

*** CAPITAL CASE ***

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JAMES AREN DUCKETT, et. al.,
Petitioners,

vs.

RON DESANTIS,
*Governor, State of Florida, et al.,
Respondents.*

*On Petition for Writ of Certiorari to the
United States Court of Appeals for the Eleventh Circuit*

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

**DEATH WARRANTS SIGNED
EXECUTIONS SET JULY 28, 2026, AT 12:00 P.M. AND 6:00 P.M.**

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NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-12595
Non-Argument Calendar

JAMES AREN DUCKETT,
DOMINICK OCCHICONE,

Plaintiffs-Appellants,

versus

GOVERNOR OF FLORIDA,
SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,
WARDEN, et al.

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 4:26-00355-TKW_MAF

Before NEWSOM, BRANCH, and ABUDU, Circuit Judges.

PER CURIAM:

James Aren Duckett and Dominick Occhicone (collectively, “the inmates”) are Florida death-row inmates scheduled to be executed via lethal injection on Tuesday, July 28, 2026, at 12:00 p.m. and 6:00 p.m., respectively. On July 14, Governor DeSantis issued a letter resetting Duckett’s execution, which had previously been stayed, for July 28—the same day as Occhicone’s scheduled execution. On July 23, Duckett and Occhicone filed a three-count complaint against four state officials¹ (collectively, “the state”) under 42 U.S.C. § 1983 asserting that the act of scheduling their executions on the same day violates their constitutional rights to access the courts, to enjoy equal protection and due process, and to be free from cruel and unusual punishment. *See* U.S. Const. amends. I, V, VIII, XIV. They also moved to stay their executions pending the disposition of these claims. The district court denied the motion to stay, and the inmates appealed. They now ask this court for an emergency stay of execution pending appeal. Because the inmates have not established that they are likely to succeed on the merits of their claims, and because the equitable factors likewise counsel against a stay, we deny their motion.

The parties are familiar with the facts and procedural history, we recount them only as necessary to explain our decision.

¹ Florida Governor Ron DeSantis, Secretary of the Florida Department of Corrections Richard Comerford, Warden of Florida State Prison Randall Polk, and Commissioner of the Florida Department of Law Enforcement Mark Glass.

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I

A court may grant a stay of execution only if the condemned inmate establishes that “(1) he has a substantial likelihood of success on the merits of his appeal[;] (2) he will suffer irreparable injury unless the [stay] issues; (3) the stay would not substantially harm the [state]; and (4) if issued, the [stay] would not be adverse to the public interest.” *Humphreys v. Comm’r, Ga. Dep’t of Corr.*, 161 F.4th 1300, 1306 (11th Cir. 2025) (citation modified). The inmates insist that they are likely to succeed on the merits of their claims under each of several constitutional provisions. Respectfully, we disagree.

A

First, they are unlikely to succeed on the merits of their Eighth Amendment method-of-execution claim. The Eighth Amendment, applied to the States through the Fourteenth Amendment, prohibits the “inflict[ion]” of “cruel and unusual punishments.” U.S. Const. amends. VIII, XIV. “[P]risoners cannot successfully challenge a method of execution unless they establish that the method presents a risk that is ‘*sure or very likely* to cause serious illness and needless suffering,’ and give rise to ‘sufficiently *imminent* dangers.’” *Glossip v. Gross*, 576 U.S. 863, 877 (2015) (quoting *Baze v. Rees*, 553 U.S. 35, 50 (2008)). So, to succeed here, the inmates would need to establish that there is a substantial likelihood that executing two prisoners in one day “presents a risk that is *sure or very likely* to cause serious illness and needless suffering, and give

rise to sufficiently *imminent* dangers.” *Id.* (citation modified). They have not done so.

The inmates contend that scheduling their executions on the same day constitutes cruel and unusual punishment because it is likely to exacerbate the stress on the execution team and thereby increase the likelihood that the team will make a mistake, which, in turn, could result in needless suffering for the inmates. This claim rests on pure conjecture that the execution team will fail to perform Florida’s lethal-injection procedures correctly—for instance, the complaint alleges, by neglecting to properly “maintain[] and stor[e] execution drugs” or to pay proper attention to each inmate’s “vein viability.” Compl. ¶¶ 78–79, Dkt. 1. If a mistake is made, the theory goes, there is a risk that the mistake will “result in objectively intolerable pain and suffering.” *Id.* ¶ 82. The inmates’ speculation does not establish that the state’s act of scheduling two executions in one day “presents a risk that is *sure or very likely* to cause serious illness and needless suffering, and give rise to sufficiently *imminent* dangers.” *Glossip*, 576 U.S. at 877 (citation modified).

Like the district court, we acknowledge the inmates’ allegations that when the State of Oklahoma attempted to carry out two death sentences on the same day in 2014, one prisoner’s execution was “botched” when his “intravenous lines were mishandled.” Compl. ¶ 54. The inmates allege that an ensuing investigation found that the lines were mishandled “for several reasons,” includ-

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ing the “extra stress” that the execution team experienced as a result of having to conduct multiple executions on the same day. *Id.* We agree with the district court, though, that those allegations do not make the claim here any stronger, because the inmates have not provided a “meaningful factual basis to compare the circumstances of those executions to Florida’s execution protocol.” Ord. Denying Stay of Execution, July 24, 2026, at 4 n.3, Dkt. No. 12.

B

Second, the inmates are unlikely to succeed on the merits of their due-process and equal-protection claims. Without meaningfully distinguishing between the two, the inmates allege that the state’s decision to schedule their executions on the same day violates both their due-process and equal-protection rights. We disagree. “To succeed on a procedural-due-process claim, a plaintiff must show (1) a deprivation of a constitutionally-protected liberty or property interest; (2) state action; and (3) constitutionally-inadequate process.” *Humphreys*, 161 F.4th at 1311 (citation modified). The inmates have not cited any case that demonstrates, or even suggests, that the state’s act of scheduling two executions on the same day deprives them of a constitutionally protected liberty interest. Accordingly, their due-process claim is unlikely to succeed.

To make out an equal-protection claim, a plaintiff “must show that the State will treat him disparately from other similarly situated persons.” *DeYoung v. Owens*, 646 F.3d 1319, 1327 (11th Cir. 2011). Where a plaintiff fails to properly allege that “the disparate

treatment burdens his fundamental rights or is based on membership in a suspect class,” he “must show that the disparate treatment is not rationally related to a legitimate government interest.” *Id.* at 1327–28. Here, the inmates assert that the act of executing them on the same day treats them differently than “all other men who have been executed by the State of Florida during the modern day.” Compl. ¶ 92. They then argue that their claim triggers heightened constitutional scrutiny because the state’s method of execution burdens their fundamental right to life. Again, we disagree. Because the inmates have not “advanced a carefully defined, fundamental right,” *Humphreys*, 161 F.4th at 1309, they have not demonstrated entitlement to heightened scrutiny. Even assuming the inmates are similarly situated to all other Florida death-row inmates in the modern era, their claim is unlikely to succeed because it is not irrational for the state to conduct two executions on the same day, even if only, as the district court noted, “for the sake of convenience or efficiency.” Ord. Denying Stay of Execution, July 24, 2026, at 4–5.

C

Finally, the inmates are unlikely to succeed on the merits of their access-to-courts claim. They assert that the compressed scheduling of their executions deprives them of their right of access to the courts because they do not have enough time to litigate their challenges. But they fail to cite any authority to support the proposition that they are entitled to a set number of days to bring such a challenge. The inmates’ access-to-courts claim is further undermined by the fact that they *have* accessed the courts to litigate their

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same-day challenge, and have now been heard both by the district court and by this Court. For these reasons, the inmates are not substantially likely to succeed on the merits of this claim.

II

We further hold that the remaining stay factors weigh against a stay. First, though the inmates argue that death is self-evidently an irreparable injury, that answers the wrong question: They must show that they will be irreparably injured by being executed on the same day rather than (or as compared to) being executed on separate days. See *Humphreys*, 161 F.4th at 1312. They cannot use the “consequence of [their] original criminal conviction[s] and sentence[s]” as their injury because in this case they are not challenging the imposition of the death penalty itself—just the method of effectuating it. *Id.* And, because they have not shown that they will suffer any actual injury specifically as a result of the same-day scheduling, they will not be irreparably injured by it.

Second, the balance of the harms favors the state. The inmates argue that it would not harm the state to refrain from executing them in an unconstitutional matter, “[b]ut that argument relies on the strength of [their] merits arguments,” which, as we have explained, are weak. *Id.* Here, the state has the weightier interest “in timely enforcement of its criminal sentences.” *Id.*

Third and finally, the public interest does not favor a stay here. Both men’s convictions became final 35 years ago. See *Duckett v. State*, 568 So. 2d 891 (Fla. 1990); *Occhicone v. State*, 570 So. 2d

902 (Fla. 1990). Like the state, “the victims of crime have an important interest in the timely enforcement of a sentence.” *Hill v. McDonough*, 547 U.S. 573, 584 (2006). Thus, the public interest weighs against a stay.

Accordingly, Duckett and Occhicone’s emergency motion for a stay of execution pending appeal is **DENIED**.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

CASE NO. 26-12595

JAMES AREN DUCKETT, ET AL.,

Appellant,

vs.

RON DESANTIS, ET AL.,

Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
DISTRICT COURT CASE NO.: 4:26-cv-355-TKW-MAF

**EMERGENCY MOTION FOR STAY OF EXECUTION
PENDING APPEAL**

EXECUTION SCHEDULED FOR JULY 28, 2026, AT 12:00 P.M.

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**APPELLANT’S EMERGENCY MOTION FOR
STAY OF EXECUTION PENDING APPEAL**

COMES NOW THE APPELLANTS, James Aren Duckett and Dominick Occhicone, by and through undersigned counsels, and herein moves this Court to enter a stay of their executions by the State of Florida, currently scheduled to take place on July 28, 2026, at 12:00 p.m. and 6:00 p.m. respectively, at Florida State Prison. In support thereof, Plaintiffs state as follows:

I. Introduction

Plaintiffs James Aren Duckett and Dominick Occhicone, are prisoners under sentences of death, with executions scheduled for July 28, 2026, just six hours apart at 12:00 p.m. and 6:00 p.m. respectively. On July 24, 2026, Plaintiffs filed a 42 U.S.C. § 1983 complaint in the United States District Court, Northern District of Florida, seeking emergency declaratory and injunctive relief preventing their execution from proceeding, and an Emergency Motion for Stay of Execution so that the district court may consider the arguments in their complaint without the exigencies of an active death warrant. Defendants filed a Response to Emergency Motion to Stay (Doc. 10), and Plaintiffs filed a Reply (Doc. 11).

The same night, at 11:28 p.m., the district court entered its Order Denying Stay of Execution. (Doc. 12). Plaintiffs appealed the denial of stay to this Court.

II. Mr. Duckett's Action Satisfies the Requirements for a Stay

A stay of execution of a death sentence is a form of injunctive relief. *See Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000). Under this Court's precedent, a stay is thus warranted when four factors are satisfied: "(1) [the applicant] has a substantial likelihood of success on the merits; (2) he will suffer irreparable injury unless the injunction issues; (3) the stay would not substantially harm the other litigant, and (4) if issued, the injunction would not be adverse to the public interest." *Long v. Sec'y, Dept. of Corr.*, 924 F.3d 1171, 1176 (11th Cir. 2019) (citing *Powell v. Thomas*, 641 F.3d 1255, 1257 (11th Cir. 2011)).

Plaintiffs assert that the District Court erred in denying their § 1983 complaint, in which they allege that their federal constitutional right against cruel and unusual punishment will be violated if the State of Florida proceeds with his execution as planned. Plaintiffs have proffered facts that satisfy each of the elements required for a stay. As such, Plaintiffs should be granted a stay pending this Court's resolution of this appeal in the ordinary course, without the imminent threat of execution.

A. The Cause of Action Has a Substantial Likelihood of Success

Plaintiffs argue that, given the State of Florida's intention to execute two capital defendants on the same day, Defendants create a substantial risk that the Plaintiffs will experience pain and suffering in violation of the Eighth Amendment and in violation of their rights to Equal Protection under the Fourteenth Amendment.

The Eighth Amendment's guarantee of protection from cruel and unusual punishment applies both at sentencing and in the carrying out of the sentence. *Glossip v. Gross*, 576 U.S. 863, 877 (2015). By combining Mr. Duckett's execution day with Mr. Occhionne's, the risk of a botched execution is exponentially increased due to factors including the impact of the prison and execution teams not being prepared to conduct two executions on the same day and the risk of errors with the lethal injection drugs. Additionally, by creating two separate classes of individuals who are treated differently in their execution proceedings, the Defendants have violated the Plaintiffs' right to equal protection. This arbitrary treatment burdens the Plaintiffs' right to be free of cruel and unusual punishment.

While the District Court recognized that precedent establishes Plaintiffs "can succeed on a method-of-execution claim" if "they can establish that the method challenged presents a risk that is sure or very likely to cause serious illness and needless suffering, and gives rise to sufficiently imminent dangers" (DOC 12, p. 2); the court determined Plaintiffs' allegations here are only "conjecture and speculation." (Doc 12. p. 3). As Plaintiffs argued below, in the last two instances where states have tried to execute two people at once, the executions were botched. These are the only attempts at dual executions made across the country in 26 years.

In a footnote, the court indicated that it "did not overlook Plaintiffs' allegations that the last two states to conduct multiple executions on the same day

experienced problems.” (Doc. 12). This characterization severely minimizes the facts Plaintiffs allege, and dismisses the dangers of rushed execution. During the execution of Clayton Lockett in Oklahoma, multiple failures in the intravenous line and execution protocol resulted in a prolonged and visibly distressing execution that lasted approximately 43 minutes before Mr. Lockett died of a heart attack, prompting the State to halt scheduled executions pending an investigation. Likewise, in 2017, Kenneth Williams was executed as the fourth prisoner in an unprecedented eight-day execution schedule in Arkansas. Witnesses reported repeated convulsive movements, coughing, and prolonged physical distress during the execution, leading numerous observers and experts to question whether the compressed execution schedule contributed to procedural failures and an unconstitutional risk of unnecessary pain. These incidents demonstrate that accelerated execution schedules place extraordinary strain on personnel and procedures, increasing the likelihood of constitutional violations. Where a State elects to conduct multiple executions in rapid succession, it knowingly heightens the risk that errors in preparation, administration, or monitoring will inflict gratuitous suffering, precisely the type of risk the Eighth Amendment prohibits. See *Baze v. Rees*, 553 U.S. 35, 50 (2008) (plurality opinion) (recognizing that the Eighth Amendment forbids execution methods presenting a “substantial risk of serious harm”); *Glossip*, 576 U.S. at 877–78 (2015).

The risk of a botch is a great concern where Mr. Duckett learned earlier this week that his prior chemotherapy treatments have left his veins severely compromised. Even if the IV Team eventually does obtain intravenous access on Mr. Duckett to administer the lethal drug, Mr. Duckett's vein will likely lose structural integrity during the execution, leading to extravasation - the leakage of etomidate, rocuronium bromide, and potassium acetate into the soft tissue surrounding the vein. Extravasation can have two severely painful results: (1) an inadequate and/or inconsistent drug delivery, which can cause a prolonged and only partially anesthetized execution; and (2) an intense burning of the tissues surrounding the vein. Assuming the IV Team is even able to find and enter the necessary two veins, the risk of extravasation means that Mr. Duckett will then be at substantial risk to experience even more intense pain as a result of a prolonged and only partially anesthetized execution as his soft tissue burns within his body. Given the fact that the executioner will not be in the same room as Mr. Duckett, it is unlikely they will even be aware of the fact that extravasation has occurred.

Mr. Occhicone is set to be executed just one month shy of his 81st birthday. He has a history of substance abuse, drinking alcohol since the age of 16 and smoking marijuana daily from the age of 24 until the time of his arrest around the age of 40. Mr. Occhicone has limited function of his kidneys - varying between 40-60% function - and his most recent MRI shows multiple cysts on his right kidney.

Mr. Occhicone also has heart issues including an irregular heartbeat, sometimes skipping a beat, and sometimes speeding up, and a blockage of the aorta. There is no question that Mr. Occhicone's advanced age and significant health issues put him at a greater risk of complications during the execution procedures.

The Eighth Amendment's prohibition against cruel and unusual punishment extends not only to the method of execution itself but also to substantial, state-created risks that execution procedures will be administered in a manner that unnecessarily inflicts severe pain. A State's decision to materially alter its established execution protocols—such as by scheduling two executions in a single day when its ordinary practice has been to conduct only one—creates additional operational burdens, compresses preparation and oversight, and increases the likelihood of human error in carrying out an inherently complex and irreversible process. The Constitution does not require an inmate to wait until those risks materialize into an actual botched execution before judicial intervention is warranted. Rather, where a protocol change foreseeably heightens the risk of serious pain without any legitimate penological necessity, the Eighth Amendment is implicated because it prohibits execution procedures that create a substantial and objectively intolerable risk of unnecessary suffering.

B. Plaintiffs Will Suffer Irreparable Injury – Death - If No Injunction is Issued

Notably the district court rejected established precedent and determined that

Plaintiffs’ “speculative harm that they might suffer” did not warrant a stay (Doc 12, p. 5). This Court has held that the threat of an imminent execution is not speculative, but a presumptive injury. *See, e.g., In re Holladay*, 331 F.3d 1169, 1177 (11th Cir. 2003) (“We consider the irreparability of the injury that petitioner will suffer in the absence of a stay to be self-evident.”); *Ferguson v. Warden, Fla. State Prison*, 493 F. Appx 22, 26 (11th Cir. 2012) (Wilson, J., concurring) (“As a general rule, in the circumstance of an imminent execution, this court presumes the existence of irreparable injury.”).

C. A Stay Would Not Harm Defendants

Mr. Duckett has been on Florida’s death row since 1988, during which time he has had a near perfect disciplinary record. He has been eligible for an execution warrant since his clemency proceedings initiated in 2014. There is no reason to deny a stay and deny Mr. Duckett the review to which he is entitled.

Mr. Occhicone has been on Florida’s death row since 1987, and has likewise had a near perfect disciplinary record. He has been eligible for an execution warrant since his clemency proceedings initiated in 1991 and were updated in 2014. There is no reason to deny a stay and deny Mr. Occhocone the review to which he is entitled.

Defendants would not suffer financial or any other harm from a stay to allow the Court to evaluate the violation of Plaintiffs’ federal constitutional due process

rights. While the State has a legitimate interest in the timely enforcement of valid criminal judgments, it has no legitimate interest in executing Plaintiffs via a method that would risk the wanton infliction of pain or suffering in violation of the Eighth and Fourteenth Amendments. *See, e.g., In re Holladay*, 331 F.3d at 1177 (finding “no substantial harm that will flow to the State of Alabama or its citizens from postponing petitioner’s execution to determine whether that execution would violate the Eighth Amendment”). Where an individual’s claim underlying his desire for a stay of execution could mean further proceedings, that weighs heavily against a State’s interest in the person’s imminent execution. *Id.* (“Moreover, contrary to the State’s contention that its interest in executing Holladay outweighs his interest in further proceedings, we perceive no substantial harm. . .”)

D. A Stay Would Not Be Adverse to the Public Interest

Contrary to the District Court’s determination, the “speculative harm that [Plaintiffs] might suffer” in the event there is a botch is not “far outweighed by the interest of the State and the public in administering long-overdue justice to Plaintiffs for their crimes.” (Doc. 12, p. 5).

The public has an interest in the prevention of constitutional violations, particularly those carried out in the name of the People. *See Woodson v. North Carolina*, 428 U.S. 280, 303-04 (1976) (“[D]eath is a punishment different from all other sanctions in kind rather than degree.”). In the context of the death penalty, where the punishment is “the most irremediable and unfathomable of penalties,” *Ford v. Wainwright*, 477 U.S. 399, 411 (1986),

The public interest is best served by ensuring that all death-sentenced individuals have meaningful access to federal constitutional rights, especially the humane and dignified carrying out of a death sentence. *See Ford v. Wainwright*, 477 U.S. 399, 409-10 (1986) (The Eighth Amendment seeks “to protect the dignity of society itself from the barbarity of exacting mindless vengeance” when carrying out an execution.). Thus, it is in the public interest to address and resolve the merits of Plaintiffs’ claims to identify and prevent the unconstitutional risk of causing gratuitous suffering. *See Cooley v. Taft*, No. 2:04-cv-1156, 2007 WL 2607583, at *5 (S.D. Ohio 2007) (granting emergency motion for preliminary injunction and stating “the public interest is served only by enforcing constitutional rights and by the prompt and accurate resolution of disputes concerning those constitutional rights. By comparison, the public interest has never been and could never be served by rushing to judgment at the expense of a condemned inmate’s constitutional rights.”). Allowing the State to execute a defendant without meaningful review of whether

that execution will violate the Eighth Amendment is adverse to the public interest—more than any minimal delay that may result from granting Plaintiffs’ request for a stay and injunctive relief.

