 Republican presidential nomination, signed the death warrant on May 9, in Worden's case only.

Owen's execution went forward after the US Supreme Court denied his petition for a stay. His attorneys sought the stay on Monday, contending that their client "lacks a rational understanding of the connection between his crime and impending execution due to his fixed psychotic delusions and dementia."

The Supreme Court ruled in 2002 in *Atkins v. Virginia* that execution of "mentally retarded" criminal defendants violates the Eighth Amendment to the US Constitution's ban on cruel and unusual punishment. In 2007, in *Panetti v. Quarterman*, the Court ruled that those sentenced to death may not be executed if they do not understand the reason for their imminent execution.

Justice Clarence Thomas, a fervent advocate of capital punishment and the justice who screens appeals arising from Florida, denied the chance for Owen's argument to be heard before the full court. Such are the procedures in place on the Supreme Court that an individual facing a state killing can be denied the right to have his or her appeal heard by the full nine-justice panel.

The Florida Attorney General's office wrote in filings to the Supreme Court opposing a stay of execution for Owen, "This continued recycling of the same suspect and incredible facts to support a stay would be a gross miscarriage of justice and would amount to a commutation of his death sentences for the duration of the stay. Owen is not entitled to any further review."

The Florida Supreme Court last week rejected Owen's appeal, which was also on mental competency grounds. Owen's attorneys filed briefs with the state court arguing that their client suffers psychiatric disorders including gender identity disorder, paraphilic sexual disorder, schizophrenia and dementia.

Owen's defense also presented evidence of his traumatic and abusive childhood: his mother died when he was 11 and his father committed suicide when he was 13, court records indicate. He was also the victim of physical and sexual abuse as a child.

Owen's attorneys argued in a document filed Monday with the Court, "Florida has a minimal interest in finality and efficient enforcement of judgments, but Owen, whose delusions and dementia prevent him from rationally understanding the consequences of his execution, has a right in ensuring that his execution comports with the Constitution. This right includes the

ability to have meaningful judicial review of the complex constitutional claims he timely raises.”

The US Supreme Court held in *Ford v. Wainwright* in 1986 that Florida did not provide an adequate process for prisoners raising a claim of insanity for execution. The state Supreme Court subsequently adopted the Florida Rule of Criminal Procedure 3.811, under which counsel for the condemned may appeal to the governor for a mental examination, but only after the prisoner’s death warrant has been signed. The governor then temporarily stays the execution and appoints a medical commission to determine whether the prisoner is sane or insane.

A defense psychologist testified earlier this month that Owen’s main delusion was that he is a woman trapped in a male body, but believed he could become female by having sex with women and absorbing their femaleness at the moment of their death. He believed that their female gender would live on within his body.

The commission of three criminal psychiatrists appointed by DeSantis in Owen’s case rejected his claim that his insanity should preclude his execution, concluding that Owen was making up his delusions to avoid execution. Court records show that the prosecution in Owen’s case argued that he had a good memory and that gender dysphoria, if it is present, doesn’t make people more aggressive. Instead, they said, Owen was sexually sadistic.

One of the commission psychiatrists, Emily Lazarou, commented on Facebook about a vigil for Owen, “I do not get this. Where are the people standing in vigil for the 14-year old he stabbed to death and raped while she was dying and the mother of 2 who he bashed her head in with a hammer and raped her dying body?”

Allison Miller, a capital defense attorney not involved in Owen’s case, told the *Herald/Times* Tallahassee Bureau she was “struck” by Lazarou’s “incredibly unprofessional” comment. “How can she be reliable in considering his mental health to be killed when she clearly has demonstrated a bias against him?” she said. Miller added that felt Lazarou is “very mocking” about schizophrenia and other psychotic disorders.

Governor DeSantis, who has now presided over four executions, has signed two major death penalty bills this year. The first ends the requirement for unanimous jury death penalty sentencing, allowing a death sentence to be imposed with a minimum 8–4 jury vote.

A previous Florida law allowing non-unanimous death sentencing was ruled unconstitutional by the US Supreme Court. The new legislation is expected to be challenged in court.

The two death sentences Owen received were both on the basis of non-unanimous 10–2 jury votes. Florida allowed judges to hand down death sentences on non-unanimous jury recommendations until 2016, when the US Supreme Court ruled in *Hurst v. Florida* that the practice was unconstitutional.

The Florida Supreme Court ruled, however, that the high court’s ruling would not be applied retroactively to the 169 death row prisoners who had completed their direct appeals before 2002. In addition to Owen, two of the four prisoners executed in Florida so far in 2023—Darryl Barwick and Louis Gaskin—were sentenced to death by non-unanimous juries.

According to the Death Penalty Information Center, as of July 1, 2022, there were 318 people on death row in Florida, the second largest death row population following California. Since the US Supreme Court reinstated the death penalty in 1976, Florida has executed 103 of the 1,555 men and women sent to their deaths by the US states that continue to have capital punishment on the books, despite declining popular support for the barbaric practice.



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