

Judge tells prison staff to “suck it up” and keep state killing machine going

## Oklahoma executes Michael Smith despite claims of intellectual disability

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Michael Dewayne Smith, 41, was executed Thursday morning, April 4, at the Oklahoma State Penitentiary in McAlester. He was convicted and sentenced to death for two separate murders in February 2002: Janet Moore, 41, and Sharath Pulluru, 22. He spent over 20 years on death row.

Smith was the first person executed in Oklahoma this year and the 12th since the state resumed capital punishment in 2021 after a nearly seven-year hiatus that came in response to a series of ghastly so-called botched executions. The Oklahoma Pardon and Parole Board rejected Smith’s bid for clemency last month and the US Supreme Court denied his last-minute appeal.

Smith was executed by lethal injection using a three-drug cocktail of the sedative midazolam, the paralytic vecuronium bromide, and potassium chloride to induce cardiac arrest. When asked for final words, he said only, “Nah, I’m good,” according to the Associated Press (AP).

Smith appeared to shake briefly and attempted to lift his head from the gurney after the first drug was administered, AP reported. “He then took several short, audible breaths that sounded like snores or gasps. Oklahoma DOC Director Steven Harpe said after the execution that Smith ‘appeared to have some form of sleep apnea.’”

A doctor entered the death chamber at 10:14 a.m., shaking Smith and declaring him unconscious. He appeared to stop breathing about a minute later and was declared dead by the doctor before prison authorities pronounced him dead at 10:20 a.m.

Smith maintained his innocence during a clemency hearing last month. He apologized to the victims’ families, but in the course of a tearful 15-minute address insisted, “I didn’t commit these crimes. I didn’t kill these people. I was high on drugs. I don’t even remember getting arrested.”

Mark Henricksen, Smith’s attorney, argued that his death sentence should be commuted to life in prison because he had been in a PCP-induced haze when he confessed to the police. He also argued that Smith was intellectually disabled, based on his client’s IQ scores, and that this disability was further impaired by years of drug abuse.

Smith’s family also maintained his innocence and delivered a petition to Governor Kevin Stitt’s office the day before his execution, pleading for him to stop it, based in part of new evidence which they claimed showed that witnesses were being coerced during Smith’s trial. The Republican governor was not moved by their appeal.

Prosecutors had previously said Smith was a gang member who killed his victims for revenge. They said he killed Moore because he was looking for her son, who Smith thought had given his identity to police, and killed Pulluru because he thought the convenience clerk had disrespected his gang.

Rev. Don Heath, chairman of the Oklahoma Coalition to Abolish the Death Penalty, said in a statement: “Michael Smith was a troubled and vulnerable young man with intellectual disabilities. He was ill-served by advisers who encouraged him to proclaim his innocence instead of accepting responsibility for his

crimes. That cost him any chance for clemency. He needed mercy and forgiveness and got none.”

Jeff Hood, Smith’s spiritual adviser, wrote on March 1 that Smith’s intellectual disabilities, based on numerous psychological evaluations, made him ineligible for the death penalty. Hood referred to the landmark Supreme Court ruling in *Atkins v. Virginia*, which held that it is a violation of the Eighth Amendment ban on cruel and unusual punishment to execute death row inmates with significant mental disabilities.

An IQ, or intelligence quotient, score is an estimate of intelligence based on standardized tests that is widely viewed as abstract and inexact. Modern results of IQ tests categorize approximately two-thirds of the population scoring between 85 and 115, and about 2 percent each above 130 and below 70. Smith reportedly received IQ scores of 76 and 79, which the Oklahoma Court of Criminal Appeals (OCCA) claimed failed to meet the state’s threshold of intellectual disability. The court also denied an emergency stay of execution for Smith based on the claim that untested forensic evidence might undermine his conviction.

Oklahoma death row inmate Darrin Pickens, with IQ scores similar to Smith’s, was granted relief under *Atkins* by the OCCA in 2005, demonstrating the arbitrary nature of such evaluations in determining an individual’s eligibility for the death penalty. It is an unscientific measure utilized by state authorities to decide whether a man or woman should live or die based on their mental abilities.

The death penalty is overwhelmingly meted out against workers, the poor and oppressed, a reality recognized by the US justice system but roundly rejected as a reason to put an end to the barbaric practice.

In 2016, the US Court of Appeals for the 10th Circuit denied Smith relief from execution, despite observing the condemned man,

submitted affidavits from family members recounting details of Mr. Smith’s childhood: that his father and other family members imposed harsh physical discipline or abuse; that his father was an alcoholic and abusive toward his mother until his parents separated when Mr.

Smith was approximately two years old; that Mr. Smith was introduced to drugs and gangs at a young age by his brothers, that Mr. Smith was born with a swollen area on his head, was delivered by forceps, and suffered other head injuries as a child; and that Mr. Smith was sexually abused by an older woman when he was seven or eight years old.

Oklahoma’s courts have demonstrated their contempt not only for the 121 men and three women sent to their deaths in the years since the Supreme Court reinstated the death penalty in 1976. Their hostility extends as well to the prison execution team (the majority of whom, not to their credit, are volunteers) who administer the deadly drugs, and the state officials who preside over lethal injections.

In 2021, the OCCA scheduled an unprecedented 25 executions in under three years, aimed at depopulating the state’s death row by 58 percent. Just days before Smith’s execution, Oklahoma Attorney General Gentner Drummond asked the court to require 90 days between scheduled executions to “combat trauma, staffing shortages, and ensure the state doesn’t have another botched execution.”

At a hearing to consider Drummond’s request, OCCA Judge Gary Lumpkin told officials that the correctional staff tasked with carrying out executions need to “suck it up” and “man up.” He told the attorney general that he does not believe the “sympathy stuff.”

“We set a reasonable amount of time to start this out, and y’all keep pushing it and pushing it and pushing it,” Judge Lumpkin added. “Who’s to say next month you won’t come in and say I need 120 days? This stuff needs to stop, and people need to suck it up, realize they have a hard job to do, and get it done in a timely, professional manner.”



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