III. Conclusion

For the reasons set forth above, and in his complaint, Plaintiffs request that the Court enter a stay of their scheduled July 28, 2026, executions so that this Court can meaningfully consider this appeal without the imminent threat of Plaintiffs’ deaths.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

Appellant certifies that this Emergency Motion for Stay of Execution Pending Appeal contains 2,188 words, excluding the parts of the document exempted by Fed. R. App. P. Rule 32(f), in compliance with the type-volume limit of Fed. R. App. P. 32(a)(7) and 11th Cir. R. 22-2. Pursuant to 11th Cir. R. 27-1, no copies have been provided.

CERTIFICATE OF TYPE SIZE AND STYLE

Appellant certifies that the size and style of type used in this Emergency Motion for Stay of Execution Pending Appeal is Times New Roman, 14-point, in compliance with the requirements of Fed. R. App. P. Rule 32(a)(5) and 32(a)(6).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by electronic service using the CM/ECF system to Assistant Attorneys General Rick A. Buchwalter, Jason Rodriguez, and Nicole Smith this 26th day of July, 2026.

/s/ Brittney N. Lacy
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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

**JAMES AREN DUCKETT and
DOMINICK OCCHICONE,**

Plaintiffs,

v.

Case No. 4:26-cv-355-TKW-MAF

RON DESANTIS, et al.,

Defendants.

ORDER DENYING STAY OF EXECUTION

Plaintiffs are death-sentenced inmates under active warrants. Their executions are scheduled for next Tuesday, July 28—one at noon (Duckett) and one at 6:00 p.m. (Occhicone).

On July 23, at 8:51 p.m., Plaintiffs filed a three-count complaint against four state officials¹ (collectively, “the State”) under 42 U.S.C. §1983 asserting that the scheduling of their executions on the same day violates their rights under the First, Fifth, Eighth, and Fourteenth Amendments. They also moved to stay their executions pending disposition of the claims asserted in the complaint.

¹ The Florida Governor, the Secretary of the Florida Department of Corrections, the warden of the facility where Plaintiffs are incarcerated, and the Commissioner of the Florida Department of Law Enforcement.

The motion to stay was briefed on an expedited basis. Oral argument is not needed to rule on the motion. Thus, the motion is ripe for resolution.

The Court may only grant a stay of execution if the inmate “establishes that (1) he has a substantial likelihood of success on the merits, (2) he will suffer irreparable injury unless the injunction issues, (3) the injunction would not substantially harm the other litigant, and (4) if issued, the injunction would not be adverse to the public interest.” *Barwick v. Governor of Fla.*, 66 F.4th 896, 900 (11th Cir. 2023) (quotation omitted). The Court must also consider “the extent to which the inmate has delayed unnecessarily in bringing the claim,” *Walls v. Sec’y, Dep’t of Corr.*, 161 F.4th 1281, 1284 (11th Cir. 2025) (quoting *Nelson v. Campbell*, 541 U.S. 637, 649–50 (2004)), because “[l]ast-minute stays should be the extreme exception, not the norm, and ‘the last-minute nature of an application’ that ‘could have been brought’ earlier ... ‘may be grounds for denial of a stay.’” *Bucklew v. Precythe*, 587 U.S. 119, 150 (2019) (quoting *Hill v. McDonough*, 547 U.S. 573, 584 (2006)).

Here, the State does not argue that Plaintiffs unduly delayed bringing this action, and for good reason—although Occhicone’s execution had been scheduled for July 28 for more than a month before the complaint was filed, the claims in the complaint did not accrue until July 14 when Duckett’s execution date was also set

for July 28.² Thus, the disposition of the motion to stay will turn on the four stay factors.

Likelihood of success is “[t]he ‘first and most important question’” in determining whether to grant a motion to stay an execution. *Barwick*, 66 F.4th at 902 (quoting *Jones v. Comm’r, Ga. Dep’t of Corr.*, 811 F.3d 1288, 1292 (11th Cir. 2016)). Here, the State argues that Plaintiffs are not likely to succeed on any of the three counts asserted in the complaint. The Court agrees.

Count I alleges that scheduling Plaintiffs’ executions on the same day constitutes cruel and unusual punishment. This claim is based on allegations that conducting multiple executions on the same day exacerbates the stress on correctional officers and others involved in the execution process and amplifies the risk of errors in the process, which in turn, “heightens the risk ... that Plaintiffs will unconstitutionally suffer.” This claim is based on nothing more than conjecture and speculation, and it is well-established that “[p]risoners cannot succeed on a method-of-execution claim unless they can establish that the method challenged presents a risk that is sure or very likely to cause serious illness and needless suffering, and

² Duckett’s execution was originally scheduled for March 31, but the Florida Supreme Court stayed the execution on March 26. *See Duckett v. State*, 428 So.3d 40 (Fla. 2026). The stay was lifted on July 8, *see Duckett v. State*, 2026 WL 1970442, at *5 (Fla. July 8, 2026), and on July 14, the execution was rescheduled for July 28.

gives rise to sufficiently imminent dangers.” *Price v. Comm., Dep’t of Corr.*, 920 F.3d 1317, 1325 (11th Cir. 2019) (emphasis in original and quotations omitted).³

Count II alleges that scheduling Plaintiffs’ executions on the same day violates their due process and equal protection rights. Plaintiffs do not cite any authority for the proposition that they have a due process right to be executed on different days, and even if Plaintiffs’ allegation that no state has conducted multiple executions on the same day since 2000 is true, the Court has no doubt that the historical record would show that multiple executions on the same day were not uncommon from the founding era to more recent times.⁴ Likewise, Plaintiffs do not cite any authority for the proposition that their right to equal protection will be violated if, unlike “all other men who have been executed by the State of Florida in the modern day,” they are executed on the same day, and the Court sees nothing irrational⁵ about the State

³ The Court did not overlook Plaintiffs’ allegations that the last two states to conduct multiple executions on the same day experienced problems and that it was suggested that the “extra stress” associated with the schedule may have been a contributing factor to the problems in one of the states. However, those allegations do not make Plaintiffs’ Eighth Amendment claim any less speculative because the complaint provides no meaningful factual basis to compare the circumstances of those executions to Florida’s execution protocol. Thus, it is not reasonable to infer that Florida will have problems conducting multiple executions on the same day (or that Plaintiffs will suffer unnecessary pain) simply because other states may have had problems when they attempted to conduct multiple executions on the same day.

⁴ Time does not allow thorough historical research on this issue, but one famous example is the hanging of Mary Surratt and the other Lincoln Conspirators together in 1865. Also, according to the online database maintained by the Death Penalty Information Center, there were numerous states that conducted same-day executions as recently as the 1990s.

⁵ Plaintiffs cite no authority for the proposition that death row inmates are a suspect class and the Eleventh Circuit has held “prisoners are not a suspect class.” *Jackson v. State Bd. of*

wanting to conduct multiple executions on the same day for the sake of convenience or efficiency.

Count III alleges that scheduling Plaintiffs' executions on the same day violates their right of access to courts. This claim is premised on Plaintiffs not having a meaningful opportunity to challenge the same-day scheduling of their executions between July 14 when Duckett's execution was scheduled and the July 28 execution date. Plaintiffs do not, however, cite any authority for the proposition that they are entitled to a specific amount of time to litigate post-conviction claims and the fact that they did not file this action until nine days into the 14-day period before the execution date cuts against them on this claim—as does the fact that they have now been heard (albeit on an expedited briefing schedule) on at least the potential likelihood of success on their claims.

Not only have Plaintiffs not established a likelihood of success on their claims, but the other stay factors also weigh against them. Indeed, the speculative harm that they might suffer from being executed on the same day is far outweighed by the interest of the State and the public in administering long-overdue justice to Plaintiffs for their heinous crimes. *See Hill*, 547 U.S. at 584 (explaining that the state has a

Pardons and Paroles, 331 F.3d 790, 797 (11th Cir. 2003). Thus, Plaintiffs' equal protection claim would be subject to rational basis review, not heightened scrutiny.

“strong interest in enforcing its criminal judgments without undue interference from the federal courts”).

That said, even if the Court was persuaded that the stay factors weighed in Plaintiffs’ favor, that would not mean that both Plaintiffs would be entitled to a stay of their executions as their motion requests. Rather, it would only mean that one of the executions scheduled for next Tuesday would need to be moved to another day in the warrant period. It would be up to the State to decide in the first instance which execution—Duckett’s or Occhicone’s—will proceed as scheduled and which one will be rescheduled.

* * *

Accordingly, for the reasons stated above, it is **ORDERED** that Plaintiffs’ motion for a stay of execution (Doc. 2) is **DENIED**.

DONE and ORDERED this 24th day of July, 2026.

A handwritten signature in blue ink, appearing to read "T. Kent Wetherell, II", with a stylized flourish at the end.

T. KENT WETHERELL, II
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA,
TALLAHASSEE DIVISION

JAMES AREN DUCKETT,
DOMINICK OCCHICONE,
Plaintiffs,

v.

RON DESANTIS, Governor of
Florida,
et, al.,
Defendants.

Civil Action No.

**EMERGENCY INJUNCTIVE
RELIEF SOUGHT EXECUTION
SCHEDULED FOR: JULY 28,
2026, AT 12:00 P.M.**

EMERGENCY MOTION FOR STAY OF EXECUTION

**COMES NOW THE PLAINTIFFS, JAMES AREN DUCKETT and
DOMINICK OCCHICONE,** by and through undersigned counsel, and herein
moves the Court to enter a stays of execution by the State of Florida, currently
scheduled to take place on July 28, 2026, at 12:00 p.m., at Florida State Prison. In
support thereof, Plaintiffs state as follows:

I. Introduction

Plaintiff James Aren Duckett, a death-sentenced Florida prisoner with an
execution scheduled for July 28, 2026, at 12:00 p.m., and Plaintiff Dominick
Occhicone, a death-sentenced Florida prisoner with an execution scheduled for July
28, 2026, at 6:00 p.m., filed a 42 U.S.C. § 1983 complaint in this Court, seeking
emergency declaratory and injunctive relief preventing his execution from

proceeding. In this Motion, Plaintiffs seek a stay of execution so that this Court may consider the arguments in his complaint without the exigencies of an active death warrant.

II. Mr. Duckett's Action Satisfies the Requirements for a Stay

A stay of execution of a death sentence is a form of injunctive relief. *See Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000). Under Eleventh Circuit precedent, a stay is thus warranted when four factors are satisfied: “(1) [the applicant] has a substantial likelihood of success on the merits; (2) he will suffer irreparable injury unless the injunction issues; (3) the stay would not substantially harm the other litigant, and (4) if issued, the injunction would not be adverse to the public interest.” *Long v. Sec’y, Dept. of Corr.*, 924 F.3d 1171, 1176 (11th Cir. 2019) (citing *Powell v. Thomas*, 641 F.3d 1255, 1257 (11th Cir. 2011)).

Plaintiffs have alleged in their § 1983 complaint that their federal constitutional right against cruel and unusual punishment will be violated if the State of Florida proceeds with his execution as planned. Plaintiffs have proffered facts that satisfy each of the elements required for a stay. As such, Plaintiffs should be granted a stay pending this Court’s resolution of this action in the ordinary course, without the imminent threat of execution.

A. The Cause of Action Has a Substantial Likelihood of Success

Plaintiffs’ complaint alleges that, given the State of Florida’s intention to

execute two capital defendants on the same day, Defendants create a substantial risk that the Plaintiffs will experience pain and suffering in violation of the Eighth Amendment a violation of their rights to Equal Protection under the Fourteenth Amendment

The Eighth Amendment's guarantee protection from cruel and unusual punishment applies both at sentencing and in the carrying out of the sentence. *Glossip v. Gross*, 576 U.S. 863, 877 (2015). By combining Mr. Duckett's execution day with Mr. Occhionne's, the risk of a botched execution is exponentially increased due to factors including the impact of the prison and execution teams not being prepared to conduct two executions on the same day and the risk of errors with the lethal injection drugs. Additionally, by creating two separate classes of individuals who are treated differently in their execution proceedings, the Defendants have violated the Plaintiff's right to equal protection. This arbitrary treatment burdens the Plaintiffs' right to be free of cruel and unusual punishment.

The facts in the complaint as asserted by Mr. Duckett and Mr. Occhoicone warrant a grant of relief.

B. Plaintiffs Will Suffer Irreparable Injury—Death—If No Injunction is Issued

If this Court does not issue a stay, Plaintiffs will be executed in a manner that needlessly inflicts pain and suffering. The Eleventh Circuit has held that the threat of an imminent execution is a presumptive injury. *See, e.g., In re Holladay*, 331 F.3d

1169, 1177 (11th Cir. 2003) (“We consider the irreparability of the injury that petitioner will suffer in the absence of a stay to be self-evident.”); *Ferguson v. Warden, Fla. State Prison*, 493 F. Appx 22, 26 (11th Cir. 2012) (Wilson, J., concurring) (“As a general rule, in the circumstance of an imminent execution, this court presumes the existence of irreparable injury.”).

C. A Stay Would Not Harm Defendants

Mr. Duckett has been on Florida’s death row since 1988, during which time he has had a near perfect disciplinary record. He has been eligible for an execution warrant since his clemency proceedings initiated in 2014. There is no reason to deny a stay and deny Mr. Duckett the review to which he is entitled.

Mr. Occhicone has been on Florida’s death row since 1987, and has likewise had a near perfect disciplinary record. He has been eligible for an execution warrant since his clemency proceedings initiated in 1991 and were updated in 2014. There is no reason to deny a stay and deny Mr. Occhocone the review to which he is entitled.

Defendants would not suffer financial or any other harm from a stay to allow the Court to evaluate the violation of Petitioners’ federal constitutional due process rights. While the State has a legitimate interest in the timely enforcement of valid criminal judgments, it has no legitimate interest in executing Petitioners via a method that would risk the wanton infliction of pain or suffering in violation of the

Eighth and Fourteenth Amendments. *See, e.g., In re Holladay*, 331 F.3d at 1177 (finding “no substantial harm that will flow to the State of Alabama or its citizens from postponing petitioner’s execution to determine whether that execution would violate the Eighth Amendment”). Where an individual’s claim underlying his desire for a stay of execution could mean further proceedings, that weighs heavily against a State’s interest in the person’s imminent execution. *Id.* (“Moreover, contrary to the State’s contention that its interest in executing Holladay outweighs his interest in further proceedings, we perceive no substantial harm. . .”)

D. A Stay Would Not Be Adverse to the Public Interest

The public has an interest in the prevention of constitutional violations, particularly those carried out in the name of the People. *See Woodson v. North Carolina*, 428 U.S. 280, 303-04 (1976) (“[D]eath is a punishment different from all other sanctions in kind rather than degree.”). In the context of the death penalty, where the punishment is “the most irremediable and unfathomable of penalties,” *Ford v. Wainwright*, 477 U.S. 399, 411 (1986),

The public interest is best served by ensuring that all death-sentenced individuals have meaningful access to federal constitutional rights, especially the humane and dignified carrying out of a death sentence. *See Ford v. Wainwright*, 477 U.S. 399, 409-10 (1986) (The Eighth Amendment seeks “to protect the dignity of society itself from the barbarity of exacting mindless vengeance” when carrying out

an execution.). Thus, it is in the public interest to address and resolve the merits of Petitioners' claims to identify and prevent the unconstitutional risk of causing gratuitous suffering. *See Cooley v. Taft*, No. 2:04-cv-1156, 2007 WL 2607583, at *5 (S.D. Ohio 2007) (granting emergency motion for preliminary injunction and stating "the public interest is served only by enforcing constitutional rights and by the prompt and accurate resolution of disputes concerning those constitutional rights. By comparison, the public interest has never been and could never be served by rushing to judgment at the expense of a condemned inmate's constitutional rights.""). Allowing the State to execute a defendant without meaningful review of whether that execution will violate the Eighth Amendment is adverse to the public interest—more than any minimal delay that may result from granting Petitioners' request for a stay and injunctive relief.

III. Conclusion

For the reasons set forth above, and in his complaint, Petitioner requests that the Court enter a stay of his scheduled July 28, 2026, execution so that his § 1983 action can be considered without the imminent threat of Petitioners' deaths.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by electronic service to the parties this 23th day of July, 2026.

/s/ Brittney N. Lacy

BRITTNEY N. LACY
Assistant CCRC-South

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA,
TALLAHASSEE DIVISION**

**JAMES AREN DUCKETT &
DOMINICK OCCHICONE,**

Plaintiffs,

v.

**RON DESANTIS, GOVERNOR
OF FLORIDA, ET, AL.,**

Defendants.

CIVIL ACTION NO. _____

**EMERGENCY INJUNCTIVE
RELIEF SOUGHT;
EXECUTIONS SCHEDULED
FOR JULY 28, 2026,
AT 12:00 P.M. AND 6:00 P.M.**

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
PURSUANT TO 42 U.S.C. § 1983**

Pursuant to 42 U.S.C. § 1983, Plaintiffs James Aren Duckett and Dominick Occhicone, prisoners under sentences of death, hereby bring this action seeking injunctive relief and a declaratory judgment against Defendants Ron DeSantis, Richard Comerford, Randall Polk, and Mark Glass, each in their official capacity (collectively, the “State Actors”), and hereby state:

INTRODUCTION

1. On July 28, 2026, the State of Florida intends to execute Plaintiffs James Aren Duckett and Dominick Occhicone just 6 hours apart. This sobering milestone marks not only the first time in 62 years that Florida will carry out executions of two death-sentenced individuals on the same day, but also the first

time it will do so using lethal injection.

2. “The death penalty is the gravest sentence our society may impose,” *Hall v. Florida*, 572 U.S. 701, 724 (2014), and there is no justifiable reason to carry out Plaintiff Duckett’s and Occhicone’s executions on such a compressed schedule where the risk for irreparable error is at its apex.

3. Declaratory and injunctive relief from this Court are warranted to protect Plaintiff Duckett’s and Occhicone’s constitutional rights under the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution.

PARTIES

4. Plaintiffs James Aren Duckett and Dominick Occhicone are citizens of the United States and Florida. They are both indigent death-sentenced inmates in the custody of the Florida Department of Corrections (“FDOC”) and incarcerated at Florida State Prison (“FSP”) in Raiford, Florida, which is in the Northern District of Florida. Plaintiffs Duckett and Occhicone are scheduled to be executed via lethal injection on July 28, 2026, at 12:00 p.m. and 6:00 p.m., respectively.

5. Defendant Ron DeSantis is the Governor of the State of Florida and the final executive authority in the state. As Governor, DeSantis is statutorily responsible for issuing death warrants and “directing the [FSP] warden to execute the sentence at a time designated [therein].” § 922.052(3), Fla. Stat. (2013). The Governor also has the power to stay executions. § 922.06(1), Fla. Stat. (1996).

DeSantis is being sued in his official capacity.

6. Defendant Richard Comerford is the Secretary of the Florida Department of Corrections. Under Florida law, death sentences are “executed under the direction of the Secretary of Corrections or the secretary’s designee.” §922.105(1), Fla. Stat. (2025). Moreover, it is responsibility of the FDOC Secretary to periodically review and certify the Execution by Lethal Injection Procedures “to ensure proper implementation of the Department’s statutory duties under Chapter 922, Florida Statutes.” Exhibit 1. Comerford has been the FDOC Secretary since July 1, 2026, and is being sued in his official capacity.

