

Alabama executes Jamie Ray Mills despite prosecutorial misconduct and nonunanimous jury vote for death sentence

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Alabama executed Jamie Ray Mills by lethal injection Thursday in the state's first execution since the gruesome nitrogen asphyxiation death of Kenneth Smith in January.

Mills, 50, was convicted and sentenced to death in 2007 for the 2004 beating deaths of Floyd Hill, 87, and Vera Hill, 72. The US Supreme Court denied a last-minute appeal Thursday to spare Mills' life, with no recorded dissents.

The execution proceeded despite questions about the reliability of the state's key witness and material evidence, the troubled nature of Mills' childhood and life circumstances, a nonunanimous vote of the jury for a death sentence and the thoroughly undemocratic character of Alabama's death penalty system.

The execution took place in the death chamber of the William C. Holman Correctional Facility in Atmore, Alabama, and was observed by four media members and five other witnesses. The *Montgomery Advertiser* reported that as the drapes of the observation room were opened at 6:07 p.m., Mills was seen strapped to gurney with an IV in each arm.

Mills has consistently maintained his innocence. His final words were, "I love my family. I love my brother and sister. I couldn't ask for anything more ... I love y'all. Carry on." He gave his family the thumbs up sign several times.

As the three-drug protocol was administered, he appeared to lose consciousness. When a guard performed a consciousness check, he still appeared to be breathing, taking shallow breaths. Several of the witnesses sobbed. Mills appeared to take his last breath at 6:16 p.m. and the drapes to the observation room were drawn several minutes later. Prison officials

pronounced him dead at 6:26 p.m.

In 2005, three people were arrested and charged with the Hills' murder—Jamie Mills, his wife JoAnn Mills and Benjie Howe, a known local drug dealer. In two different statements, JoAnn Mills told police that she suspected Howe had planted the alleged murder weapons in the Mills' unlocked car. It was only after police threatened JoAnn's children and claimed, falsely, that DNA on the weapons matched Jamie's that she gave a third statement implicating him.

Prosecutors said that the Mills went to the Hills' home on June 24, 2004, with the intention of robbing the couple to fuel their methamphetamine habit. Jamie Mills was convicted of double murder largely on the testimony of his wife, who was spared the death penalty and received a life sentence for her involvement in the crime in exchange for her testimony against him.

While prosecutors claimed that no such deal was in place, JoAnn Mills' trial attorney wrote in an affidavit in February of this year that before the 2007 trial he had met with the district attorney, who agreed to let her plead guilty to a lesser charge if she testified against her husband.

The Equal Justice Initiative, representing Jamie Mills, said after his execution that prosecutors "lied, deceived and misrepresented the reliability of the evidence against Jamie Mills for 17 years." They said that Mills was the latest example of a person who was "needlessly killed" by Alabama officials, who

comfortably tolerate state deception, violation of the law, and breach of fundamental constitutional rights in an effort to carry out a

death sentence they claim upholds the rule of law.

There will come a day when governments recognize the perverse injustice of this process and the wrongfulness of this punishment. It will be a day that is too late for Jamie Mills, which makes his death tragically regrettable and mournfully unjust.

Like many death row inmates, Mills suffered a dysfunctional childhood. His parents were addicted to methamphetamines and used drugs when he was a young child, and Mills first used methamphetamines when he was a teenager. The prosecution took none of these circumstances into consideration when arguing for a death sentence.

Alabama is one of only two states that does not require a unanimous jury to sentence an individual to death, only requiring 10 of 12 to agree. In Mills' case, the jury voted 11-1 to recommend a death sentence and the judge accepted their recommendation. A Democratic state legislator has introduced a bill that would require unanimous jury votes to impose the death penalty.

There is no statewide public defender's office in Alabama and no capital defender office to represent indigent defendants at trial or on direct appeal. Lawyers from the private bar are appointed to represent poor defendants. Until 1999, these attorneys were paid only \$40 per hour for in-court work and \$20 per hour for out-of-court work, with out-of-court compensation capped at \$1,000. Nearly half of the 165 inmates currently on death row in Alabama were convicted under this compensation cap.

Despite the legal travesty that passes for Alabama's death penalty system, Republican governor Kay Ivey, in a statement issued after the execution declared, "Jamie Mills has paid the price for his heinous crimes" and that he was "undoubtedly guilty."

The Alabama governor has set the dates for two more executions this year: Keith Edmund Gavin on July 18, by lethal injection, and Alan Eugene Miller on September 26, by nitrogen hypoxia. This will be Miller's second trip to the death chamber. On September 22, 2022, prison officials abandoned efforts to execute him by lethal injection after the execution

team failed to successfully access his veins.

On July 28, 2022, Alabama death row victim Joe Nathan James suffered torturous treatment for at least three-and-a-half hours as prison executioners jabbed him and attempted a "cutdown," a deep cut to access a vein, before he was finally killed by lethal injection.

Mills' execution came four months after Alabama became the first US state carry out a death sentence by nitrogen hypoxia, or asphyxiation. The state had already attempted once to kill the condemned man, Kenneth Eugene Smith, in November 2002, but had called off the lethal injection after a brutal, nearly four-hour attempt to insert the IV lines failed.

On January 25 at the same prison, Smith was strapped to a gurney "cruciform," wearing a full face mask with a plastic tube running out of it connected to nitrogen gas outside the room.

The *Advertiser* reported that as the nitrogen gas began to flow, Smith writhed and convulsed on the gurney:

He took deep breaths, his body shaking violently with his eyes rolling in the back of his head. ... Smith clenched his fists, his legs shook under the tightly tucked-in white sheet that covered him from his neck down. He seemed to be gasping for air. The gurney shook several times during this time.

Other witnesses described that Smith grabbed violently at the restraints, and popped up on the gurney over and over, shaking it.



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