

Judge temporarily blocks Arkansas execution spree

By Brad Dixon
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A federal judge has granted a preliminary injunction to block the planned execution of six inmates over 11 days in the state of Arkansas. Although the ruling is being appealed, the injunction looks likely to delay the planned set of executions, which were scheduled to begin tonight.

Arkansas is pushing through the spree of executions because a drug used in the lethal injections will expire at the end of the month. The state initially planned to execute eight inmates, but two of these executions have already been delayed.

Early Saturday morning, US District Judge Kristine G. Baker issued a preliminary stay of execution after a series of hearings held last week. She determined that the rapid pace of executions would prevent the inmates from having adequate access to their lawyers, and that there was a good possibility the inmates could succeed in challenging the constitutionality of the lethal injection procedure used in Arkansas.

Arkansas Attorney General Leslie Rutledge immediately filed an appeal to challenge the order. Expressing a disdain for the democratic rights of the prisoners, she said that the death row inmates were trying to “deliberately manipulate the judicial process to evade justice,” according to the *Washington Post*.

“It is unfortunate that a US District has chosen to side with the convicted prisoners in one of the many last-minute attempts to delay justice,” said a spokesperson for Rutledge, Judd Deer, according to the Associated Press.

On Friday evening, just hours before Judge Baker’s ruling, Judge Wendell Griffen of the Pulaski County Circuit Court issued a temporary restraining order on the use of one of the lethal injection drugs, the paralytic vecuronium bromide. The judge is an opponent of the death penalty and joined protesters on Friday in a rally

against the executions.

Arkansas uses three drugs in its lethal injection procedure, starting with the sedative midazolam, followed by the paralytic vecuronium bromide, and ending with potassium chloride to induce cardiac arrest.

Drug distributor McKesson filed a complaint with the state claiming that the Arkansas Department of Corrections had misled the company about the reasons they needed the drug. The drug distributor issued the state a refund, but officials have refused to return the drugs. McKesson argued that without the order it would suffer “loss of property and forced participation in a procedure that is likely to cause reputational injury,” according to the *Washington Post*.

The European Commission outlawed the sale of drugs for lethal injections in 2011 and 2012, and drug manufacturers have stopped selling the drugs if they are to be used for this purpose.

Two of the initially eight planned executions had already been delayed. Last week, a federal judge called off one execution after a parole board recommended 6-1 on April 5 to commute the sentence of Jason McGehee to life imprisonment because it was found that his lawyer did little investigation into the case, and the jury was never informed that he was diagnosed with bipolar disorder and suffered child abuse leading to the early use of drugs and alcohol.

On Friday afternoon, the Arkansas Supreme court provided a stay of execution for Bruce Ward, whose attorneys say is schizophrenic and mentally incompetent.

“Mr. Ward’s severe and life long schizophrenia and delusions, such as seeing demon dogs at the foot of his bed, have left him incompetent for execution under the constitutional standard,” his lawyer, Scott Braden, said

in a statement issued Friday, according to NBC.

On Saturday, Attorney General Rutledge filed an emergency motion with the Arkansas Supreme Court to overturn the stay of execution.

Ward had been scheduled to be put to death tonight. Don Davis, who is believed to have an IQ of 70, would now be the only inmate executed tonight if the injunction is overturned.

The large number of executions in such a short period of time is unprecedented and will likely result in additional so-called botched executions.

“They have attempted to carry out these executions in a rush without any concern for what could go wrong,” Robert Dunham, executive director of the Death Penalty Information Center, told the *Los Angeles Times* on Saturday.

Arkansas planned to conduct two double executions, on April 20 and 24, which are now temporarily on hold. No state has attempted a double execution since the 2014 execution of Clayton Lockett in Oklahoma. Lockett writhed in pain for 43 minutes during the execution. Prison officials halted the execution after his vein had blown and Lockett succumbed to a heart attack shortly after. Oklahoma officials had to cancel the second planned execution. A report found that the stress caused by the double execution schedule contributed to the mistakes made by the prison staff.

Nearly two dozen prison officials signed a letter sent to Arkansas Governor Asa Hutchinson last month, raising concerns over the multiple execution schedule, including the mental and emotional harm it would cause to the staff charged with carrying out the executions.

The anesthetic to be used in the executions, midazolam, does not reliably render prisoners unconscious and unable to feel pain, which has resulted in a number of executions gone wrong, including that of Lockett.

In hearings held last week, a number of medical experts testified that midazolam was not a strong enough sedative and that its use in the executions would result in serious pain and suffering.

“The threat of irreparable harm to the plaintiffs is significant: if midazolam does not adequately anesthetize plaintiffs, or if their executions are ‘botched,’ they will suffer severe pain before they die,” Judge Baker wrote in her ruling.

Nonetheless, states continue to use the drug for lethal injections. The US Supreme Court ruled in 2015 that its use in executions does not constitute cruel or unusual punishment.

The delay issued by the judge on Saturday reflects a nervousness in ruling circles that the barbaric assembly line executions planned in Arkansas are provoking widespread revulsion.

The Arkansas Coalition to Abolish the Death Penalty held a rally in Little Rock, the state capital, on Friday where one of the speakers was Damien Echols. Echols and two others spent 18 years on death row in Arkansas until their release in 2011 in a plea deal that allowed them to claim their innocence. DNA evidence emerged challenging their 1993 convictions for the murder of three young boys.

In an interview with the *New York Times* last week, Echols said that he was living proof “that the state of Arkansas does indeed sentence innocent people to death, despite how infallible these politicians would have you believe the system is.”

According to the Death Penalty Information Center, since 1973, 157 individuals sentenced to death and living on death row have subsequently been exonerated.

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