7. Defendant Randall Polk is the Warden of Florida State Prison. As FSP’s warden, Polk is responsible for setting the date to execute an inmate’s sentence “within the week designated by the Governor in the [death] warrant,” § 922.11(1), Fla. Stat. (2000), as well as “handling support functions necessary to carry out the lethal injection process.” Exhibit 1, p. 1. Polk is also statutorily responsible for designating the executioner, § 922.10, Fla. Stat. (2025), and either he “or a deputy designated by him . . . must be present at the execution.” § 922.11(1), Fla. Stat. Polk is being sued in his official capacity.

8. Defendant Mark Glass is the Commissioner of the Florida Department of Law Enforcement (FDLE). Under FDOC’s execution protocol, FDLE agents are “responsible for monitoring the preparation of the [lethal] chemicals” and

“observing the actions of the execution team and the condition of the condemned inmate at all times during the execution process.” Exhibit 1, p. 5. Glass is being sued in his official capacity.

JURISDICTION AND VENUE

9. This action arises under federal statute and presents federal questions within this Court’s jurisdiction under Article III and 28 U.S.C. §§ 1331, 1343(a)(3). This action is being brought pursuant to 42 U.S.C. § 1983. This Court has the authority to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201(a) and 2202 and Federal Rule of Civil Procedure 65.

10. Venue is proper in the Northern District of Florida under 28 USC § 1391(b)(2) because the State Actors are all engaged in the actions at issue in this District, and all State Actors are residents of the District.

STATEMENT OF FACTS

11. Plaintiff James Aren Duckett was convicted of the 1987 sexual battery and murder of Teresa McAbee in the Fifth Judicial Circuit Court, in and for Lake County, Florida. Mr. Duckett was sentenced to death for the first-degree murder count following an advisory jury’s 8–4 advisory recommendation. *Duckett v. State*, 568 So. 2d 891 (Fla. 1990).

12. Plaintiff Dominick Occhicone was convicted of two counts of first-degree murder for the 1986 deaths of Raymond and Martha Artzner in the Sixth

Judicial Circuit Court, in and for Pasco County, Florida. Mr. Occhicone received a sentence of life in prison without the possibility of parole for 25 years for the death of Raymond Artzner but was sentenced to death for killing Martha Artzner following a jury's advisory recommendation of 7–5. *Occhicone v. State*, 570 So. 2d 902 (Fla. 1990), *cert. denied*, 500 U.S. 938 (1991).

13. On February 27, 2026, Defendant DeSantis signed a death warrant for Plaintiff Duckett, designating the week beginning at 12:00 noon on Tuesday, March 31, 2026, through 12:00 noon on Tuesday, April 7, 2026, for his execution. As FSP's warden, Defendant Polk set the date and time of Mr. Duckett's execution for Tuesday, March 31, 2026, at 6:00 p.m. Exhibit 2.

14. On March 26, 2026, the Florida Supreme Court entered an Order granting Mr. Duckett's motion to stay his execution due to DNA testing of biological evidence permitted by the circuit court. *Duckett v. State*, 428 So. 3d 40 (Fla. 2026); *Duckett v. State*, 431 So. 3d 900 (Fla. 2026). This stay remained in effect until the Florida Supreme Court disposed of Mr. Duckett's 3.851 appeal and habeas petition filed under warrant and vacated the stay on July 8, 2026. *Duckett v. State*, SC2026-0449 & SC2026-0450, 2026 WL 1970442, at *1 (Fla. July 8, 2026).

15. In the nearly 5 months since Mr. Duckett's warrant was signed, Defendant DeSantis has issued death warrants for 8 more Florida inmates, including Chadwick Willacy (DC# 707742), James Hitchcock (DC# 058293), Richard Knight

(DC# L36346), Andrew Lukehart (DC# 391485), Dusty Ray Spencer (DC# 321031), Dennis Sochor (DC# 639131), William Silvia (DC# 512579), and Plaintiff Occhicone.

16. In addition to executing 2 others who were already under active death warrants when Mr. Duckett's warrant was signed, Billy Leon Kearse (DC# 138315) and Michael King (DC# 132254), FDOC has carried out the sentences of each individual named in ¶ 15, except Mr. Silvia's¹ and Plaintiff Occhicone's.

17. Defendant DeSantis issued the death warrant for Plaintiff Occhicone on June 26, 2026, designating the week beginning at 12:00 noon on Tuesday, July 28, 2026, through 12:00 noon on Tuesday, August 4, 2026, for his execution. Defendant Polk set the date and time of Mr. Occhicone's execution for Tuesday, July 28, 2026, at 6:00 p.m. Exhibit 3.

18. Meanwhile, in a letter dated July 14, 2026, the Attorney General for the State of Florida, James Uthmeier, notified Defendant DeSantis that the stay of execution in Mr. Duckett's case had been lifted and that "the record [was] legally sufficient to support the setting of a new execution date." Exhibit 4, p. 3-4.

19. That same day, Defendant DeSantis issued a letter resetting Mr. Duckett's execution, designating the week beginning at 12:00 noon on Tuesday, July

¹ Defendant DeSantis issued Mr. Silvia's death warrant on July 17, 2026. Mr. Silvia is not scheduled to be executed until August 18, 2026.

28, 2026, through 12:00 noon on Tuesday, August 4, 2026, for the sentence to be carried out. Defendant Polk set the date and time of Mr. Duckett's execution for Tuesday, July 28, 2026, at 12:00 noon. Exhibit 4, p. 1.

20. Plaintiffs Duckett and Occhicone are now set to be executed on the same day, July 28, 2026, just 6 hours apart. If these executions proceed as scheduled, it will be the first time the State has carried out two capital sentences in the same day in the modern era. *See* Execution Database, Death Penalty Info Ctr., <https://deathpenaltyinfo.org/facts-and-research/data/executions?state=Florida&federal=No&page=3> (last updated July 21, 2026); *see also* Hayley Bedard, *Florida Sets Two Executions for the Same Day*, Death Penalty Info. Ctr. (July 20, 2026), <https://deathpenaltyinfo.org/facts-and-research/data/executions?state=Florida&federal=No&page=3> (noting that “[t]he last time Florida carried out two executions on the same day was with the electric chair in 1964”).

A. Florida's Procedure for Issuing Death Warrants and Scheduling Executions

21. Florida law vests the Governor with the sole authority to issue death warrants and designate the time period for executing a capital sentence. § 922.052, Fla. Stat. This same statutory provision authorizes a warrant period of up to 180 days. *Id.*

22. Once the Governor signs a death warrant, it is transmitted to the warden of Florida State Prison where all executions in the state take place. Upon

receipt of the warrant, the warden is required to “set the day for execution within the week designated by the Governor” § 922.11(1), Fla. Stat. (2000). The law and any other publicly available materials are silent as to any other factors governing the warden’s selection of an execution’s date and time. *Id.*

23. Under section 922.105(1), Florida Statutes (2025), “[a] death sentence shall be executed by lethal injection, unless the person sentenced to death affirmatively elects to be executed by electrocution.” Florida’s current three-drug protocol for lethal injections consists of a series of etomidate, rocuronium bromide, and potassium acetate injections. Exhibit 1.

24. Neither Mr. Duckett nor Mr. Occhicone have elected death by electrocution and stand to be executed by lethal injection on July 28, 2026, at 12:00 p.m. and 6:00 p.m., respectively. Their sentences will be executed under the direction of Defendant Comerford as FDOC Secretary or his designee. § 922.105(1), Fla. Stat.

B. Florida’s Lethal Injection Procedures

25. FDOC’s Execution by Lethal Injection Procedures (hereinafter Lethal Injection Procedures) were last certified by former Secretary Ricky D. Dixon on February 18, 2025.² Exhibit 1. Former Secretary Dixon’s letter to Defendant

² FDOC’s Lethal Injection Procedures have been effectively the same since January 2017 when the agency replaced Midazolam with Etomidate as the first drug in the three-drug protocol. Exhibit 1.

DeSantis accompanying the protocol certified that:

The procedure has been reviewed and is compatible with evolving standards of decency that mark the progress of a maturing society, the concepts of the dignity of man, and advances in sciences, research, pharmacology, and technology. The process will not involve unnecessary lingering or the unnecessary or wanton infliction of pain and suffering. The foremost objective of the lethal injection process is a humane and dignified death. Additional guiding principles of the lethal injection process are that it should not be of a long duration, and that while the entire process of execution should be transparent, the concerns and emotions of all those involved must be addressed.

Exhibit 1.

26. Former Secretary Dixon further certified that “[t]he Department is prepared to administer an execution by lethal injection and has the necessary procedures, equipment, facilities, and personnel in place to do so.” Exhibit 1. This means that FDOC “has available the appropriate persons who meet the minimum qualifications under Florida Statutes and in addition have the education, training, or experience, including the necessary licensure or certification, required to perform the responsibilities or duties specified and to anticipate contingencies that might arise during the execution procedure.” Exhibit 1.

27. FDOC’s Lethal Injection Procedures advise that “[t]here will be a review of the lethal injection procedure by the Secretary of the Florida Department of Corrections, at a minimum of once every two years, or more frequently as

needed.” Exhibit 1, p. 14. This “review [is required to] take into consideration the available medical literature, legal jurisprudence, and the protocols and experience from other jurisdictions.” Exhibit 1, p. 14.

28. To the best of Plaintiffs’ knowledge, Defendant Comerford has not yet undertaken this periodic review of Florida’s Lethal Injection Procedures since assuming his role as FDOC Secretary on July 1, 2026. Moreover, Defendant Comerford has only overseen one execution as FDOC Secretary during his tenure thus far, which was the execution of Dennis Sochor by lethal injection on July 14, 2026.

29. Florida’s Lethal Injection Procedures define the roles of the “Execution Team,” the “Executioner,” the “Institutional Warden” (Defendant Polk), and the “Team Warden” responsible for carrying out an execution.

30. The “Execution Team” refers to “correctional staff and other persons who are selected by the team warden designated by the Secretary to assist in the administration of an execution by lethal injection, and who have the training and qualifications, including the necessary licensure or certification, required to perform the responsibilities or duties specified.” Exhibit 1, p. 1.

31. The “Executioner” refers to “an individual selected by the team warden to initiate the flow of lethal chemicals into the inmate.” As explained in the procedures, “[t]he executioner’s sole function is to inject the chemicals into the IV

access port by physically pushing the chemicals from the syringe,” and he or she “is only authorized to carry out this specific function under the direction of the team warden.” Exhibit 1, p. 1.

32. The “Institutional Warden” is the warden of FSP, “who shall be responsible for handling support functions necessary to carry out the lethal injection process.” Exhibit 1, p. 1. As noted above, the Institutional Warden is Defendant Polk, and he has been in this position since December 2025.

33. Lastly, the “Team Warden” refers to “the warden designated by the Secretary” who “has the final and ultimate decision making authority in every aspect of the lethal injection process.” Exhibit 1, p. 2.

34. The Lethal Injection Procedures further provide that “[t]wo (2) FDLE agents shall serve as monitors and shall be responsible for observing the actions of the execution team and the condition of the condemned inmate at all times during the execution process. Exhibit 1, p. 5. “The first FDLE agent shall be located in the executioner’s room and is responsible for observing the preparation of the lethal chemicals and documenting and keeping a detailed log as to what occurs in the executioner’s room at a minimum of two (2) minute intervals.” Exhibit 1, p. 5. “The second FDLE agent shall be located in the execution chamber and will be [likewise] responsible for keeping a detailed log of what is occurring in the execution chamber at a minimum of two (2) minute intervals.” Exhibit 1, p. 5.

35. The Lethal Injection Procedures, as well as sections 945.10(1)(g) and (j), Florida Statutes (2024), explicitly shield the identities of the Execution Team, Executioner, Team Warden, and FDLE monitors from public disclosure. The qualifications and licensure of any individual involved with an execution are absent from the protocol and likewise unknown.

36. The Lethal Injection Protocol calls for successive intravenous injections of 200 milligrams of etomidate, a sedative, followed by 1000 milligrams of rocuronium bromide, a paralytic agent, and 240 milliequivalents of potassium acetate, which stops the heart. Exhibit 1, p. 6-7.

37. On the day of the execution, the designated executioner will prepare syringes with the required dosages to dispense during the lethal injection. That executioner is also instructed to prepare a second set that is not administered unless expressly ordered to by the team warden. Exhibit 1, p. 6-7.

38. The source of the drugs used in Florida's Lethal Injection Protocol is unknown, and the identity of the pharmacy that manufactures the chemicals used by Defendants in executions is confidential. § 945.10, Fla. Stat.

39. Thirty minutes before the execution is set to begin, a designated staff member will gain venous access to the prisoner through each arm. Exhibit 1, p. 9. One arm will be connected to a primary IV line, and the second arm will be connected to a secondary line. *Id.* If the staff member cannot obtain IV access

through the prisoner's arms, the procedures authorize that person to seek peripheral venous access by trying "other appropriate sites." *Id.* If peripheral venous access cannot be achieved, the procedures authorizes the staff member to gain access to the prisoner's veins through a cut-down method, wherein executioners cut directly into the prisoner's skin to insert the IV cannula. *Id.*

40. Multiple parts of the prisoner's body will be strapped down to the gurney, and their fingers will be taped down with a bandage binding his or her hands to the gurney to hide observable movement. Two heart monitors will be strapped to the prisoner's chest, to be monitored in a smaller room adjacent to the execution chamber, out of sight from witnesses. Exhibit 1, p. 9.

41. When the execution begins, a curtain will open, allowing witnesses to view the prisoner. Exhibit 1, p. 11. The executioner will administer the drugs from the smaller room. *Id.* The drugs will travel through a long stretch of IV tubing to reach the prisoner's veins.

42. The procedure begins with the injection of etomidate from two syringes containing 100mg of etomidate each. Exhibit 1, p. 10-11. After that dosage is administered, the team warden will assess whether the prisoner appears sufficiently unconscious. *Id.* at 11.

43. If the team warden determines that the prisoner is still conscious, the execution team will assess the viability of the secondary IV line and perform a

cutdown procedure if that access point is compromised. *Id.* This will occur out of view from the witnesses. *Id.* Once an IV is again set, the process will continue, and etomidate will be injected a second time. *Id.*

44. If at that point the team warden is satisfied with the prisoner's appearance of unconsciousness, the execution will proceed. From the adjacent small room that is out of sight from the witnesses, the executioners will continue and administer 1000mg of rocuronium bromide and 240 milliequivalents of potassium acetate with syringes of saline solution in between. *Id.* at 11-12.

45. When the heart monitors reflect a flat line reading, a physician will then inspect the prisoner to determine if he or she is still breathing and if there is a heartbeat. *Id.* at 13. That physician will pronounce the prisoner dead, concluding the execution. *Id.*

46. The Lethal Injection Procedures certified by former Secretary Dixon on February 18, 2025, do not address multiple executions being carried out on the same day.

C. FDOC's Policies for Inmates Under Warrant on Their Execution Day

47. FDOC policies promulgated by Defendant Polk provide the schedule for inmates on the day of their execution. Exhibit 5. Included in this schedule are final social visits with the inmate's family or friends and visit with the inmate's spiritual advisor.

48. As to final social visits, the policy states that on “[t]he morning of the scheduled execution, social visits will be non-contact from 8:00 a.m. – 10:00 a.m.” Exhibit 5. The policy additionally advises that “[a] final contact visit for the condemned inmate may be authorized by the Institutional Warden based on circumstances as deemed appropriate, from 10:00am until 11:00am.” Exhibit 5.

49. As for the final religious visit, the policy states that on “[t]he day of the scheduled execution, religious visits by the designated religious leader will be non-contact, [with the] option for [a] contact visit cell front at [the] discretion of [the] institutional warden, during the hours of 12:00 pm – 2:00 pm.” Exhibit 5.

50. FDOC policy states that the times described in ¶¶ 48 and 49 “are approximate and subject to change according to the time of the execution.” Exhibit 5. Like its Lethal Injection Protocols, FDOC’s scheduling policy does not address the logistics for carrying out multiple executions on the same day.

51. As such, after receiving notice that his execution date and time had been reset for 12:00 p.m. on July 28, 2026, Plaintiff Duckett immediately contacted Defendant Polk’s assistant to inquire what the schedule would be for his final visit with his family and spiritual advisor. Defendant Polk’s assistant thereafter informed Plaintiff Duckett via email that his final visit with his family would be on Monday, July 27, 2026, from 9:00 a.m. – 12:00 p.m. and that his visit with his spiritual advisor would be on the day of his execution from 6:00 – 8:00 a.m. Exhibit 6.

52. Absent any change to his execution date or time, Plaintiff Duckett will be the only death-sentenced inmate who does not get the opportunity to see his family on the day the State of Florida intends to kill him.

D. The Historical Anomaly of Double Executions in the United States

53. Conducting more than one execution on the same day is exceedingly rare and has only occurred *once* since the year 2000 when Arkansas executed Jack Harold Jones, Jr., and Marcel Wayne Williams via lethal injection on April 24, 2017. *See* Execution Database, Death Penalty Info. Ctr., <https://deathpenaltyinfo.org/facts-and-research/data/executions> (last updated July 23, 2026). The inherent difficulties and concerns arising from the practice has prompted several states to adopt rules expressly prohibiting it.

54. For instance, in 2014, Oklahoma attempted a double execution, which resulted in the botched execution of Clayton Lockett. The Lockett execution led to an investigation by the Oklahoma Department of Public Safety, who determined that the intravenous lines were mishandled for several reasons, including the “extra stress” stemming from the pressure of 2 executions on the same day. Exhibit 7, p. 23. This investigation resulted in a recommendation that “executions should not be scheduled within seven calendar days of each other” and that there be a sufficient time between executions for a review in which “all involved personnel [may] voice their opinion, concerns, and/or recommendations in order for continuous

improvement to the process.” Exhibit 7, p. 28.

55. In 2022, Oklahoma thereafter sought to execute 25 capital defendants at an accelerated pace, only to conclude that an interval of less than 90 days was unsustainable for the staff or its Department of Corrections. *See* Joint Motion to Set the Phase Three Execution Dates at 90-Day Intervals, *In re the Setting of Execution Dates*, filed January 30, 2024. Exhibit 8.

56. When Oklahoma first addressed the execution scheduling, the Court of Criminal Appeals approved the 25 executions to occur at least four weeks apart and only on Thursdays. *Id.* The State of Oklahoma then filed a motion seeking to reset execution dates because “the then-current pace of executions—one every four weeks—was not sustainable for DOC.” *Id.* The Oklahoma Court of Criminal Appeals granted the motion and rescheduled execution dates for “approximately 60 days apart from each other.” *Id.*

57. A year later, the State of Oklahoma went back to the court to request 90-day intervals. Oklahoma’s Department of Corrections noted that there existed “a tremendous burden that executions, and the weeks of process leading up to each execution, place on DOC operations and staff.” *Id.* The Oklahoma Attorney General who attended and witnessed all of the executions supported the spacing to ensure that they were conducted in a constitutional manner. *Id.* Acknowledging the “unique nature of the situation,” the Court of Criminal Appeals explained that the “setting of

executions in phases may exacerbate unforeseen delays that arise in any individual case.” *In Re the Setting of Execution Dates*, filed May 7, 2024. Exhibit 9.

58. Like Oklahoma, South Carolina has also recently determined that there needs to be a minimum time interval between executions in the state. *See* Amended Order, *Moore et al. v. South Carolina*, Case No. 2024-001373 (S.C. Aug. 30, 2024), Exhibit 10. This ruling stemmed from a motion filed by five death-sentenced inmates requesting that the South Carolina Supreme Court require an interval of no less than 13 weeks between death notices and execution dates because “scheduling executions close in time to one another heightens the risk of serious error during the execution, likely resulting in cruel or unusual punishment.” Mot. to Direct or Stay the Issuance of Execution Dates at Intervals of No Less Than 13 Weeks, Exhibit 11, at 1.

59. While the South Carolina Supreme Court declined to adopt the specifically requested interval, the court “nevertheless recognize[d] that a reasonable interval between the issuance of death notices is warranted” and “direct[ed] the Clerk . . . to issue death notices in a manner to ensure an interval of at least thirty-five days between [them]” Exhibit 10.

60. In a similar vein, Missouri limits the number of executions that can be carried out in a one-month period. This prohibition was established by the Missouri Supreme Court in 2016, which it adopted a rule to this effect that states “[t]he department of corrections shall not be required to execute more than one warrant of

execution per month.” Mo. S. Ct. R. 30.30(f).

