

# US Supreme Court clears way for executions in Alabama and Texas

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Two men were executed in the United States on Thursday, November 16, one each in Alabama and Texas.

The Texas Board of Pardons and Paroles voted 7-0 on Tuesday against commuting David Santiago Renteria's death sentence to a lesser penalty. The US Supreme Court also denied a petition from Renteria's legal team just before his execution that alleged the El Paso District Attorney's Office violated his constitutional rights by failing to turn over case documents.

Renteria, 53, was put to death at the Texas State Penitentiary at Huntsville on Thursday. He was injected with a lethal dose of pentobarbital at 7 p.m. local time. He died 11 minutes later. His final statement said in part, "To the victims of the family, there is not a day that goes by that I do not think about that fateful event of that day and what transpired."

Renteria was convicted and sentenced to death for the November 18, 2001 kidnapping and murder of 5-year-old Alexandra Flores from an El Paso Walmart store. Court documents state that Renteria strangled the young girl to death and then burned her body. Renteria, a warehouse worker and laborer, was arrested two weeks later.

The key evidence presented by prosecutors in the case was a palm print determined to be Renteria's on a plastic bag found over Alexandra's head. Renteria also told police that he was at the location at the time and date of the girl's disappearance.

Renteria went to trial for the first time in September 2003. He maintained his innocence, claiming Barrio Azteca gang members forced him to kidnap the girl, but that someone else killed her. He was convicted of capital murder and sentenced to death.

A Texas appeals court heard Renteria's case and upheld the conviction, while ordering a new sentencing phase. An appeal opinion from the court stated that "exclusion of evidence showing the defendant's remorse violated due process by preventing defendant from rebutting the State's case when the State left jury with false impression [about Renteria's lack of remorse] and emphasized it."

A new sentencing hearing was held in 2008, where he was again convicted and sentenced to death. Renteria's attorneys filed a motion to stay the execution arguing his constitutional rights to due process and equal protection would be violated if the El Paso District Attorney's Office did not turn over all documents in his case. District Court Judge Monique Velarde Reyes granted the motion April 29.

The Texas Court of Criminal Appeals reviewed the appeal and issued an opinion September 18 siding with El Paso District Attorney Bill Hicks that Reyes overstepped her legal rights in ordering postponement of the execution. Renteria's attorneys subsequently filed an appeal October 9 claiming the Texas appeals court had violated his constitutional rights. The appeal was denied October 25. They also requested the constitutional issue be examined by the federal court system, including the US Supreme Court.

Renteria was the eighth death row inmate executed so far this year in Texas, and the 586th since the US Supreme Court reinstated capital punishment in 1976, far more than any other state.

Also on November 16, Casey McWhorter, 49, was put to death in at an Alabama prison for his role in a 1993 robbery and shooting that resulted in the death of Edward Lee Williams in Marshall County. McWhorter was three months past his 18th birthday at the time.

On Thursday afternoon, the US Supreme Court declined without comment McWhorter's request to halt the execution to consider his appeals related to his age at the time of the crime and other issues.

"The execution of McWhorter appeared to proceed according to state's protocol. The curtain giving reporters a view opened at 6:30 and was drawn closed at 6:47," AL.com reported. "McWhorter was strapped to a gurney with his legs bound together by a confining fabric, and his bare arms extended to either side and strapped down."

Delivering his final words, McWhorter said, "I would like to say I love my mother and my family," and told the victim's family he was sorry and hoped they had found peace. He then added, "It's not lost on me that a habitual

abuser of women is carrying out this procedure.” This was an apparent reference to Terry Raybon, the warden of the Holman Correctional facility where the execution was taking place.

Raybon was fired two decades ago from his job as an Alabama State Trooper. A judge would later describe him as a man who “beats on women, consorts with felons, and neglects his official duties.” A prison spokesperson had no comment on McWhorter’s remark. He was pronounced dead at 6:56 p.m. time after being injected with the lethal drugs.

The Supreme Court ruled in 2005 that people cannot be executed for crimes committed under the age of 18. Alabama law, however, does not consider a person to be a full adult until they reach 19 years and does not allow 18-year-olds to serve on juries. His attorneys argued it would be unconstitutional to execute someone for a crime committed while under the legal age of adulthood in their state.

McWhorter’s attorneys wrote in their brief to the high court, “There is emerging research showing that there is nothing magic about turning 18 when it comes to brain science—18-year-olds continue to develop and mature.”

Prosecutors said that McWhorter conspired with two other younger teens to steal money and other items from the victim’s home and kill him. He told the Associated Press in an interview, “I was a very confused kid. I had some issues going on in my head that I didn’t know how to fix, and the only way I knew to feel acceptance was doing some of the stupid stuff I was doing.”

McWhorter said he participated in the crime but didn’t go to Williams’ house with the intention of killing him. He tried to kill himself by overdosing after the murder and was arrested the next day after police located him at a hospital. The jury convicting McWhorter voted 10-2 to recommend a death sentence, but the judge imposed a death sentence despite this nonunanimous recommendation.

Advocacy groups had called on Governor Ivey to stop McWhorter’s execution on several grounds: his being denied youthful offender treatment, statements made by the trial judge to the jury about the cost of conducting another trial, as well as the state’s refusal to reveal its execution protocol and the source of its execution drugs.

The groups’ “Pull Back the Curtain on Execution” petition—signed by 25 organizations, including the ACLU of Alabama, Death Penalty Action and the Alabama State Conference of the NAACP—demands that media and public witnesses be allowed to observe execution proceedings “from the moment a prisoner walks him or herself into the death chamber until they are declared dead.”

The petition cites the horror experienced by condemned prisoners during the state’s three most recent execution

attempts, in which one man was put to death and the executions of two others were called off after hours of torture as executioners attempted and failed to insert IV lines to administer the lethal injection:

July 28, 2022: Joe James Jr. was poked and sliced for more than two hours before being sedated prior to witnesses being brought in to watch the killing;

September 22, 2022: Alan Miller was poked and nearly sliced for 90 minutes before becoming only the fourth prisoner since 1977 to be returned to his cell alive following a failed execution attempt;

November 17, 2022: Kenneth Smith was on the gurney with one IV started and the executioners failed to establish a second IV, as required by the secret Alabama execution protocol. The execution was called off early in the 11 p.m. hour, more than five hours after it was to take place.

Also in Alabama, Governor Kay Ivey has scheduled a January 25, 2024 execution date for another death row inmate by nitrogen asphyxiation, which would mark the first attempt by a US state to use this method in a state killing.

Nitrogen hypoxia results in death by suffocation by depriving the body and vital organs of oxygen. Under the Alabama Department of Corrections’ protocol, nitrogen gas “will be administered for 15 minutes or five minutes following a flatline indication on the EKG, whichever is longer.”



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