



Death Penalty Information Center

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Inconsistency Prevails in Lethal Injection Controversy

Many Inmates Executed While Others Are Spared

Florida Case That Was Subject of Supreme Court Review Now on Fast Track for Execution on September 20

Washington, DC – Despite the fact that the U.S. Supreme Court stopped Clarence Hill's execution at the 11th hour and unanimously ruled that he could pursue his challenge to Florida's lethal injection process, the state has set an execution date of September 20, and the lower courts have denied him an evidentiary hearing.

In other states, a far different scenario is playing out. All executions are on hold in California where a federal judge plans extensive hearings on the lethal injection issue beginning September 26. Similarly, a federal judge in Missouri has continued the hold on executions in that state at least until October 27. He has ordered the state to devise a better plan for carrying out executions. Federal judges in Delaware and Arkansas have stayed executions this year because of the lethal injection controversy. A state court in New Jersey put all executions on hold in 2004 because of this same issue. The governor of South Dakota stepped in at the last minute to halt an execution there, and has asked that the legislature amend the state law on lethal injections.

In Oklahoma, the first state to adopt the lethal injection method of execution, the protocol has recently been changed. Similarly, North Carolina recently revised its procedures as a result of challenges to their execution process.

However, in other states, despite similar lethal injection challenges, executions have proceeded on schedule. Texas has executed 21 people by lethal injection this year, half of all executions in the country.

A federal judge in a Tennessee case, commenting on the wide disparity of court responses to lethal injection challenges, pointed to the arbitrariness of these rulings:

[T]he dysfunctional patchwork of stays and executions going on in this country further undermines the various states' effectiveness and ability to properly carry out death sentences. We are currently operating under a system wherein condemned inmates are bringing nearly identical challenges to the lethal injection procedure. In some instances stays are granted, while in others they are not and the defendants are executed, with no principled distinction to justify such a result.

(*Alley v. Little*, No. 06-5650 (6th Cir. May 16, 2006) (Martin, J., dissenting from denial of a rehearing *en banc*)).

Clarence Hill was about to be executed in Florida when the U.S. Supreme Court granted him a stay in January of this year. The Court unanimously ruled in June that he was entitled to bring his lethal injection challenge as a civil rights matter in federal court. Despite a previous policy of not setting execution dates until the *Hill* matter was resolved, Gov. Jeb Bush signed a death warrant for Hill with an execution date of September 20. Hill's attorney, Todd Doss, was then informed by the federal District Court that he had less than 24 hours to prepare for a hearing on his request for a stay of execution. The request was summarily denied on September 1 without an evidentiary hearing on the lethal injection issue. An appeal to the U.S. Court of Appeals for the 11th Circuit is pending.

Richard Dieter, Executive Director of the Death Penalty Information Center, noted: "Thirty years after the death penalty was reinstated, the likelihood of the death penalty being carried out is still like being struck by lightning. A punishment applied in an arbitrary fashion is a violation of the constitution's ban on cruel and unusual punishments."

For further information or to schedule an interview with Richard Dieter, DPIC's Executive Director, call Erin Wallace at (202) 289-2275 or e-mail her at ewallace@deathpenaltyinfo.org. After hours, Mr. Dieter can be reached at (301) 943-1402. To contact Clarence Hill's attorney, Todd Doss, call (386) 755-9119.

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