61. In states without express policies against such a practice, the infrequency of dual executions reflects an implicit understanding of the undue stress imposed on all parties involved in the execution process and risk that such a compressed schedule is “sure or very likely to cause serious illness and needless suffering” *Glossip v. Gross*, 576 U.S. 863, 877 (2015) (quoting *Baze v. Rees*, 553 U.S. 35, 50 (2008)).

62. Several former correctional staff have publicly addressed the stress of overseeing and participating in the execution process.

63. For example, in support of the Oklahoma litigation challenging the carrying out of 25 executions in a single year, nine senior former corrections officers in Oklahoma wrote a letter to the Attorney General urging that the schedule be reassessed. These officials explained that the risk to the staff was “heightened when multiple executions are carried out in rapid sequence” noting that “the prison never really returns to normal operations after the emotional and logistical upheaval of an execution.” Exhibit 12. The letter emphasized:

compressed execution schedule also increases the risk of something going wrong during the execution process because the stress created by each execution compounds the difficulty of an already complex procedure. If even a routine execution can inflict lasting harm on corrections staff, the traumatic impact of a botched execution is exponentially worse.

Exhibit 12.

64. Twenty-three former corrections officials from 16 states also sent a letter to the Arkansas Governor with respect to the eight executions in 2017. These officials warned of the “severe toll on corrections officers’ wellbeing” noting that the rapid pace of the executions was “needlessly exacerbating the strain and stress placed on these officers.” Ed Pilkington, Eight Executions in 11 days: Arkansas order may endanger staff’s mental health, *The Guardian* (Mar. 29, 2017). Exhibit 13.

65. Dr. Allen Ault, former chairman of Florida Department of Corrections who has spoken publicly about the impact of executions on staff noting, “As the old saying goes, you dig two graves: one for the condemned, one for the avenger. That’s what will happen to this execution team – many of them will figuratively have to dig their own grave too.” Exhibit 13.

66. Retired FSP warden Ron McAndrew has likewise expressed his concern as to the expediency of executions noting, “pace matters, because executions depend on human beings performing complex, high-risk tasks under extreme pressure.” Pamela Colloff, *Why is Florida Executing So Many Prisoners?*, *New York Times Magazine* (June 30, 2026). Exhibit 14. McAndrew warns of both the toll the impact of the executions on the staff carrying out the execution, “who carry the memories long after the chamber is cleaned and the state moves on,” as

well as the potential for error. Exhibit 14.

CLAIMS FOR RELIEF

CLAIM I: Defendants’ Compressed Scheduling of Plaintiffs’ Executions Violates Their Rights Under the Fifth, Eighth, and Fourteenth Amendments to the United State Constitution.

67. The previous paragraphs of this complaint are incorporated by reference as fully stated herein.

68. The Eighth and Fourteenth Amendments guarantee litigants the protection from cruel and unusual punishment. U.S. Const. amends. VIII, XIV.

69. The Eighth Amendment’s guarantee applies both at sentencing and in the carrying out of the sentence itself. *Glossip v. Gross*, 576 U.S. 863, 877 (2015) (affirming the Eighth Amendment’s prohibition against an execution method that is “sure or very likely to cause serious illness and needless suffering,” and give rise to ‘sufficiently imminent dangers.’”).

70. State officials have a constitutional duty to ensure that death sentences are imposed in a careful and humane manner. Likewise, this Court must take seriously its duty to ensure that the justice system operates with fairness as well as the appearance of fairness, as both are necessary for maintaining the integrity of the judicial system.

71. Defendants have scheduled and intend to execute Plaintiffs Duckett and Occhicone *within 6 hours of each other on the same day*. This compressed execution

schedule poses an unnecessary and objectively intolerable risk of substantial harm that is sure or very likely to occur absent intervention from this Court. The scheduling of Plaintiff Duckett's and Occhicone's execution in this manner also runs afoul of "the evolving standards of decency that mark the progress of a maturing society." *Trop v. Dulles*, 356 U.S. 86, 101 (1958).

72. "There is no question that death as a punishment is unique in its severity and irrevocability," *Gregg v. Georgia*, 428 U.S. 153, 187 (1976) (citing *Furman v. Georgia*, 408 U.S. 238, 286-91 (1972) (Brennan, J., concurring)), which requires that the procedures for imposing it be implemented in a reasoned, deliberate, and constitutional manner.

73. As demonstrated in ¶¶ 62-66 above, it is beyond dispute that any execution imposes an extraordinary amount of stress on everyone involved. Scheduling multiple executions in the same day unnecessarily exacerbates this stress and amplifies the risk of error since there is no opportunity for participants to engage in any sort of self-assessment or debriefing before the second execution occurs.

74. The stress placed on corrections officers and others involved during the dual-execution day likewise heightens physical and mental fatigue, precludes any meaningful post-execution review of Florida's Lethal Injection Procedures, and correspondingly increases the risk that Plaintiffs will suffer during their executions.

75. Florida's Lethal Injection Procedures demonstrate the intricacies of the

execution process. Each step requires sharp focus and attention to the most minute of details to prevent an irreparable mistake like what happened in Oklahoma with the botched execution of Clayton Lockett in 2014.

76. Because Florida's execution process is shrouded in secrecy and the identities of everyone involved are unknown, Plaintiffs Duckett and Occhicone do not know whether the same execution teams or executioners will carry out both their executions; however, any chance of overlap heightens the risk that grave error will occur and Plaintiffs will unconstitutionally suffer.

77. The Lethal Injection Protocols require, at a minimum, simulations of the execution process on a quarterly basis. Exhibit 1, p. 4 (4). Without more notice than occurred in Plaintiffs' cases that the executions would occur on the same day, it is unlikely that two execution teams had been properly trained, thus the likelihood of the same execution team handling both executions is great.

78. Moreover, preparation for Plaintiffs' executions requires attention to their unique medical conditions and vulnerabilities, including vein viability. Allowing a mere 6 hours in between each execution increases the chance that errors will arise when the execution team attempts to attain venous access. Given that only nine days have passed since Plaintiffs' executions were set for the same date, preparation for their executions is now happening on an overlapping basis without any meaningful consideration of the challenges their individual executions will

present.

79. The increased difficulty with maintaining and storing execution drugs for two individuals also increases the chance that the drugs will not be properly maintained resulting in a botched execution.

80. The truncated timeframe between executions provides Defendants with no opportunity to determine whether any errors occurred with Plaintiff Duckett's execution before it proceeds with carrying out Plaintiff Occhicone's sentence.

81. No justifiable explanation exists for executing Plaintiffs on the same day, which will mark the first dual execution using lethal injection in Florida's history. If Defendants proceed with the current schedule, they are doing so in deliberate violation of Plaintiff Duckett's and Occhicone's constitutional rights.

82. Defendants are on notice that conducting two executions in such quick succession is likely to result in objectively intolerable pain and suffering—particularly where there is no protocol in place that accounts for this practice. If Defendants proceed with the current schedule, they are doing so in deliberate violation of Plaintiff Duckett's and Occhicone's constitutional rights.

CLAIM II: Defendants' Scheduling of Plaintiffs' Executions Violates their Rights to Equal Protection Under the Fifth and Fourteenth Amendments to the United State Constitution.

83. The previous paragraphs of this complaint are incorporated by reference as fully stated herein.

84. The Fifth, Eighth and Fourteenth Amendments guarantee litigants due process and equal protection of the laws. *See* U.S. Const. amends. V, VIII, XIV.

85. Defendants’ execution schedule flouts the fundamental fairness interests enshrined in the Fourteenth Amendment’s concept of Due Process. *See Carmell v. Texas*, 529 U.S. 513, 533 (2000) (“[T]here is plainly a fundamental fairness interest, even apart from any claim of reliance or notice, in having the government abide by the rules of law it establishes to govern the circumstances under which it can deprive a person of his or her liberty or life.”).

86. While the United States Supreme Court has determined that challenging state actions under equal protection is “the usual last resort of constitutional arguments” the Court has determined review of such claims that “involves one of basic civil rights” is appropriate. *See Skinner v. State of Okl. ex. rel. Williamson*, 316 U.S. 535 (1942).

87. Defendants’ scheduling of the executions of Plaintiff Duckett and Plaintiff Occhicone on the same day violates due process and equal protection, which the State of Florida has no rational basis for doing. *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000) (citations omitted); *see also Clubside, Inc. v. Valentin*, 468 F.3d 144, 159 (2d Cir. 2006) (requiring an “extremely high degree of similarity” between the plaintiff and those similarly situated).

88. The Equal Protection Clause guarantees that the State will treat

similarly situated individuals equally. *See F.S. Royster Guano Co. v. Commonwealth of Virginia*, 253 U.S. 412, 415 (1920) (“all persons similarly circumstanced shall be treated alike”). And the Due Process Clause mandates “fundamental fairness” when the State extends procedural benefits to prisoners, even where those benefits or protections are not themselves constitutionally required. *Gagnon v. Scarpelli*, 411 U.S. 778, 790 (1973). But in wielding its most solemn and awesome power, the power to execute its own citizens, the State has eschewed both equality and fairness.

89. The State of Florida has not scheduled two executions in one day in over 60 years. Nor have any capital defendants been executed within seven days of one another since 2000. Since the advent of the modern death penalty, every person scheduled in Florida has been scheduled for individual execution days. By scheduling Mr. Duckett’s and Mr. Occhione’s executions on the same day, contrary to every other individual scheduled for execution post-Furman, Defendants have created two classes of death row prisoners. This arbitrary and disparate treatment – particularly in a matter of life and death such as determining the conditions under which the prisoners will die – is odious to the Constitution and this Court should not countenance it.

90. There is no question—as outlined in more detail in Claim I—that Plaintiffs will suffer injury from having their executions scheduled on the same day that defendants with executions that are spaced out will not suffer. By scheduling

them on the same day, the Defendants create a distinct, disfavored class of death-row prisoners in violation of the Equal Protection and Due Process Clauses.

91. As a general matter, to state a claim for relief under the Equal Protection Clause, a plaintiff must first “show that the State will treat him disparately from other similarly situated persons.” *Arthur v. Thomas*, 674 F.3d 1257, 1262 (11th Cir. 2012) (quotation omitted). A plaintiff must also show that such disparate treatment either burdens a fundamental right, targets a suspect class, or is not rationally related to a legitimate government interest. *See City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 440-41 (1985). Mr. Duckett and Mr. Occhicone can make that showing here.

92. First, the plaintiffs, are without question being treated disparately from all other men who have been executed by the State of Florida during the modern day, as is outlined more clearly in Claim I. For example, by having their executions on the same day, they are at risk of an execution team who is exhausted or distracted from trying to keep up with separate protocol in two cases. They also are at risk of having their drugs mixed up because they are being stored together, or, of having their drugs improperly stored, because the defendants do not have the necessary facilities to individually and properly store drugs for two executions on one day. Plaintiff Duckett is the only capital defendant in Florida under the current death watch policies who will not be permitted a final visit with his family on the day of

his execution. To Plaintiffs’ knowledge, no other capital defendant has been given less than two weeks’ notice of their execution, as was Mr. Duckett, in more than two decades.

93. In contrast, the other class of men - the death row prisoners whose executions have been spread out – faced none of these issues. There can be no clearer example of disparate treatment. *See, e.g., Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992) (“[The Equal Protection Clause] keeps governmental decisionmakers from treating differently persons who are in all relevant respects alike.”); *see also Sunday Lake Iron Co. v. Wakefield Twp.*, 247 U.S. 350, 352 (1918) (“The purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the state’s jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.”).

94. Second, Plaintiff’s equal protection claim is entitled to heightened scrutiny. Plaintiffs and all those on death row retain a fundamental right to life under the Fourteenth Amendment to the United States Constitution. *See Ohio Adult Parole Auth. v. Woodard*, 523 U.S. 272, 288 (1998) (O’Connor, J., concurring in part and concurring in the judgment)³ (“A prisoner under a death sentence remains a living

³ Justice O’Connor’s concurring opinion in *Woodard* provided the holding for that case. *See Gissendaner v. Comm’r, Georgia Dep’t of Corr.*, 794 F.3d 1327, 1331 (11th Cir. 2015).

person and consequently has an interest in his life.”). *Cf. Arthur v. Comm’r, Alabama Dep’t of Corr.*, 680 F. App’x 894, 916–17 (11th Cir. 2017) (unpublished) (Wilson, J., dissenting) (“fundamental right[s] ... exist[] until a death row prisoner’s life is taken[,] [t]he right does not vanish when a prisoner enters the execution chamber and the state begins to tinker with the machinery of death”).

95. Third, and alternatively, Defendants disparate treatment of Plaintiffs with other death sentenced individuals whose executions have been spaced out is without any legitimate or penological interest and must fail even under rational basis review.

96. Rational basis review is deferential, but it is not “toothless.” *Schweiker v. Wilson*, 450 U.S. 221, 234 (1981); *see also Zobel v. Williams*, 457 U.S. 55, 65 (1982) (finding equal protection violation under rational basis review because the State “show[ed] no valid state interests which are rationally served by the distinction it makes between citizens who established residence before 1959 and those who have become residents since then”). And Defendants’ distinction between the Plaintiffs and everyone else who has faced execution in the modern era of the death penalty is not rational.

97. Defendants’ arbitrary line drawing between these two classes of individuals is not rationally related in any way to legitimate state interest and this Court must intervene.

CLAIM III: The Compressed Scheduling of Plaintiffs’ Executions Deprive Them of Their Right of Access to Courts in Violation of the First, Fifth, and Fourteenth Amendments.

98. The previous paragraphs of this complaint are incorporated by reference as fully stated herein.

99. The First, Fifth, and Fourteenth Amendments guarantee litigants and criminal defendants access to courts and due process. *See* U.S. Const. amends. I, V, XIV.

100. The Due Process Clause of the Fourteenth Amendment guarantees that “no State shall . . . deprive any person of life, liberty, or property without due process of law.” Amend. XIV, U.S. Const. Likewise, “one of the basic tenets of Florida law is the requirement that all proceedings affecting life, liberty, or property must be conducted according to due process.” *Scull v. State*, 569 So. 2d 1251, 1252 (Fla. 1990) (citing Art. 1, § 9, Fla. Const.).

101. “Whether acting through its judiciary or through its legislature, a state may not deprive a person of all existing remedies for the enforcement of a right, which the state has no power to destroy, unless there is, or was, afforded to him *some real opportunity to protect it*.” *Brinkerhoff-Faris Trust & Savings Co. v. Hill*, 281 U.S. 673, 682 (1930) (emphasis added). “At a minimum,” due process “require[s] that deprivation[s] of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case.” *Armstrong v.*

Manzo, 380 U.S. 545, 550 (1965) (quoting *Mullane v. Cent. Hannover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)).

102. “[A]n essential principle of due process is that a deprivation of life . . . ‘be preceded by notice and opportunity for **hearing appropriate to the nature of the case.**’” *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) (noting”) (quoting *Mullane*, 339 U.S. at 313) (emphasis added).

103. As the Supreme Court held in *Mathews v. Eldridge*, “the fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” 424 U.S. 319, 333 (1976) (quoting *Armstrong*, 380 U.S. at 553) (emphasis added).

104. Nowhere can these principles be more important than in a capital case, where the Supreme Court has repeatedly emphasized that the Eighth Amendment requires a heightened degree of reliability in the process. *See, e.g., Herrera v. Collins*, 506 U.S. 390 (1993); *McKoy v. North Carolina*, 494 U.S. 433 (1990); *Loudermill*, 470 U.S. at 542 (quoting *Mullane*, 339 U.S. at 313) (reiterating that the due process requirements of notice and opportunity must be “appropriate to the nature of the case”); *Eddings v. Oklahoma*, 455 U.S. 104 (1982); *Lockett v. Ohio*, 438 U.S. 586, 604 (1978) (plurality); *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976).

105. Under this right, the State must make available the tools necessary for

prisoners to obtain meaningful access to available judicial remedies. *Bounds v. Smith*, 430 U.S. 817, 828 (1977). State law must ensure that prisoners like Plaintiffs Duckett and Occhicone have “adequate, effective, and meaningful” access to postconviction remedies in order to vindicate this right. *Id.* (holding that prison authorities are required to provide inmates meaningful legal assistance or resources to ensure their constitutional right of access to courts be upheld).

106. The court’s “‘duty to search for constitutional error with painstaking care is never more exacting than it is in a capital case.’” *Kyles v. Whitley*, 514 U.S. 419, 422 (1995) (quoting *Burger v. Kemp*, 483 U.S. 776, 785 (1987)). This principle applies to all lower courts—both state and federal—given the fact that “death is different.” *See also Lockett v. Ohio*, 438 U.S. 586, 605 (1978) (“Given that the imposition of death by public authority it so profoundly different from all other penalties, we cannot avoid the conclusion that an individualized decision is essential in capital cases.”); *Asay v. State*, 210 So. 3d 1, 18 (Fla. 2016) (“Both this Court and the Supreme Court have recognized that ‘death is different.’”) (citations omitted).

107. To that end, capital litigants must be given the opportunity to raise claims as they arise. The Eighth Amendment is not fulfilled after sentencing, both the imposition of a death sentence *and* the process of carrying out an execution must withstand constitutional scrutiny.

If the Constitution renders the fact *or timing* of his execution contingent upon establishment of a further fact

... “then that fact must be determined with the high regard for truth that befits a decision affecting the life or death of a human being.”

Herrera, 506 U.S. at 405-06 (quoting *Ford*, 477 U.S. at 411).

108. Factual determinations related to the constitutionality of a person’s execution are “properly considered in proximity to the execution.” *Id.* at 406 (noting competency to be executed determination is more reliable near time of execution whereas guilt or innocence determination becomes less reliable). In other words, whether the carrying out of a death sentence violates the Eighth Amendment depends on the facts existing after a death warrant is signed and the determination of these facts requires *increased reliability*.

109. The Eighth Amendment requires a principled way to distinguish between who is executed by a state government *and* how much time they are afforded to investigate and present their claims under warrant. This is particularly abhorrent when the end result is the ultimate penalty—actual death.

110. As alleged above, Plaintiff Occhicone’s execution was scheduled on June 26, 2026. At the time, Plaintiff Duckett did not have an execution date.

111. Plaintiff Duckett was made aware on July 14 that his execution had been rescheduled to the same day as Plaintiff Occhicone, just 6 hours earlier.

112. Defendant’s scheduling fails to provide these litigants a meaningful time or manner to investigate and raise any challenges. Both Plaintiffs had less than

two 2 full weeks from the execution date to assert challenges to the scheduling, which until July 14, 2026, had not occurred in Florida in 62 years and has never occurred under the lethal injection protocol.

113. Because FDOC's protocol does not contemplate same-day executions and because it has never occurred under the Lethal Injection Protocol, neither Plaintiff Duckett nor Plaintiff Occhicone had any way of knowing that the injury could occur, so as to raise a challenge prior to July 14, 2026 at 3:02 p.m.

114. Likewise, because of the secrecy laws surrounding the execution process, neither Plaintiff has a way to ensure that concerns of the constitutional violations due to the compressed schedule will not occur. Thus, Plaintiffs are required to file suit and challenge the procedures and seek discovery, all within a compressed time. This has impeded their access to courts.

115. Florida's failure to schedule executions in a reasonable time and allow litigants to exhaust claims that arise under warrant runs afoul to the Constitution and the very heart of due process.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

116. Plaintiffs do not believe that exhaustion is necessary under the Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e, because this lawsuit does not challenge prison conditions and because there are no administrative remedies available that could provide redress for the challenged violations of his constitutional

rights. Moreover, in the past, Defendants have rejected grievances concerning the state's method of execution.

117. Nevertheless, Plaintiff Duckett filed grievances with Defendant Polk and Florida State Prison challenging the scheduling of his execution. Because his time to file the instant challenge was unnecessarily truncated, Plaintiff Duckett's grievances remain pending as of the filing of this action. Any challenge to the fact that Plaintiff Duckett's grievance remains pending must fail as Defendant's scheduling of the executions with so little time has created the instant scenario and deprived Plaintiffs of an "available" administrative remedy under *Ross v. Blake*, 136 S. Ct. 1850 (2016).

