

Oklahoma: Botched lethal injection forces postponement of second planned execution

By Kate Randall
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On Tuesday evening, the state of Oklahoma was poised to carry out its first double execution in 77 years. Clayton D. Lockett and Charles F. Warner were scheduled to die by lethal injection within two hours of each other in the state's death chamber at the 100-year-old penitentiary in McAlester.

Lockett's execution was set for 6 p.m. local time. After being injected with the lethal drugs, he reacted violently, kicking and grimacing while lifting his head off the gurney to which he was strapped, according to witnesses. He was pronounced dead at 7:06 p.m. local time, 43 minutes after the process began.

At a media conference, Oklahoma Department of Corrections Director Robert Patton said that Lockett's veins "exploded" during the execution. The prisoner eventually died from a massive heart attack. Patton notified the governor and attorney general of the circumstances and asked for a 14-day delay of Charles Warner's execution, which had been scheduled for 8 p.m.

Tuesday evening's gruesome turn of events was the latest stage in a legal battle involving state courts and the Oklahoma governor's office over the lethal chemicals to be used in the state killing of the two men.

Lockett, 38, had been convicted of first-degree murder, rape, kidnapping and robbery for a 1999 crime spree with two co-defendants, which included the murder of Stephanie Nieman, 19. Warner, 36, was convicted of the 1997 rape and murder of 11-month-old Adianna Waller, the daughter of his then-girlfriend.

The prospect of the macabre spectacle of a double execution prompted international outrage and global media interest, with news organizations from Britain, Japan and the Netherlands requesting credentials to obtain one of the 12 media witness spots for each execution.

The two executions planned to utilize an untested three-drug protocol for lethal injection. According to the Oklahoma Department of Corrections web site, this protocol includes midazolam, a sedative, to purportedly render the inmate unconscious; vecuronium bromide, a muscle relaxant, to paralyze the inmate (and potentially mask any suffering he or she may endure); and potassium chloride, a common component of fertilizer, which stops the heart.

According to the web site, during executions: "Two intravenous lines are inserted, one in each arm. The drugs are injected by hand held syringes simultaneously into the two intravenous lines...Three executioners are utilized, with each one injecting one of the drugs." The executioners are paid \$300 for each killing. Prison authorities use petty cash to purchase the lethal drugs so their suppliers cannot be traced.

Officials in Oklahoma and other states that practice capital punishment have resorted to new combinations of deadly chemicals with the drying up of supplies of the anesthetic sodium thiopental and another drug used to paralyze the condemned during executions. International suppliers from the European Union, which opposes the death penalty, have stopped exporting the drugs to the United States.

In an effort to keep the state killing machine going, states like Oklahoma have resorted to illegally importing the drugs, using untested combinations of chemicals, or buying them from unregulated compounding pharmacies, which are not strictly overseen by the Food and Drug Administration and some of which have histories of producing contaminated products.

In February, attorneys for Lockett and Warner filed a civil suit with the state, asserting that its execution protocol could inflict "severe pain," in violation of the

Eighth Amendment to the US Constitution's prohibition against cruel and unusual punishment.

In a 5-4 decision on April 21, the Oklahoma Supreme Court stayed the executions of the two men so that it could consider the constitutionality of a 2011 state law making the sources of its lethal injection drugs a secret. Oklahoma Governor Mary Fallin, a Republican, then stepped in, issuing her own seven-day stay for Lockett, stating at the same time in an executive order that the Supreme Court had exceeded its authority by issuing the stay of execution, as the high court in Oklahoma handles only civil cases.

The Supreme Court bowed to pressure from the Oklahoma Legislature on April 23 and lifted the stays, ruling that inmates facing execution did not have a right to be informed of the source of the drugs used in their lethal injection procedures. The governor's stay in Lockett's case aligned his date of execution with Warner's, setting the stage for the double execution on April 29.

In a provocative move, Republican state Rep. Mike Christian, a former state trooper, has drafted legislation to impeach the five justices who voted to grant the stay of execution last week. He claims that the court system should not be used to delay an execution when the basis of the appellants' case is "unsupportable arguments related to the availability of the such chemicals" to be used for lethal injections.

Tuesday's botched execution of Clayton Lockett is the latest macabre chapter in the scramble by state and prison authorities in death penalty states to concoct new lethal cocktails to kill condemned prisoners.

The specific three-drug protocol used in his execution has been used in Florida, but with five times the amount of midazolam. A reduced amount of this sedative could mean that the prisoner is not sufficiently anesthetized and could be conscious as the other drugs take effect. It is unclear at this point precisely what took place in Lockett's lethal injection.

Initially, Oklahoma had planned to use a three-drug protocol that included the sedative pentobarbital, which many states substituted for sodium thiopental after that drug went off the market. Pentobarbital, which is normally used to euthanize animals, works more slowly than sodium thiopental. Lawyers for death row inmates have argued that it does not prevent pain during an execution.

Oklahoma had planned to purchase the pentobarbital and vecuronium bromide from a compounding pharmacy. Earlier this year, on January 9, the state executed Michael Lee Wilson using a three-drug protocol including pentobarbital obtained from an unidentified compounding pharmacy. During the execution he cried out, "I feel my whole body burning," an indication that the pentobarbital was not fully effective and he was suffering excruciating pain.

In March, Oklahoma prison officials shifted their plans, and said they would instead use one of five possible drug combinations, including a one-two cocktail of midazolam and hydromorphone, a painkiller. Defense lawyers and medical experts warned last year that lethal injections using these drugs would essentially suffocate inmates to death.

On January 16, Ohio used these two drugs to lethally inject Dennis McGuire, who gasped and convulsed for more than 10 minutes before finally dying after 26 minutes as his family watched in horror. The McGuire family is now suing the state, claiming he suffered cruel and unusual punishment at the hands of his executioners.

Clayton Lockett, the 20th individual put to death so far in 2014, has apparently been subject to torture in his execution by Oklahoma authorities as they experiment with lethal chemical combinations. Since the US Supreme Court reinstated the death penalty in 1976, 1,379 people have been put to death. Twenty-four more executions are planned across the US through March 2016.

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