PRAYER FOR RELIEF

118. For the reasons, Plaintiffs James Aren Duckett and Dominick Occhicone respectfully request this Court:

1. Enter a declaratory injunction under 28 U.S.C. § 1983 that Defendants' plans to execute Plaintiffs Duckett and Occhicone on the same day violates their rights under the First, Fifth, Eighth, and Fourteenth Amendments of the United States Constitution;
2. Grant injunctive relief to enjoin the Defendants from executing Plaintiffs Duckett and Occhicone in such a manner that fails to comport with the First, Fifth, Eighth, and Fourteenth Amendments of the United States Constitution; and
3. Issue any further relief as it seems just and proper.

Dated: July **, 2026

Respectfully Submitted,

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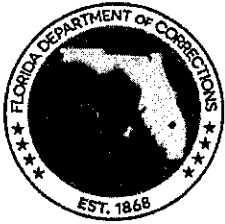
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by electronic service, via email, to all named Defendants and Assistant Attorney General Charmaine Millsaps this 23 day of July, 2026.

/s/ Brittney N. Lacy

BRITTNEY N. LACY

Assistant CCRC-South



FLORIDA DEPARTMENT OF CORRECTIONS

GOVERNOR
RON DESANTIS

SECRETARY
RICKY DIXON

February 18, 2025

The Honorable Ron DeSantis
Executive Office of Governor Ron DeSantis
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Dear Governor DeSantis:

I have carefully reviewed the Execution by Lethal Injection Procedures issued by my Department. Pursuant to these procedures, I represent the following:

As Secretary of the Florida Department of Corrections, I have reviewed the Department's Execution by Lethal Injection Procedures to ensure proper implementation of the Department's statutory duties under Chapter 922, Florida Statutes. The procedure has been reviewed and is compatible with evolving standards of decency that mark the progress of a maturing society, the concepts of the dignity of man, and advances in science, research, pharmacology, and technology. The process will not involve unnecessary lingering or the unnecessary or wanton infliction of pain and suffering. The foremost objective of the lethal injection process is a humane and dignified death. Additional guiding principles of the lethal injection process are that it should not be of long duration, and that while the entire process of execution should be transparent, the concerns and emotions of all those involved must be addressed.

I hereby certify that the Department is prepared to administer an execution by lethal injection and has the necessary procedures, equipment, facilities, and personnel in place to do so. The Department has available the appropriate persons who meet the minimum qualifications under Florida Statutes and in addition have the education, training, or experience, including the necessary licensure or certification, required to perform the responsibilities or duties specified and to anticipate contingencies that might arise during the execution procedure.

Sincerely,

Ricky D. Dixon
Secretary

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FLORIDA DEPARTMENT OF CORRECTIONS

GOVERNOR
RON DESANTIS

SECRETARY
RICKY DIXON

EXECUTION BY LETHAL INJECTION PROCEDURES

PURPOSE: To establish the procedures for the execution by lethal injection of inmates sentenced to death, pursuant to the dictates of Chapter 922, Florida Statutes and adhering to the requirements imposed under the Constitution of the State of Florida and the United States Constitution. The foremost objective of the lethal injection process is a humane and dignified death.

APPLICATION: This procedure applies to any execution by lethal injection conducted pursuant to Chapter 922, Florida Statutes. This procedure supersedes the Florida Department of Corrections *Execution by Lethal Injection Procedures* dated March 10, 2023.

DEFINITIONS:

- (1) **Execution team**, where used herein, refers to correctional staff and other persons who are selected by the team warden designated by the Secretary to assist in the administration of an execution by lethal injection, and who have the training and qualifications, including the necessary licensure or certification, required to perform the responsibilities or duties specified. Individuals on the execution team will be referred to as "execution team member" or "team member" in these procedures.
- (2) **Executioner**, where used herein, refers to an individual selected by the team warden to initiate the flow of lethal chemicals into the inmate. The executioner's sole function is to inject the chemicals into the IV access port by physically pushing the chemicals from the syringe. The executioner is only authorized to carry out this specific function under the direction of the team warden. An executioner shall be an adult, undergo a criminal background check and be sufficiently trained to administer the flow of lethal chemicals. The executioner must demonstrate to the satisfaction of the team warden that s/he is competent, trained, and of sufficient character to carry out the required function under the team warden's direction.
- (3) **Institutional warden**, where used herein, refers to the warden of Florida State Prison, who shall be responsible for handling support functions necessary to carry out the lethal injection process.
- (4) **Minister of religion**, where used herein, refers to a spiritual advisor requested by an inmate to attend an execution as permitted by section 922.11, Florida Statutes. The name of the requested minister of religion must be provided by the inmate to the institutional warden in writing on FDC Form DC6-236 within five days of the issuance of the Governor's Warrant of Execution. A minister of religion shall be an adult and shall undergo a criminal background check. The institutional warden shall also conduct a review process of the individual as described in Florida Department of Corrections rules and policies applicable to visitor approvals and to spiritual advisor visits. Such a

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review will be performed even if the requested minister of religion has been previously approved for regular visitation purposes. Prior to final approval, the institutional warden may also conduct interviews of the requested minister of religion or their associates. The institutional warden may undertake any investigation necessary to verify that the minister of religion is recognized by their organized religious body as qualified to perform religious functions as a representative of the religious organization or group. The institutional warden may waive any component of the review process if the requested minister of religion is a chaplain currently employed by the Florida Department of Corrections. Candidates not employed by the Florida Department of Corrections must also execute a Spiritual Advisor Execution Agreement. The agreement is attached hereto as Appendix A.

- (5) **Team warden**, where used herein, refers to the warden designated by the Secretary. The team warden shall be a person who has demonstrated through experience, training, and good moral character the ability to perform an execution by lethal injection. The team warden has the final and ultimate decision making authority in every aspect of the lethal injection process. No deviation from any part of this procedure is authorized unless approved and directed by the team warden.

SPECIFIC PROCEDURES:

- (1) **Receipt of Warrant**: These execution procedures will commence upon receipt of the Governor's Warrant of Execution. The institutional warden will schedule the execution for a date and time certain that is within the period of time designated in the warrant. The institutional warden will provide a copy of the Warrant of Execution to the Department's Secretary and General Counsel, deliver a copy to the named inmate and the team warden, and notify the Florida Department of Law Enforcement (FDLE), any state correctional institutions, and any local agencies that may be affected by the issuance of the warrant and of the date and time selected for the execution.
- (2) **Selection of the Executioners**:
- (a) The team warden will select two (2) executioners who are fully capable of performing the designated functions to carry out the execution. The team warden will provide each executioner with a copy of this procedure and will explain fully their respective duties and responsibilities and assure that each executioner is trained for the function assigned. The identities of the executioners will be kept strictly confidential as provided by statute.
- (b) The team warden will designate one (1) of the selected executioners as the primary executioner and the other as the secondary executioner. The primary executioner will be solely responsible for administering the flow of lethal chemicals into the inmate during the execution. The secondary executioner will be present and available during the execution to assume the role of the primary executioner if the primary executioner becomes unable for any reason, as determined by the team warden, to carry out his/her functions.
- (3) **Selection of the Execution Team**: The team warden will designate the execution team members and verify that each team member has the training and qualifications, and possesses current, necessary licensure or certification, required to perform the responsibilities or duties specified. The team warden will ensure that all execution team members and other involved

staff have been adequately trained to perform their requisite functions in the execution process. The team warden shall select personnel with sufficient training and experience to perform the technical procedures needed to carry out an execution by lethal injection, including the mixing of the chemicals and placement of the venous access lines. The identities of any team members with medical qualifications shall be strictly confidential.

- (a) The team warden shall select the team member(s) responsible for achieving and monitoring peripheral venous access from the following classes of trained professionals: a phlebotomist currently certified by the American Society for Clinical Pathology (ASCP), American Society of Phlebotomy Technicians (ASPT) or American Medical Technologists (AMT); a paramedic or emergency medical technician, certified under Chapter 401, Florida Statutes; a licensed practical nurse, a registered nurse, or an advanced practice registered nurse licensed under Chapter 464, Florida Statutes; or, a physician or physician's assistant licensed under Chapter 458 or Chapter 459, Florida Statutes.
- (b) The team warden shall select the team member(s) responsible for achieving and monitoring central venous access, if necessary, from the following classes of trained professionals: an advanced practice registered nurse licensed under Chapter 464, Florida Statutes; or, a physician or physician's assistant licensed under Chapter 458 or Chapter 459, Florida Statutes.
- (c) The team warden shall select the team member(s) responsible for examining the inmate prior to execution to determine health issues from the following classes of trained professionals: a paramedic or emergency medical technician, certified under Chapter 401, Florida Statutes; a licensed practical nurse, a registered nurse, or an advanced practice registered nurse licensed under Chapter 464, Florida Statutes; or, a physician or physician's assistant licensed under Chapter 458 or Chapter 459, Florida Statutes.
- (d) The team warden shall select the team member(s) responsible for attaching the leads to the heart monitors and observing the monitors during the administration of execution from the following classes of trained professionals: a paramedic or emergency medical technician, certified under Chapter 401, Florida Statutes; a licensed practical nurse, a registered nurse, or an advanced practice registered nurse licensed under Chapter 464, Florida Statutes; or, a physician or physician's assistant licensed under Chapter 458 or Chapter 459, Florida Statutes.
- (e) The team warden shall select the team member(s) responsible for purchasing, maintaining and mixing the lethal chemicals from the following classes of trained professionals: a physician, licensed under Chapter 458 or Chapter 459, Florida Statutes; or, a pharmacist licensed under Chapter 465, Florida Statutes.
- (f) The team warden shall select other execution team members to carry out the following tasks:
 - 1. Showering and preparation of the inmate.
 - 2. Ensuring that the equipment necessary for an execution is in proper working order.
 - 3. Escorting the inmate from his/her cell to the execution chamber.
 - 4. Applying restraints to the inmate prior to applying the heart monitor leads and acquiring venous access.

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5. Maintaining the open telephone line with the Office of the Governor.
6. Reporting the actions inside the executioner's room to the team warden.
7. Maintaining the checklists that detail the events surrounding the execution.
8. Escorting the minister of religion.
9. Opening and closing the window covering to the witness gallery and turning on and off the public address (PA) system.

This list is not intended to be exhaustive. There may be other necessary tasks to carry out an execution and such tasks will be assigned by the team warden.

Each execution team member is responsible and authorized to raise concerns that become apparent during the execution and bring them to the attention of the team warden.

- (4) **Training of the Execution Team and Executioners:** There shall be sufficient training to ensure that all personnel involved in the execution process are prepared to carry out their distinct roles for an execution. All team members shall be instructed on the effects of each lethal chemical. All simulations or reviews of the process shall be considered training exercises. The team warden, or his/her designee, will conduct simulations of the execution process on a quarterly basis at a minimum or more often as needed as determined by the team warden. Additionally, a simulation shall be conducted prior to the scheduled execution. All persons involved with the execution should participate in the simulations. If a person cannot attend the simulation, the team warden shall provide for an additional training opportunity or otherwise ensure that the person is adequately trained to complete his or her assigned task. There shall be a written record of any training activities. The simulations should anticipate various contingencies. Examples of possible contingencies shall include:

- (a) Issues related to problems with equipment needed to carry out an execution.
- (b) Problems related to venous access of the inmate, including the necessity to obtain an alternate venous access site during the execution process.
- (c) The inmate is not rendered unconscious after the administration of the etomidate injection.
- (d) Combative inmate.
- (e) Incapacity of any execution team member or executioner.
- (f) Unanticipated medical emergency concerning the inmate, an execution team member or executioner.
- (g) Problems related to the order and security at the Florida State Prison, including but not limited to disturbances, unrest or resistance.
- (h) Power failure or other facility problems.

This list is not meant to be exhaustive and only provides examples of the types of contingencies that could arise during the course of an execution. The team warden is responsible for ensuring that training addresses, at a minimum, the above situations.

- (5) **Use of Checklists:** Compliance with this procedure will be documented on appropriate checklists. Upon completion of each step in the process, an execution team member will indicate when the step has been completed. Prior to the administration of the lethal chemicals, the team warden will consult with the designated team member and verify that all steps in the process have been performed properly. At the conclusion of the process, the team warden will again consult with the designated team member and verify that the remaining steps in the process were performed properly. The team warden will then sign the forms, attesting that all steps were performed properly.
- (6) **Purchase and Maintenance of Lethal Chemicals:** A designated execution team member will purchase, and at all times ensure a sufficient supply of, the chemicals to be used in the lethal injection process. The designated team member will ensure that the lethal chemicals have not reached or surpassed their expiration dates. The lethal chemicals will be stored securely at all times as required by state and federal law. The FDLE agent in charge of monitoring the preparation of the chemicals shall confirm that all lethal chemicals are correct and current.
- (7) **FDLE Monitors:**
- (a) Two (2) FDLE agents shall serve as monitors and shall be responsible for observing the actions of the execution team and the condition of the condemned inmate at all times during the execution process.
 - (b) The first FDLE agent shall be located in the executioner's room and is responsible for observing the preparation of the lethal chemicals and documenting and keeping a detailed log as to what occurs in the executioner's room at a minimum of two (2) minute intervals. A copy of the log shall be provided to the team warden and shall be available at the post execution debriefings.
 - (c) The second FDLE agent shall be located in the execution chamber and will be responsible for keeping a detailed log of what is occurring in the execution chamber at a minimum of two (2) minute intervals. A copy of the log shall be provided the team warden and shall be available for the post execution debriefings.
- (8) **Approximately One (1) Week Prior to Execution:**
- (a) The team warden will designate one or more execution team members to review the inmate's medical file and to make a limited physical examination of the inmate to determine whether there are any medical issues that could potentially interfere with the proper administration of the lethal injection process. The team member(s) will verbally report his/her findings to the team warden as soon as is practicable following the file review and physical examination. The results of this examination shall be documented in the inmate's file. After reviewing the results of the examination which should include a determination of the best access site and conferring with the team member(s) that performed the examination, the team warden shall conclude what is the more suitable method of venous access (peripheral or femoral) for the lethal injection process given the individual circumstances of the condemned inmate based on all information provided.

- (b) If a team member reports any issue that could potentially interfere with the proper administration of the lethal injection process, the team warden will consult with any or all of the members of the execution team and resolve the issue.

(9) **On the Day of Execution:**

- (a) A food service director, or his/her designee, will personally prepare and serve the inmate's last meal. The inmate will be allowed to request specific food and non-alcoholic drink to the extent such food and drink costs forty dollars (\$40) or less, is available at the institution, and is approved by the food service director.
- (b) The inmate will be escorted by one (1) or more team members to the shower area where a team member of the same sex will supervise the showering of the inmate. Immediately thereafter, the inmate will be returned to his/her assigned cell and issued appropriate clothing. A designated member of the execution team will obtain and deliver the clothing to the inmate.
- (c) A designated execution team member will ensure that the telephone in the execution chamber is fully functional and that there is a fully-charged, fully-functional cellular telephone in the execution chamber. Telephone calls will be placed from the telephone to ensure proper operation. Additionally, a member of the team shall ensure that the two-way audio communication system and the visual monitoring equipment are fully functional.
- (d) A designated execution team member will ensure that the PA system is fully functional.
- (e) The only staff authorized to be in the execution chamber area are members of the execution team and others as approved by the team warden, including two monitors from FDLE.
- (f) A designated execution team member, in the presence of one or more additional team members and an independent observer from FDLE, will prepare the lethal injection chemicals as follows, ensuring that each syringe used in the lethal injection process is appropriately labeled, including the name of the chemical contained therein:
 - (1) Etomidate injection: A sterile, disposable sixty cubic centimeter (60cc) syringe and needle will be used to draw fifty milliliters (50mls) of etomidate injection 2mg/ml from one or more vials containing same, for a total of one hundred milligrams (100mg) of etomidate injection. The syringe will then be fitted with an eighteen (18) gauge, one (1) inch, blunt cannula (tube), clearly labeled with the number one (1), and placed in the first slot on a stand designed to hold eight (8) such syringes in separate slots. The stand will be clearly labeled with the letter "A." This process will be repeated with a second syringe, which will be clearly labeled with a number two (2) and placed in the second slot on stand "A." Two additional syringes will be drawn in the same manner, fitted with the blunt cannula, and clearly labeled with the numbers one (1) and two (2), respectively. These two syringes will be placed in the first two slots on a second stand that has been clearly labeled with the letter "B." All materials used to prepare these syringes will be removed from the work area and discarded pursuant to state and federal law.

- (2) Rocuronium bromide injection: A sterile, disposable sixty cubic centimeter (60cc) syringe will be used to draw five hundred milligrams (500mg) of rocuronium bromide injection from one or more vials containing same. The syringe will then be fitted with an eighteen (18) gauge, one (1) inch, blunt cannula (tube). This procedure will be repeated until there are four (4) syringes, each containing five hundred milligrams (500mg) of rocuronium bromide injection, for a total of two thousand milligrams (2000mg). Two syringes will be clearly labeled with the numbers four (4) and five (5), respectively, and placed into slots four (4) and five (5) on stand "A." This procedure will be repeated with the other two syringes, each of which will be fitted with a blunt cannula, labeled appropriately and placed in slots four (4) and five (5), respectively, on stand "B." All materials used to prepare these syringes will be removed from the work area and discarded pursuant to state and federal law.
- (3) Potassium acetate injection: A sterile, disposable sixty cubic centimeter (60cc) syringe will be used to draw one hundred twenty milliequivalents (120mEq) of potassium acetate injection from one or more vials containing same. The syringe will then be fitted with an eighteen (18) gauge, one (1) inch blunt cannula (tube). This procedure will be repeated until there are four (4) syringes, each containing one hundred twenty milliequivalents (120mEq) of potassium acetate injection, for a total of four hundred eighty (480) milliequivalents. Two syringes will be clearly labeled with the numbers seven (7) and eight (8), respectively, and placed into slots seven (7) and eight (8) on stand "A." This procedure will be repeated with the other two syringes, each of which will be fitted with a blunt cannula, labeled appropriately, and placed in slots seven (7) and eight (8), respectively, on stand "B." All materials used to prepare these syringes will be removed from the work area and discarded pursuant to state and federal law.
- (4) Saline solution: A sterile, disposable twenty cubic centimeter (20cc) syringe will be used to draw twenty milliliters (20ml) of sterile saline solution from one or more vials containing same. This procedure will be repeated until there are four (4) syringes, each containing twenty milliliters (20ml) of sterile saline solution, for a total of eighty (80) milliliters. Each syringe will then be fitted with an eighteen (18) gauge, one (1) inch, blunt cannula (tube). Two syringes will be clearly labeled with the numbers three (3) and six (6), respectively, and placed into slots three (3) and six (6) on stand "A." This procedure will be repeated with the other two syringes, each of which will be placed in slots three (3) and six (6), respectively, on stand "B." All materials used to prepare these syringes will be removed from the work area and discarded pursuant to state and federal law.
- (g) The execution team member who has prepared the lethal chemicals will transport them personally, in the presence of one or more additional members of the execution team, to the executioner's room. Stand "A" will be placed on the worktop for use by the primary executioner, to be used during the execution by lethal injection. Stand "B" will be placed on a shelf underneath the worktop within easy reach of the executioners should they be needed during the execution. Stand "B" will not be used unless expressly ordered to be used by the team warden. The lethal chemicals will remain secure until the executioners arrive. No one other than the executioners will have access to the lethal chemicals, unless a stay is granted, in which case the execution team member who

prepared the lethal chemicals will retrieve them from the locked room and dispose of them according to state and federal law.

- (h) A designated execution team member will prepare, using an aseptic technique, two (2) standard intravenous (IV) infusion sets, each consisting of a pre-filled, sterile plastic bag of normal saline for IV use (a solution of sodium chloride at 0.9% concentration) with an attached drip chamber, a long sterile tube fitted with a back check valve and a clamp to regulate the flow, a connector to attach to the access device, and an extension set fitted with a luer lock tip for a blood cannula to allow for the infusion of the lethal chemicals into the line. The extension set that will be used to infuse the lethal chemicals into the primary injection line will be clearly marked with a "1," and the additional extension set that will be attached to the secondary injection line will be clearly marked with a "2."
- (i) The team warden will explain the lethal injection preparation procedure to the inmate and ensure the provision of any medical assistance or care deemed appropriate. The inmate will be offered and, if accepted, will be administered intramuscular injections of hydroxyzine, in appropriate dosages relative to weight, to ease anxiety.
- (j) Authorized media witnesses will be picked up at the designated media on-looker area located at New River Correctional Institution by two (2) designated Department of Corrections escort staff, transported to the main entrance of Florida State Prison as a group, cleared by security, and escorted to the population visiting park, where they will remain until being escorted to the witness room of the execution chamber by the designated escort staff.
- (k) The team warden will administer both a presumptive drug test (oral swab method) and a presumptive alcohol test (breath analyzer) to each execution team member. A positive indication for the presence of alcohol or any chemical substance that may impair their normal faculties will disqualify that person from participating in the execution process. Upon the arrival of the executioners to perform their duties, the team warden will administer both a presumptive drug test (oral swab method) and a presumptive alcohol test (breath analyzer) to each executioner. A positive indication for the presence of alcohol or any chemical substance that may impair their normal faculties will disqualify that person from participating in the execution process. If one or both of the executioners is disqualified, the team warden will continue to select and test as many additional executioners as is necessary to ensure the presence of two qualified executioners at the execution.

(10) Approximately Thirty (30) Minutes Prior to Execution:

- (a) A designated execution team member will establish telephone communication with the Office of the Governor on behalf of the team warden. The team warden will communicate with the Office of the Governor to determine whether any cause for delay exists. The phone line will remain open to the Office of the Governor during the entire execution procedure. The team member will use this open line to report the ongoing activities of the execution team and other personnel to the Office of the Governor.
- (b) When the team warden determines that no cause for delay remains, a designated member of the execution team will escort the two (2) executioners into the executioner's room, where they will remain until the execution process is complete.

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- (c) The team warden will read the Warrant of Execution to the inmate. The inmate may waive the reading of the warrant.
- (d) Designated members of the execution team will apply wrist restraints to the inmate and escort him/her from his cell to the execution chamber.
- (e) Designated members of the execution team will assist the inmate, if necessary, in positioning himself/herself onto the execution gurney in the execution chamber.
- (f) Designated members of the execution team will secure the restraining straps.
- (g) One or more designated members of the execution team will attach the leads to two (2) heart monitors to the inmate's chest, ensuring that the monitors are operational both before and after the chest restraints are secured.
- (h) Unless the team warden has previously determined to gain venous access through a central line, a designated team member will insert one intravenous (IV) line into each arm at the medial aspect of the antecubital fossa of the inmate and ensure that the saline drip is flowing freely. The team member will designate one IV line as the primary line and clearly identify it with the number "1." The team member will designate the other line as the secondary line and clearly identify it with the number "2." If venous access cannot be achieved in either or both of the arms, access will be secured at other appropriate sites until peripheral venous access is achieved at two separate locations, one identified as the primary injection site and the other identified as the secondary injection site.
- (i) If peripheral venous access cannot be achieved, a designated team member will perform a central venous line placement, with or without a venous cut-down (wherein a vein is exposed surgically and a cannula is inserted), at one or more sites deemed appropriate by that team member. If two sites are accessed, each line will be identified with a "1" or a "2," depending on their identification as the primary and secondary lines.
- (j) One or more designated members of the execution team will remove, one at a time, from the pole attached to the gurney, the two (2) saline bags and pass the bags, along with the extension sets attached to lines labeled "1" and "2," through a small opening into the executioner's room, where a team member will hang the bags on separate hooks inside the room. The designated team member(s) will ensure that the tubing from the IV insertion points to the bags has not been compromised and that the saline drip is flowing freely. The team member will be responsible for continuously monitoring the viability of the IV lines prior to and during the administration of the execution.

(11) Approximately Fifteen (15) Minutes Prior to Execution:

- (a) Official witnesses will be secured in the witness room of the execution chamber by two designated Department of Corrections escort staff.
- (b) Authorized media witnesses will be secured in the witness room of the execution chamber.

- (c) The only persons authorized in the witness room are: twelve (12) official witnesses, including family members of the victim, four (4) alternate official witnesses, one (1) nurse or medical technician, twelve (12) authorized media representatives, one (1) representative from the Department's public affairs office, one (1) designated staff escort, and one (1) designated team member. Counsel for the convicted person and a minister of religion requested by the convicted person may also be present. Any exception must be approved by the institutional warden.
- (d) The institutional warden may deny access to the institution to any visitor, official witness or other person he or she deems a risk to the security of the institution. In the event there is reasonable suspicion that an individual may initiate or attempt to initiate a violent or disruptive act prior to, during, or following an execution, that person will not be permitted to witness the execution and will be escorted off the prison grounds immediately.
- (e) The execution chamber will be secured. Only the team warden, one (1) additional execution team member and one (1) FDLE monitor shall be allowed in the chamber during the administration of the execution. Any exceptions or contingencies must be approved by the team warden.
- (f) The executioner's room will be secured. Only the executioners, the team member reporting actions in the executioner's room to the warden, the team member reporting actions to the Office of the Governor, the team member observing the heart monitors, the team member maintaining the checklists, and the FDLE agent assigned to the executioner's room shall be allowed in the executioner's room. Any exception must be approved by the team warden.

(12) **Administration of Execution:**

- (a) An execution team member will open the covering to the witness gallery window. The team warden will use the open telephone line to determine from the Governor whether there has been a stay of execution. If the team warden receives a negative response, s/he will then proceed with the execution.
- (b) An execution team member will turn on the PA system. The team warden will permit the inmate to make an oral statement, which will be broadcast into the witness gallery over the PA system. At the conclusion of the inmate's statement, or if the inmate declines to make a statement, the team warden will announce that the execution process has begun. A designated member of the execution team will turn off the PA system.
- (c) In the presence of the secondary executioner and within sight of one (1) or more execution team members and one (1) of the FDLE monitors, the primary executioner will administer the lethal chemicals in the following manner:
 - (1) The executioner will remove from the stand on the worktop the syringe labeled number one (1), which contains one hundred milligrams (100mg) of etomidate injection, place the blunt cannula into the open port of the IV extension set connected to the primary line and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.

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- (2) The executioner will remove from the stand on the worktop the syringe labeled number two (2), which contains one hundred milligrams (100mg) of etomidate injection, place the blunt cannula into the open port of the IV extension set connected to the primary line and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.
- (3) The executioner will remove from the stand on the worktop the syringe labeled number three (3), which contains twenty milliliters (20ml) of saline solution, place the blunt cannula into the open port of the IV extension set connected to the primary line, and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.
- (4) At this point, the team warden will assess whether the inmate is unconscious. The team warden must determine, after consultation, that the inmate is indeed unconscious. If the inmate is unconscious and the team warden orders the executioners to continue, the executioners shall proceed to step (12)(c)(6).
- (5) In the event that the inmate is not unconscious, the team warden shall signal that the execution process is suspended and note the time and order the window covering to the witness gallery to be closed. The execution team shall assess the viability of the secondary access site. If the secondary access site is deemed viable, then the team member shall designate this site as the new primary access site. If the secondary access site is compromised, a designated execution team member will secure peripheral venous access at another appropriate site or will perform a central venous line placement, with or without a venous cut-down, at one or more sites deemed appropriate by that team member. Once the team warden is assured that the team has secured a viable access site, the team warden shall order the drapes to be opened and signal that the execution process will resume. The executioners will then be directed to initiate the administration of lethal chemicals from stand "B" into the newly established primary line, starting with the syringes of etomidate injection, labeled one (1) and two (2) and the first syringe of saline. The executioners will continue to use the remaining chemicals from stand "B" throughout the execution at the direction of team warden. The team warden will then again proceed to step (12)(c)(4) and assess whether the inmate is unconscious.
- (6) The executioner will remove from the stand on the worktop the syringe labeled number four (4), which contains five hundred milligrams (500mg) of rocuronium bromide injection, place the blunt cannula into the open port of the IV extension set connected to the primary line, and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.
- (7) The executioner will remove from the stand on the worktop the syringe labeled number five (5), which contains five hundred milligrams (500mg) of rocuronium bromide injection, place the blunt cannula into the open port of the IV extension

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set connected to the primary line, and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.

- (8) The executioner will remove from the stand on the worktop the syringe labeled number six (6), which contains twenty milliliters (20ml) of saline solution, place the blunt cannula into the open port of the IV extension set connected to the primary line, and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.
 - (9) The executioner will remove from the stand on the worktop the syringe labeled number seven (7), which contains one hundred twenty milliequivalents (120mEq) of potassium acetate injection, place the blunt cannula into the open port of the IV extension set connected to the primary line, and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.
 - (10) The executioner will remove from the stand on the worktop the syringe labeled number eight (8), which contains one hundred twenty milliequivalents (120mEq) of potassium acetate injection, place the blunt cannula into the open port of the IV extension set connected to the primary line, and push the entire contents of that syringe into the IV port at a rate that meets the injection resistance of the cannula. When the syringe is depleted, s/he will hand the empty syringe to the secondary executioner for safe disposal.
 - (11) The primary executioner shall at all times administer the lethal injection chemicals. Only if the primary executioner becomes incapacitated shall the secondary executioner administer the lethal chemicals. At no time shall more than one (1) executioner inject any lethal chemicals to complete the execution.
- (d) If at any time during the administration of the lethal chemicals the primary venous access becomes compromised, the team warden shall order the execution process stopped and order the window covering to the witness gallery to be closed. The execution team shall assess the primary access site and assess the viability of the secondary access site and take appropriate remedial action at the access site, if necessary. If neither access site is viable, a designated execution team member will secure peripheral venous access at another appropriate site or will perform a central venous line placement, with or without a venous cut-down, at one or more sites deemed appropriate by that team member. Once the team warden is assured that the execution team has secured a viable access site, the warden shall order the drapes to be opened and direct that the execution process will resume using the newly established primary line. The executioners will be directed to initiate the administration of lethal chemicals from stand "B" into the IV set attached to the newly established primary line, starting with the syringes of etomidate injection, labeled one (1) and two (2) and the first syringe of saline, labeled number three (3). The team warden will then proceed to step (12)(c)(4), as described above.

- (e) Throughout the execution process, one (1) or more designated execution team members will observe the heart monitors. If the heart monitors reflect a flat line reading during or following the complete administration of the lethal chemicals, a physician will examine the inmate to determine whether there is complete cessation of respiration and heartbeat.
- (f) Once the inmate is pronounced dead by the physician, a designated member of the execution team will record the time of death on the appropriate lethal injection procedures checklist.
- (g) The team warden will notify the Governor via the open phone line that the sentence has been carried out and the time of death.
- (h) A designated execution team member will turn on the PA system. The team warden shall make the following announcement to the witnesses in the gallery: "The sentence of the State of Florida vs. [Inmate Name] has been carried out at [time of day]."
- (i) The designated team member will close the window covering to the witness gallery.
- (j) The designated Department of Corrections escort staff will escort all witnesses, all of the media pool and any other individuals who are not members of the execution team from the witness room and the execution chamber.

(13) **Immediate Post-Execution Procedures:**

- (a) Designated execution team members will dispose of the equipment and any remaining chemicals as required by state and federal law.
- (b) The institutional warden will coordinate the entry of hearse attendants for recovery of the inmate's body.
- (c) The inmate's body will be removed from the execution table by hearse attendants under the supervision of the designated team member.
- (d) The institutional warden, or his/her designee, will obtain a certification of death from the physician and will deliver the certification to the hearse attendants prior to their departure.
- (e) The inmate's body will be transported by the hearse attendants to the medical examiner's office in Alachua County for an autopsy.
- (f) The team warden shall conduct a brief debriefing interview with every execution team member and the executioners, documenting any exceptional circumstances that arose during the execution. Subsequent debriefings will take place, as appropriate.

(14) **Follow-Up Procedures:**

- (a) The institutional warden will forward the Warrant of Execution and a signed statement of the execution to the Secretary of State.
- (b) The institutional warden will file an attested copy of the Warrant of Execution and a signed statement of the execution with the clerk of the court that imposed the sentence.

13

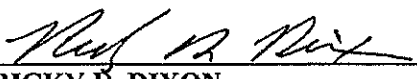
501 SOUTH CALHOUN STREET
TALLAHASSEE, FLORIDA 32399-2500
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- (c) The institutional warden, or his/her designee, will advise central office records by e-mail of the inmate's name and the date and time of death by execution.
- (15) **Periodic Review and Certificate from Secretary:** There will be a review of the lethal injection procedure by the Secretary of the Florida Department of Corrections, at a minimum of once every two years, or more frequently as needed. The review will take into consideration the available medical literature, legal jurisprudence, and the protocols and experience from other jurisdictions. The Secretary of the Department of Corrections shall, upon completion of this review, certify to the Governor of the State of Florida confirming that the Department is adequately prepared to carry out executions by lethal injection. The Secretary will confirm with the team warden that the execution team satisfies current licensure and certification and all team members and executioners meet all training and qualifications requirements as detailed in these procedures. A copy of the certification shall be provided to the Attorney General and the institutional warden shall provide a copy to a condemned inmate and counsel for the inmate after a warrant is signed.

The certification shall read:

As Secretary of the Florida Department of Corrections, I have reviewed the Department's Execution by Lethal Injection Procedures to ensure proper implementation of the Department's statutory duties under Chapter 922, Florida Statutes. The procedure has been reviewed and is compatible with evolving standards of decency that mark the progress of a maturing society, the concepts of the dignity of man, and advances in science, research, pharmacology, and technology. The process will not involve unnecessary lingering or the unnecessary or wanton infliction of pain and suffering. The foremost objective of the lethal injection process is a humane and dignified death. Additional guiding principles of the lethal injection process are that it should not be of long duration, and that while the entire process of execution should be transparent, the concerns and emotions of all those involved must be addressed.

I hereby certify that the Department is prepared to administer an execution by lethal injection and has the necessary procedures, equipment, facilities, and personnel in place to do so. The Department has available the appropriate persons who meet the minimum qualifications under Florida Statutes and in addition have the education, training, or experience, including the necessary licensure or certification, required to perform the responsibilities or duties specified and to anticipate contingencies that might arise during the execution procedure.


RICKY D. DIXON
SECRETARY

2/18/2025
DATE



RON DeSANTIS
GOVERNOR

February 27, 2026

Warden Randall Polk
Florida State Prison
7819 N.W. 228th Street
Raiford, Florida 32036-1000

Re: Execution Date for James Aren Duckett, DC# 112232

Dear Warden Polk:

Enclosed is the death warrant that I signed to carry out the sentence for James Aren Duckett, as well as certified copies of his judgment and sentence. I have designated the week beginning at 12:00 noon on Tuesday, March 31, 2026, through 12:00 noon on Tuesday, April 7, 2026, for the execution. I have been advised that you have set the date and time of execution for Tuesday, March 31 at 6:00 p.m.

This letter is incorporated into and made a part of the death warrant identified above.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

Enclosures

FILED
2026 FEB 27 PM 3:57
DEPARTMENT OF STATE
TALLAHASSEE, FL

Warden Randall Polk
February 27, 2026
Page 2

cc:

Honorable Carlos G. Muñiz
Chief Justice
Supreme Court of Florida
500 S. Duval Street
Tallahassee, Florida 32399

Honorable Daniel B. Merritt, Jr.
Chief Judge, 5th Judicial Circuit
20 N. Main Street
Brooksville, Florida 34601

Secretary Ricky Dixon
Department of Corrections
501 S. Calhoun Street
Tallahassee, Florida 32399-2500

Marilyn Muir
Associate Deputy Attorney General
Office of the Attorney General
The Capitol, FL-01
Tallahassee, Florida 32300-0001

Eric Pinkard
Capital Collateral Regional Counsel
12973 N. Telecom Parkway
Temple Terrace, Florida 33637

Office of Executive Clemency
4070 Esplanade Way
Building C, Room 229
Tallahassee, Florida 32399-2450

James Aren Duckett, DC# 112232
Union Correctional Institution
7819 N.W. 228th Street
Raiford, Florida 32083

Brittney Nicole Lacy
Capital Collateral Regional Counsel
110 S.E. 6th Street Ste 701
Fort Lauderdale, Florida 33301



STATE OF FLORIDA

JAMES UTHMEIER
ATTORNEY GENERAL

February 27, 2026

The Honorable Ron DeSantis
Governor
The Capitol
Tallahassee, Florida 32399-0001

RE: James Aren Duckett

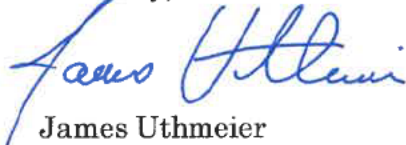
Dear Governor DeSantis:

James Aren Duckett, a City of Mascotte police officer, was convicted of and sentenced to death for the first-degree murder and sexual battery of eleven-year-old Teresa McAbee. Teresa's body was found in a lake less than a mile from the convenience store where she was last seen getting into Duckett's patrol car. Teresa had been sexually battered, strangled, and drowned. Distinctive tire tracks matching the tires on Duckett's patrol car were found at the scene. Teresa's fingerprints were found on the hood of Duckett's patrol car indicating "that she had been sitting backwards on the hood and had scooted up the car." The Florida Supreme Court affirmed Duckett's conviction and death sentence. *Duckett v. State*, 568 So. 2d 891 (Fla. 1990).

Over the next three decades, Duckett engaged in unsuccessful postconviction litigation in both state and federal courts. *Duckett v. State*, 918 So. 2d 224 (2005), *cert. denied*, 549 U.S. 846 (2006) (affirming the denial of postconviction relief and petition for writ of habeas corpus); *Duckett v. McDonough*, 701 F. Supp. 2d 1245, 1300 (M.D. Fla. 2010) (denying petition for habeas corpus); *Duckett v. State*, 148 So. 3d 1163 (Fla. 2014) (affirming denial of postconviction relief); *Duckett v. State*, 260 So. 3d 230 (Fla. 2018) (affirming denial of *Hurst* relief), *cert. denied*, 587 U.S. 1053 (2019).

The record has been reviewed, and there are no stays of execution issued by any court of competent jurisdiction in this cause. Based upon the above-referenced summary of litigation affirming the judgment and sentence of death imposed for first-degree murder, the record is legally sufficient to support the issuance of a death warrant.

Sincerely,



James Uthmeier
Attorney General

☐ PROBATION VIOLATOR
(Check if Applicable)

IN THE CIRCUIT COURT, FIFTH
JUDICIAL CIRCUIT, IN AND FOR

LAKE COUNTY, FLORIDA

DIVISION FELONY

CASE NUMBER 87-1347-CFA

STATE OF FLORIDA

—vs—

JAMES AREN DUCKETT

Defendant

JUDGMENT

The Defendant, JAMES AREN DUCKETT, being personally before this

Court represented by Jack Edmund, Esquire, his attorney of record, and having:

(Check Applicable Provision)
☒ Been tried and found guilty of the following crime(s)
☐ Entered a plea of guilty to the following crime(s)
☐ Entered a plea of nolo contendere to the following crime(s)

COUNT	CRIME	OFFENSE STATUTE NUMBER(S)	DEGREE OF CRIME	CASE NUMBER
One	MURDER IN THE FIRST DEGREE	782.04(1)(a)1	Capital	87-1347-CFA

and no cause having been shown why the Defendant should not be adjudicated guilty, IT IS ORDERED THAT the Defendant is hereby ADJUDICATED GUILTY of the above crime(s).

The Defendant is hereby ordered to pay the sum of twenty dollars (\$20.00) pursuant to FS. 960.20 (Crimes Compensation Trust Fund). The Defendant is further ordered to pay the sum of three dollars (3.00) as a court cost pursuant to F.S. 943.25(4).

(Check if Applicable)
☒ The Defendant is ordered to pay an additional sum of two dollars (\$2.00) pursuant to F.S. 943.25(7).
(This provision is optional; not applicable unless checked).
☐ The Defendant is further ordered to pay a fine in the sum of \$ _____ pursuant to F.S. 775.0835.
(This provision refers to the optional fine for the Crimes Compensation Trust Fund, and is not applicable unless checked and completed. Fines imposed as part of a sentence pursuant to F.S. 775.083 are to be recorded on the Sentence page(s)).
☐ The Court hereby imposes additional court costs in the sum of \$ _____.
☐ The Defendant is further ordered to pay an additional \$200.00 pursuant to F.S. 27.3455

Case: 1987 CF 001347



Dkt: CFJF

Imposition of Sentence
Stayed and Withheld
(Check If Applicable)

☐ The Court hereby stays and withholds the imposition of sentence as to count(s) _____ and places the Defendant on probation for a period of _____ under the supervision of the Department of Corrections (conditions of probation set forth in separate order.)

Sentence Deferred
Until Later Date
(Check If Applicable)

☒ The Court hereby defers imposition of sentence until June 30, 1988
(date)

☒ The Defendant in Open Court was advised of his right to appeal from this Judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The Defendant was also advised of his right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

☐ The Defendant in Open Court was advised that without expressly reserving his right to appeal he gave up his right to appeal any and all matters relating to the Judgment, including the issue of guilt or innocence, but that his plea did not impair his right to review by appropriate collateral attack.

(CHECK APPLICABLE PARAGRAPH)

Jerry T. Lockett
JERRY T. LOCKETT
JUDGE

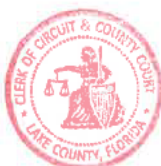
FINGERPRINTS OF DEFENDANT

1. R. Thumb	2. R. Index	3. R. Middle	4. R. Ring	5. R. Little
				
6. L. Thumb	7. L. Index	8. L. Middle	9. L. Ring	10. L. Little
				

Fingerprints taken by:

Arthur W. Newcombe / Bailiff
Name and Title

DONE AND ORDERED in Open Court at Lavares, Lake County, Florida, this 10th day of May A.D., 19 88. I HEREBY CERTIFY that the above and foregoing fingerprints are the fingerprints of the Defendant, James Aron Duckett and that they were placed thereon by said Defendant in my presence in Open Court this date.



STATE OF FLORIDA, COUNTY OF LAKE
I HEREBY CERTIFY the above and foregoing
is a true copy of the document filed in this office.
By S. Woodard Deputy Clerk
Date 11/18/14
This document may be redacted as required by law.

Jerry T. Lockett
JERRY T. LOCKETT
JUDGE

FILED IN OPEN COURT

5-10-88
CLERK CIRCUIT COURT
LAKE COUNTY, FLORIDA

BY: Susan K. Spooner
Deputy Clerk

Page _____ of _____

Defendant JAMES AREN DUCKETTCase Number 87-1347-CFA**SENTENCE**(As to Count One)The Defendant, being personally before this Court, accompanied by his attorney, JACK EDMUND, Esquire

_____, and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he should not be sentenced as provided by law, and no cause being shown,

☒ and the Court having on 05-10-88 deferred imposition of sentence until this date.
(date)

(Check either provision
if applicable)

☐ and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein,

IT IS THE SENTENCE OF THE LAW that:

☐ The Defendant pay a fine of \$ _____, plus \$ _____ as the 5% surcharge required by F.S. 960.25.

☒ The Defendant is hereby committed to the custody of the Department of Corrections

☐ The Defendant is hereby committed to the Custody of the Sheriff of _____ County, Florida

To be imprisoned (check one; unmarked sections are inapplicable)

☐ For a term of Natural Life

☒ For a term of Death Penalty

☐ For an indeterminate period of 6 months to _____ years.

If "split" sentence
complete either of
these two paragraphs

☐ Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

☐ However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed in this section:

**Firearm - 3 year
mandatory minimum**

☐ It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.

**Drug Trafficking -
mandatory minimum**

☐ It is further ordered that the _____ year minimum provisions of F.S. 893.135(1) () () are hereby imposed for the sentence specified in this count.

**Retention of
Jurisdiction**

☐ The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.

Habitual Offender

☐ The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Jail Credit

☒ It is further ordered that the Defendant shall be allowed a total of 247 Days credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent

It is further ordered that the sentence for this count shall run ☐ consecutive to ☐ concurrent with (check one) the sentence set forth in count _____ above.



Defendant JAMES AREN DUCKETTCase Number 87-1347-CFA**Consecutive/Concurrent
(As to other convictions)**It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run ☐ consecutive to ☒ concurrent with (check one) the following:☒ Any active sentence being served.☐ Specific sentences: _____

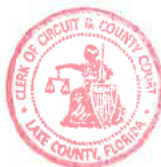
In the event the above sentence is to the Department of Corrections, the Sheriff of LAKE County, Florida is hereby ordered and directed to deliver the Defendant to the Department of Corrections together with a copy of this Judgment and Sentence.

The Defendant in Open Court was advised of his right to appeal from this sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the Defendant's right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

In imposing the above sentence, the Court further recommends _____

DONE AND ORDERED in Open Court at Tavares, Lake County, Florida, this 30th day of June A.D., 19 88.

Jerry T. Lockett
JUDGE
Jerry T. Lockett



STATE OF FLORIDA, COUNTY OF LAKE
I HEREBY CERTIFY the above and foregoing
is a true copy of the document filed in this office.
By Neil Kelly, Clerk of Circuit Court
Dated 4/18/14
This document may be redacted as required by law.

FILED IN OPEN COURT

6-30-88

JAMES C. WATKINS

CLERK OF COUNTY COURT

By:

Susan K. Spooner
Deputy Clerk

DEATH WARRANT

STATE OF FLORIDA

WHEREAS, JAMES AREN DUCKETT, on or about the 12th day of May, 1987, murdered Teresa McAbee; and

WHEREAS, JAMES AREN DUCKETT, on the 10th day of May, 1988, was convicted of first degree murder and sexual battery and, on the 30th day of June, 1988, was sentenced to death for the murder of Teresa McAbee; and

WHEREAS, on the 6th day of September, 1990, the Supreme Court of Florida affirmed the convictions and death sentence of JAMES AREN DUCKETT; and

WHEREAS, on the 6th day of October, 2005, the Supreme Court of Florida affirmed the trial court order denying JAMES AREN DUCKETT's initial Motion for Postconviction Relief and denied his Petition for Writ of Habeas Corpus; and

WHEREAS, on the 25th day of March, 2010, the United States District Court for the Middle District of Florida denied JAMES AREN DUCKETT's federal Petition for Writ of Habeas Corpus and, on the 23rd day of August, 2010, denied JAMES AREN DUCKETT's Motion for Certificate of Appealability; and

WHEREAS, on the 26th day of October, 2010, the United States Court of Appeals for the Eleventh Circuit denied JAMES AREN DUCKETT's Application for Certificate of Appealability; and

WHEREAS, further postconviction motions and petitions filed by JAMES AREN DUCKETT have been denied and the denials affirmed on appeal; and

WHEREAS, executive clemency for JAMES AREN DUCKETT, as authorized by Article IV, Section 8(a), of the Florida Constitution, was considered pursuant to the Rules of Executive Clemency, and it has been determined that executive clemency is not appropriate; and

WHEREAS, attached hereto is a certified copy of the record of the conviction and sentence pursuant to section 922.052, Florida Statutes.

NOW, THEREFORE, I, RON DESANTIS, as Governor of the State of Florida and pursuant to the authority and responsibility vested in me by the Constitution and Laws of Florida, do hereby issue this warrant, directing the Warden of the Florida State Prison to cause the sentence of death to be executed upon JAMES AREN DUCKETT, in accordance with the provisions of the Laws of the State of Florida.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, this 27th day of February, 2026.


GOVERNOR

ATTEST:


SECRETARY OF STATE

FILED
2026 FEB 27 PM 3:58
DEPARTMENT OF STATE
TALLAHASSEE, FL



RON DeSANTIS
GOVERNOR

June 26, 2026

Warden Randall Polk
Florida State Prison
7819 N.W. 228th Street
Raiford, Florida 32036-1000

Re: Execution Date for Dominick Anthony Occhicone, Jr., DC# 226426

Dear Warden Polk:

Enclosed is the death warrant that I signed to carry out the sentence for Dominick Anthony Occhicone, Jr., as well as certified copies of his judgment and sentence. I have designated the week beginning at 12:00 noon on Tuesday, July 28, 2026, through 12:00 noon on Tuesday, August 4, 2026, for the execution. I have been advised that you have set the date and time of execution for Tuesday, July 28 at 6:00 p.m.

This letter is incorporated into and made a part of the death warrant identified above.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

Enclosures

FILED
2026 JUN 26 PM 3:32
DEPARTMENT OF STATE
TALLAHASSEE, FL

Warden Randall Polk
June 26, 2026
Page 2

cc:

Honorable Carlos G. Muñiz
Chief Justice
Supreme Court of Florida
500 S. Duval Street
Tallahassee, Florida 32399

Honorable Shawn Crane
Chief Judge, 6th Judicial Circuit
7530 Little Rd.
New Port Richey, Florida 34654

Secretary Ricky Dixon
Department of Corrections
501 S. Calhoun Street
Tallahassee, Florida 32399-2500

Marilyn Muir
Associate Deputy Attorney General
Office of the Attorney General
The Capitol, FL-01
Tallahassee, Florida 32300-0001

Eric Pinkard
Capital Collateral Regional Counsel
12973 N. Telecom Parkway
Temple Terrace, Florida 33637

Office of Executive Clemency
4070 Esplanade Way
Building C, Room 229
Tallahassee, Florida 32399-2450

Dominick Anthony Occhicone, Jr., DC#
226426
Union Correctional Institution
7819 N.W. 228th Street
Raiford, Florida 32083



STATE OF FLORIDA

JAMES UTHMEIER
ATTORNEY GENERAL

June 26, 2026

The Honorable Ron DeSantis
Governor
The Capitol
Tallahassee, Florida 32399-0001

RE: Dominick Anthony Occhicone, Jr.

Dear Governor DeSantis:

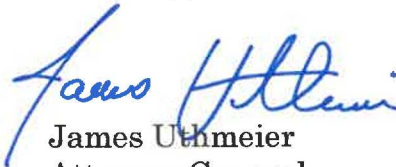
Raymond and Martha Artzner were Dominick Occhicone's former girlfriend's parents. In the early morning hours of June 10, 1986, Occhicone went to the Artznerns' home where his former girlfriend was living with her child. He awakened his former girlfriend by knocking on her bedroom's sliding glass door. The woman refused to talk with Occhicone and she threatened to call the police, so he left. Occhicone returned shortly after, armed with a handgun. He cut the telephone lines to the home and roused the household. When Raymond Artzner confronted Occhicone outside the home, Occhicone shot and killed him. The woman and her child managed to flee while Occhicone was breaking into the home through a locked door. Once inside, Occhicone fatally shot Martha Artzner four times. A jury found Occhicone guilty of two counts of first-degree murder and recommended death for each count. The trial court sentenced Occhicone to life imprisonment for killing Raymond Artzner and to death for killing Martha Artzner. The Florida Supreme Court affirmed Occhicone's judgment and death sentence on direct appeal, and the United States Supreme Court denied certiorari review. *Occhicone v. State*, 570 So. 2d 902, 904 (Fla. 1990) *cert. denied*, 500 U.S. 938 (1991).

In the decades that followed, Occhicone engaged in unsuccessful litigation in state and federal courts. *See Occhicone v. Singletary*, 618 So. 2d 730 (Fla. 1993) (denying state habeas corpus petition); *Occhicone v. State*, 768 So. 2d 1037 (Fla. 2000) (affirming the denial of Occhicone's initial state postconviction motion); *Occhicone v. Moore*, No. 8:01-cv-2136, 2005 WL 1073936 (M.D. Fla. Mar. 31, 2005) (denying federal

habeas corpus petition), *aff'd*, *Occhicone v. Crosby*, 455 F.3d 1306 (11th Cir. 2006), *cert. denied*, *Occhicone v. McDonough*, 549 U.S. 1122 (2007); *Occhicone v. State*, 235 So. 3d 299 (Fla.) (affirming denial of successive postconviction motion), *cert. denied*, 586 U.S. 863 (2018).

The record has been reviewed and there are no stays of execution issued by any court of competent jurisdiction in this cause. Based upon the above-referenced summary of litigation affirming the judgment and sentence of death imposed for first-degree murder, the record is legally sufficient to support the issuance of a death warrant.

Sincerely,



James Uthmeier
Attorney General

☐ PROBATION VIOLATION
(Check if Applicable)

IN THE DISTRICT COURT, SIXTH
JUDICIAL CIRCUIT IN AND FOR

Pasco COUNTY, FLORIDA

DIVISION Felony

CASE NUMBER 8601355CFAWS

STATE OF FLORIDA

SPN# 11019

-VS-

Dominick Occhicone
Defendant

FILED IN DISTRICT COURT
THIS 18th DAY OF September 1987
Jury Trial, Work 4:25 P.M.
BY [Signature] D.C.

JUDGMENT

The Defendant, Dominick Occhicone, being personally before this
Court represented by Bruce Boyer, Bruce Young, Craig LaPorte his attorney of record, and having:

- (Check Applicable Provision)
- ☒ Been tried and found guilty of the following crime(s)
 - ☐ Entered a plea of guilty to the following crime(s)
 - ☐ Entered a plea of nolo contendere to the following crime(s)

COUNT	CRIME	OFFENSE STATUTE NUMBER(S)	DEGREE OF CRIME	CASE NUMBER
I	Murder in the First Degree	782.04(1)(a)	Capitol	
II	Murder in the First Degree	782.04(1)(a)	Capitol	

1672

and no cause having been shown why the Defendant should not be adjudicated guilty, IT IS ORDERED THAT the Defendant is hereby ADJUDICATED GUILTY of the above crime(s).

The Defendant is hereby ordered to pay the sum of ~~ten~~ dollars (\$20.00) pursuant to F.S. 960.20 (Crimes Compensation Trust Fund). The Defendant is further ordered to pay the sum of ~~two~~ dollars (\$3.00) as a court cost pursuant to F.S. 943.25(4).
three (\$3.00)

- ☒ The Defendant is ordered to pay an additional sum of two dollars (\$2.00) pursuant to F.S. 934.25(8).
(this provision is optional; not applicable unless checked.)

(Check if Applicable) ☐ The Defendant is further ordered to pay a fine in the sum of \$ _____ pursuant to F.S. 775.0835.
(This provision refers to the optional fine for the Crimes Compensation Trust Fund, and is not applicable unless checked and completed. Fines imposed as part of a sentence pursuant to F.S. 775.083 are to be recorded on the Sentence page(s)).

- ☒ The Court hereby imposes additional court costs in the sum of \$ 200.00 pursuant to F.S. 27.3455.

Page 1 of _____

RECORD VERIFIED F3a
2-236
BOOK 283 PAGE 212

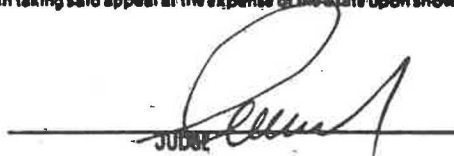
Imposition of Sentence
Stayed and Withheld
(Check if Applicable)

- ☐ The Court hereby stays and withholds the imposition of sentence as to count(s) _____ and places the Defendant on probation for a period of _____ under the supervision of the Department of Corrections (conditions of probation set forth in separate order.)

Sentence Deferred
Until Later Date
(Check if Applicable)

- ☒ The Court hereby defers imposition of sentence until pending Sentencing.
(date)

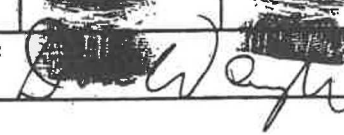
The Defendant in Open Court was advised of his right to appeal from this Judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The Defendant was also advised of his right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.


JUDGE

1673

FINGERPRINTS OF DEFENDANT

1. R. Thumb	2. R. Index	3. R. Middle	4. R. Ring	5. R. Little
				
6. L. Thumb	7. L. Index	8. L. Middle	9. L. Ring	10. L. Little
				

Fingerprints taken by: 

Name and Title

DONE AND ORDERED in Open Court at Panama County, Florida, this 18th day of September, A.D., 19 87. I HEREBY CERTIFY that the above and foregoing fingerprints are the fingerprints of the Defendant, Dominick Occhicone and that they were placed thereon by said Defendant in my presence in Open Court this date.


JUDGE

Page _____ of _____

RECORD VERIFIED ^{FS-b}
BOOK DD PAGE 212A

Defendant DOMINICK A. OCCHICONECase Number 8601355CEAHS

SPN 11019

SENTENCE(As to Count 1)The Defendant, being personally before this Court, accompanied by his attorney, BRUCE BOYER

and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he should not be sentenced as provided by law, and no cause being shown.

☒ and the Court having on 09/18/87 deferred imposition of sentence until this date.
(Check either provision if applicable)

☐ and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein,

IT IS THE SENTENCE OF THE LAW that:

☐ The Defendant pay a fine of \$ _____, plus \$ _____ as the 5% surcharge required by F.S. 980.25.

☒ The Defendant is hereby committed to the custody of the Department of Corrections

☐ The Defendant is hereby committed to the custody of the Sheriff* of _____ County, Florida
(Name of local corrections authority to be inserted at printing, if other than Sheriff)

To be imprisoned (check one: unmarked sections are inapplicable)

☐ For a term of Natural Life

☒ For a term of LIFE without eligibility for parole for 25 years

☐ For an indeterminate period of 6 months to _____ years.

1674

If "split" sentence
complete either of
these two paragraphs

☐ Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

☐ However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed in this section:

Firearm-3 Year
mandatory minimum

☐ It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.

Drug Trafficking-
mandatory minimum

☐ It is further ordered that the _____ year minimum provisions of F.S. 893.135(1)(X) are hereby imposed for the sentence specified in this count.

Retention of
Jurisdiction

☐ The Court pursuant to F.S. 947.18(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.

Habitual Offender

☐ The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Jail Credit

☒ It is further ordered that the Defendant shall be allowed a total of 518 days credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive Concurrent

It is further ordered that the sentence imposed for this count shall run ☐ consecutive to ☐ concurrent with (check one) the sentence set forth in count _____ above.

Page _____ of _____

F3-c
2-236a

BOOK BBB PAGE 2123
RECORD VERIFIED

Defendant DOMINICK A. OCCHICONECase Number 8601355CFAWS

SPN 11019

SENTENCE(As to Count 2)The Defendant, being personally before this Court, accompanied by his attorney, BRUCE BOYER

and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he should not be sentenced as provided by law, and no cause being shown.

☒ and the Court having on 09/18/87 deferred imposition of sentence until this date.
(Check either provision if applicable) (date)

☐ and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein,

IT IS THE SENTENCE OF THE LAW that:

☐ The Defendant pay a fine of \$ _____, plus \$ _____ as the 5% surcharge required by F.S. 980.25.

☒ The Defendant is hereby committed to the custody of the Department of Corrections

☐ The Defendant is hereby committed to the custody of the Sheriff* of _____ County, Florida
(Name of local corrections authority to be inserted at printing, if other than Sheriff)

To be imprisoned (check one: unmarked sections are inapplicable)

☐ For a term of Natural Life

☒ For a term of DEATH

☐ For an indeterminate period of 6 months to _____ years.

1675

If "split" sentence
complete either of
these two paragraphs

☐ Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

☐ However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed in this section:

Firearm-3 Year
mandatory minimum

☐ It is further ordered that the 3-year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.

Drug Trafficking-
mandatory minimum

☐ It is further ordered that the _____ year minimum provisions of F.S. 893.135(1)(X) are hereby imposed for the sentence specified in this count.

Retention of
Jurisdiction

☐ The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.

Habitual Offender

☐ The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Jail Credit

☐ It is further ordered that the Defendant shall be allowed a total of _____ credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive Concurrent

It is further ordered that the sentence imposed for this count shall run ☐ consecutive to ☐ concurrent with (check one) the sentence set forth in count _____ above.

Page _____ of _____

F3-c
2-236a

BOOK 100 PAGE 200 C
RECORD VERIFIED

THIS 9 DAY OF November 19 87
 BY Jed Pitman, Clerk 11 15 AM
 Defendant DOMINICK A. OCCHICONE
 Case Number 8601355CFAMS
 SPN 11019
 It is further ordered that the compact term of all sentence imposed for the counts specified in this order shall run ☐ consecutive to ☐ concurrent with (check one) the following:

- ☐ Any Active Sentence being served.
☐ Specific sentences: _____

In the event the above sentence is to the Department of Corrections, the Sheriff of PASCO County, Florida is hereby ordered and directed to deliver the Defendant to the Department of Corrections together with a copy of this Judgment and Sentence.

The Defendant in Open Court was advised of his right to appeal from this Sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the Defendant's right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

In imposing the above sentence, the Court further recommends _____

1676

DONE AND ORDERED in Open Court at PASCO County, Florida, this 9th day of NOVEMBER A.D., 19 87

JUDGE

Page _____ of _____

BOOK 188 PAGE 212D

F3-4

RECORD VERIFIED

STATE OF FLORIDA, COUNTY OF PASCO
 THIS IS TO CERTIFY THAT THE FOREGOING IS A
 TRUE AND CORRECT COPY OF THE DOCUMENT
 ON FILE OR OF PUBLIC RECORD IN THIS OFFICE
 WITNESS MY HAND AND OFFICIAL SEAL THIS
25 DAY OF August 2 014
 PAULA S. O'NEIL, CLERK & COMPTROLLER

BY Paula S. O'Neil DEPUTY CLERK

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY

CASE NUMBER 8601355CFANS

STATE OF FLORIDA

VS.

INDICTMENT FOR

Murder In The First Degree

Dominick Occhicone

Count 1

(Death of Raymond Artaner)

VERDICT

FILED IN OPEN COURT

THIS 18th day of September, 1987
J.D. Freeman, Clerk 4:24 PM.

WE, the Jury, find as follows:

BY Henry J. Goodman D.O.

Check one and only one on this form by inserting a single check mark on the line next to the description of the verdict which you have found.

1677

☒ 1. The defendant is guilty of Murder In The First Degree

as charged by the Indictment.

2. The defendant is guilty of the lesser included crime of:

☐ Murder In The Second Degree

☐ Manslaughter

☐ 3. The defendant is not guilty.

So say we all this 18th day of September, 19 87.

Robert Roy Walke
Signature of Foreman or Forewoman

BOOK 111 PAGE 1504
RECORD VERIFIED

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTYCASE NUMBER 8601355CFAWS

STATE OF FLORIDA

vs.

Dominick Occhicone

INDICTMENT FOR

Murder In The First DegreeCount 2

(Death of Martha E. Artzner)

FILED IN OPEN COURT

VERDICTTHIS 18th day of September 1987
Jed Putnam, Clerk 4:24 PM.

WE, the Jury, find as follows:

BY [Signature] D.C.

Check one and only one on this form by inserting a single check mark on the line next to the description of the verdict which you have found.

1678

☒ 1. The defendant is guilty of Murder In The First Degree

as charged by the indictment.

2. The defendant is guilty of the lesser included crime of:

 Murder In The Second Degree Manslaughter 3. The defendant is not guilty.So say we all this 18th day of September, 19 87.[Signature]
Signature of Foreman or ForewomanBOOK 111 PAGE 1505
RECORD VERIFIEDSTATE OF FLORIDA, COUNTY OF PASCO
THIS IS TO CERTIFY THAT THE FOREGOING IS A
TRUE AND CORRECT COPY OF THE DOCUMENT
ON FILE OR OF PUBLIC RECORD IN THIS OFFICE
WITNESS MY HAND AND OFFICIAL SEAL THIS
25 DAY OF August 2014

PAULA S. O'NEIL, CLERK & COMPTROLLER

BY [Signature] DEPUTY CLERK

DEATH WARRANT

STATE OF FLORIDA

WHEREAS, DOMINICK ANTHONY OCCHICONE, JR., on or about the 10th day of June, 1986, murdered Raymond Artzner and Martha Artzner; and

WHEREAS, DOMINICK ANTHONY OCCHICONE, JR., on the 18th day of September, 1987, was convicted of first degree murder and, on the 9th day of November, 1987, was sentenced to death for the murders of Raymond Artzner and Martha Artzner; and

WHEREAS, on the 11th day of October, 1990, the Supreme Court of Florida affirmed the conviction and death sentence of DOMINICK ANTHONY OCCHICONE, JR.; and

WHEREAS, on the 29th day of June, 2000, the Supreme Court of Florida affirmed the trial court order denying DOMINICK ANTHONY OCCHICONE, JR.'s initial Motion for Postconviction Relief and, on the 8th day of April, 1993, denied his Petition for Writ of Habeas Corpus; and

WHEREAS, on the 31st day of March, 2005, the United States District Court for the Middle District of Florida denied DOMINICK ANTHONY OCCHICONE, JR.'s federal Petition for Writ of Habeas Corpus; and

WHEREAS, on the 14th day of July, 2006, the United States Court of Appeals for the Eleventh Circuit affirmed the denial of DOMINICK ANTHONY OCCHICONE, JR.'s federal Petition for Writ of Habeas Corpus; and

WHEREAS, further postconviction motions and petitions filed by DOMINICK ANTHONY OCCHICONE, JR. have been denied and the denials affirmed on appeal; and

WHEREAS, executive clemency for DOMINICK ANTHONY OCCHICONE, JR., as authorized by Article IV, Section 8(a), of the Florida Constitution, was considered pursuant to the Rules of Executive Clemency, and it has been determined that executive clemency is not appropriate; and

WHEREAS, attached hereto is a certified copy of the record of the conviction and sentence pursuant to section 922.052, Florida Statutes.

NOW, THEREFORE, I, RON DESANTIS, as Governor of the State of Florida and pursuant to the authority and responsibility vested in me by the Constitution and Laws of Florida, do hereby issue this warrant, directing the Warden of the Florida State Prison to cause the sentence of death to be executed upon DOMINICK ANTHONY OCCHICONE, JR., in accordance with the provisions of the Laws of the State of Florida.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, this 26th day of June, 2026.




GOVERNOR

ATTEST:


SECRETARY OF STATE

2026 JUN 26 PM 3:32
DEPARTMENT OF STATE
TALLAHASSEE, FL

FILED



RON DeSANTIS
GOVERNOR

July 14, 2026

Warden Randall Polk
Florida State Prison
7819 N.W. 228th Street
Raiford, Florida 32036-1000

Re: Execution Date for James Aren Duckett, DC# 112232

Dear Warden Polk:

Enclosed is the death warrant that I signed on February 27, 2026, to carry out the sentence for James Aren Duckett, as well as certified copies of his judgment and sentence. The stay of execution entered on March 26, 2026, by the Florida Supreme Court was lifted on July 8, 2026. Therefore, I have designated the week beginning at 12:00 noon on Tuesday, July 28, 2026, through 12:00 noon on Tuesday, August 4, 2026, for the execution. I have been advised that you have set the date and time of execution for Tuesday, July 28 at 12:00 noon.

This letter is incorporated into and made a part of the death warrant identified above and supersedes my previous letter of February 27, 2026.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ron DeSantis".

Ron DeSantis
Governor

Enclosures

FILED
2026 JUL 14 PM 2:15
DEPARTMENT OF STATE
TALLAHASSEE, FL

Warden Randall Polk
July 14, 2026
Page 2

cc:

Honorable John D. Couriel
Chief Justice
Supreme Court of Florida
500 S. Duval Street
Tallahassee, Florida 32399

Honorable Daniel B. Merritt, Jr.
Chief Judge, 5th Judicial Circuit
20 N. Main Street
Brooksville, Florida 34601

Secretary Richard D. Comerford
Department of Corrections
501 S. Calhoun Street
Tallahassee, Florida 32399-2500

Marilyn Muir
Associate Deputy Attorney General
Office of the Attorney General
The Capitol, FL-01
Tallahassee, Florida 32300-0001

Eric Pinkard
Capital Collateral Regional Counsel
12973 N. Telecom Parkway
Temple Terrace, Florida 33637

Office of Executive Clemency
4070 Esplanade Way
Building C, Room 229
Tallahassee, Florida 32399-2450

James Aren Duckett, DC# 112232
Union Correctional Institution
7819 N.W. 228th Street
Raiford, Florida 32083

Brittney Nicole Lacy
Capital Collateral Regional Counsel
110 S.E. 6th Street Ste 701
Fort Lauderdale, Florida 33301



STATE OF FLORIDA

JAMES UTHMEIER
ATTORNEY GENERAL

July 14, 2026

The Honorable Ron DeSantis
Governor
The Capitol
Tallahassee, Florida 32399-0001

RE: James Aren Duckett

Dear Governor DeSantis:

James Aren Duckett, a City of Mascotte police officer, was convicted of and sentenced to death for the first-degree murder and sexual battery of eleven-year-old Teresa McAbee. Teresa's body was found in a lake less than a mile from the convenience store where she was last seen getting into Duckett's patrol car. Teresa had been sexually battered, strangled, and drowned. Distinctive tire tracks matching the tires on Duckett's patrol car were found at the scene. Teresa's fingerprints were found on the hood of Duckett's patrol car indicating "that she had been sitting backwards on the hood and had scooted up the car." The Florida Supreme Court affirmed Duckett's conviction and death sentence. *Duckett v. State*, 568 So. 2d 891 (Fla. 1990).

Over the next three decades Duckett engaged in unsuccessful postconviction litigation in both state and federal courts. *Duckett v. State*, 918 So. 2d 224 (2005) (affirming the denial of postconviction relief and petition for writ of habeas corpus), *cert. denied*, 549 U.S. 846 (2006); *Duckett v. McDonough*, 701 F. Supp. 2d 1245 (M.D. Fla. 2010) (denying petition for habeas corpus); *Duckett v. State*, 148 So. 3d 1163 (Fla. 2014) (affirming denial of postconviction relief); *Duckett v. State*, 260 So. 3d 230 (Fla. 2018) (affirming denial of *Hurst* relief), *cert. denied*, 587 U.S. 1053 (2019).

On February 27, 2026, a death warrant was signed setting Duckett's execution for March 31, 2026, at 6:00 p.m. Between March 5, 2026, and March 17, 2026, Duckett filed additional postconviction motions including an uncontested Rule 3.853 motion for DNA testing. The trial court denied all other relief sought. Duckett appealed,

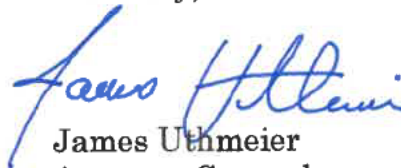
petitioned for a writ of habeas corpus, and moved for a stay of the execution. On March 26, 2026, the Florida Supreme Court stayed the execution while proceedings under Rule 3.853 continued in the circuit court. *Duckett v. State*, 428 So. 3d 40 (Fla. 2026).

On March 27, 2026, the DNA testing report was filed in the circuit court. Duckett's requests for discovery of the DNA testing protocols and the data underlying the DNA report were denied. On appeal, the Florida Supreme Court remanded for the underlying data to be provided to Duckett "so that the statistical analysis he seeks may be performed by a qualified bioinformaticist." *Duckett v. State*, 431 So. 3d 990, 997 (Fla. 2026). After filing his qualified expert's report, which did not exonerate him, Duckett sought an evidentiary hearing, which was denied. The Florida Supreme Court dismissed Duckett's appeal of the order denying an evidentiary hearing. *Duckett v. State*, SC2026-0959, slip op. at 1 (Fla. July 1, 2026).

On July 8, 2026, the Florida Supreme Court affirmed the summary denial of Duckett's fifth successive postconviction motion, denied Duckett's habeas petition, and lifted the stay of execution. *Duckett v. State*, SC2026-0449, SC2026-0450, slip op. at 15 (Fla. July 8, 2026).

I certify that the Florida Supreme Court's March 26, 2026, stay of execution has been lifted. The record has been reviewed and there are no stays of execution issued by any court of competent jurisdiction in this cause. Based upon the above-referenced summary of litigation affirming the judgment and sentence of death imposed for first-degree murder, the record is legally sufficient to support the setting of a new execution date.

Sincerely,



James Uthmeier
Attorney General

☐ PROBATION VIOLATOR
(Check if Applicable)

IN THE CIRCUIT COURT, FIFTH
JUDICIAL CIRCUIT, IN AND FOR

LAKE COUNTY, FLORIDA

DIVISION FELONY

CASE NUMBER 87-1347-CFA

STATE OF FLORIDA

—vs—

JAMES AREN DUCKETT

Defendant

JUDGMENT

The Defendant, JAMES AREN DUCKETT, being personally before this

Court represented by Jack Edmund, Esquire, his attorney of record, and having:

(Check Applicable Provision)

☒ Been tried and found guilty of the following crime(s)
☐ Entered a plea of guilty to the following crime(s)
☐ Entered a plea of nolo contendere to the following crime(s)

COUNT	CRIME	OFFENSE STATUTE NUMBER(S)	DEGREE OF CRIME	CASE NUMBER
One	MURDER IN THE FIRST DEGREE	782.04(1)(a)1	Capital	87-1347-CFA

and no cause having been shown why the Defendant should not be adjudicated guilty, IT IS ORDERED THAT the Defendant is hereby ADJUDICATED GUILTY of the above crime(s).

The Defendant is hereby ordered to pay the sum of twenty dollars (\$20.00) pursuant to FS. 960.20 (Crimes Compensation Trust Fund). The Defendant is further ordered to pay the sum of three dollars (3.00) as a court cost pursuant to F.S. 943.25(4).

(Check if Applicable)

☒ The Defendant is ordered to pay an additional sum of two dollars (\$2.00) pursuant to F.S. 943.25(7).
(This provision is optional; not applicable unless checked).

☐ The Defendant is further ordered to pay a fine in the sum of \$ _____ pursuant to F.S. 775.0835.
(This provision refers to the optional fine for the Crimes Compensation Trust Fund, and is not applicable unless checked and completed. Fines imposed as part of a sentence pursuant to F.S. 775.083 are to be recorded on the Sentence page(s)).

☐ The Court hereby imposes additional court costs in the sum of \$ _____.

☐ The Defendant is further ordered to pay an additional \$200.00 pursuant to F.S. 27.3455

Case: 1987 CF 001347

 00035537147
 Dkt: CFJF

Imposition of Sentence
Stayed and Withheld
(Check If Applicable)

☐ The Court hereby stays and withholds the imposition of sentence as to count(s) _____ and places the Defendant on probation for a period of _____ under the supervision of the Department of Corrections (conditions of probation set forth in separate order.)

Sentence Deferred
Until Later Date
(Check If Applicable)

☒ The Court hereby defers imposition of sentence until June 30, 1988
(date)

☒ The Defendant in Open Court was advised of his right to appeal from this Judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The Defendant was also advised of his right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

☐ The Defendant in Open Court was advised that without expressly reserving his right to appeal he gave up his right to appeal any and all matters relating to the Judgment, including the issue of guilt or innocence, but that his plea did not impair his right to review by appropriate collateral attack.

(CHECK APPLICABLE PARAGRAPH)

Jerry T. Lockett
JERRY T. LOCKETT
JUDGE

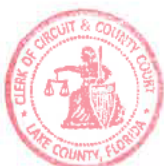
FINGERPRINTS OF DEFENDANT

1. R. Thumb	2. R. Index	3. R. Middle	4. R. Ring	5. R. Little
				
6. L. Thumb	7. L. Index	8. L. Middle	9. L. Ring	10. L. Little
				

Fingerprints taken by:

Arthur W. Newcombe / Bailiff
Name and Title

DONE AND ORDERED in Open Court at Lavares, Lake County, Florida, this 10th day of May A.D., 19 88. I HEREBY CERTIFY that the above and foregoing fingerprints are the fingerprints of the Defendant, James Aron Duckett and that they were placed thereon by said Defendant in my presence in Open Court this date.



STATE OF FLORIDA, COUNTY OF LAKE
I HEREBY CERTIFY the above and foregoing
is a true copy of the document filed in this office.
By S. Woodard Clerk of Circuit Court
Date 11/18/14
This document may be redacted as required by law.

Jerry T. Lockett
JERRY T. LOCKETT
JUDGE

FILED IN OPEN COURT

5-10-88
CLERK CIRCUIT COURT
LAKE COUNTY, FLORIDA

BY: Susan K. Spooner
Deputy Clerk

Page _____ of _____

Defendant JAMES AREN DUCKETTCase Number 87-1347-CFA**SENTENCE**(As to Count One)The Defendant, being personally before this Court, accompanied by his attorney, JACK EDMUND, Esquire

_____, and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he should not be sentenced as provided by law, and no cause being shown,

☒ and the Court having on 05-10-88 deferred imposition of sentence until this date.
(date)

(Check either provision
if applicable)

☐ and the Court having placed the Defendant on probation and having subsequently revoked the Defendant's probation by separate order entered herein,

IT IS THE SENTENCE OF THE LAW that:

☐ The Defendant pay a fine of \$_____, plus \$_____ as the 5% surcharge required by F.S. 960.25.

☒ The Defendant is hereby committed to the custody of the Department of Corrections

☐ The Defendant is hereby committed to the Custody of the Sheriff of _____ County, Florida

To be imprisoned (check one; unmarked sections are inapplicable)

☐ For a term of Natural Life

☒ For a term of Death Penalty

☐ For an indeterminate period of 6 months to _____ years.

If "split" sentence
complete either of
these two paragraphs

☐ Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

☐ However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed in this section:

**Firearm - 3 year
mandatory minimum**

☐ It is further ordered that the 3 year minimum provisions of F.S. 775.087(2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.

**Drug Trafficking -
mandatory minimum**

☐ It is further ordered that the _____ year minimum provisions of F.S. 893.135(1) () () are hereby imposed for the sentence specified in this count.

**Retention of
Jurisdiction**

☐ The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.

Habitual Offender

☐ The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084(4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Jail Credit

☒ It is further ordered that the Defendant shall be allowed a total of 247 Days credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent

It is further ordered that the sentence for this count shall run ☐ consecutive to ☐ concurrent with (check one) the sentence set forth in count _____ above.



Defendant JAMES AREN DUCKETTCase Number 87-1347-CFA**Consecutive/Concurrent
(As to other convictions)**It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run ☐ consecutive to ☒ concurrent with (check one) the following:☒ Any active sentence being served.☐ Specific sentences: _____

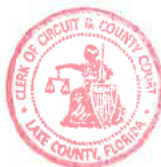
In the event the above sentence is to the Department of Corrections, the Sheriff of LAKE County, Florida is hereby ordered and directed to deliver the Defendant to the Department of Corrections together with a copy of this Judgment and Sentence.

The Defendant in Open Court was advised of his right to appeal from this sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the Defendant's right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

In imposing the above sentence, the Court further recommends _____

DONE AND ORDERED in Open Court at Tavares, Lake County, Florida, this 30th day of June A.D., 19 88.

Jerry T. Lockett
JUDGE
Jerry T. Lockett



STATE OF FLORIDA, COUNTY OF LAKE
I HEREBY CERTIFY the above and foregoing
is a true copy of the document filed in this office.
By Neil Kelly, Clerk of Circuit Court
Dated 4/18/14
This document may be redacted as required by law.

FILED IN OPEN COURT

6-30-88

JAMES C. WATKINS

CLERK OF COUNTY COURT

By:

Susan K. Spooner

Deputy Clerk

DEATH WARRANT

STATE OF FLORIDA

WHEREAS, JAMES AREN DUCKETT, on or about the 12th day of May, 1987, murdered Teresa McAbee; and

WHEREAS, JAMES AREN DUCKETT, on the 10th day of May, 1988, was convicted of first degree murder and sexual battery and, on the 30th day of June, 1988, was sentenced to death for the murder of Teresa McAbee; and

WHEREAS, on the 6th day of September, 1990, the Supreme Court of Florida affirmed the convictions and death sentence of JAMES AREN DUCKETT; and

WHEREAS, on the 6th day of October, 2005, the Supreme Court of Florida affirmed the trial court order denying JAMES AREN DUCKETT's initial Motion for Postconviction Relief and denied his Petition for Writ of Habeas Corpus; and

WHEREAS, on the 25th day of March, 2010, the United States District Court for the Middle District of Florida denied JAMES AREN DUCKETT's federal Petition for Writ of Habeas Corpus and, on the 23rd day of August, 2010, denied JAMES AREN DUCKETT's Motion for Certificate of Appealability; and

WHEREAS, on the 26th day of October, 2010, the United States Court of Appeals for the Eleventh Circuit denied JAMES AREN DUCKETT's Application for Certificate of Appealability; and

WHEREAS, further postconviction motions and petitions filed by JAMES AREN DUCKETT have been denied and the denials affirmed on appeal; and

WHEREAS, executive clemency for JAMES AREN DUCKETT, as authorized by Article IV, Section 8(a), of the Florida Constitution, was considered pursuant to the Rules of Executive Clemency, and it has been determined that executive clemency is not appropriate; and

WHEREAS, attached hereto is a certified copy of the record of the conviction and sentence pursuant to section 922.052, Florida Statutes.

NOW, THEREFORE, I, RON DESANTIS, as Governor of the State of Florida and pursuant to the authority and responsibility vested in me by the Constitution and Laws of Florida, do hereby issue this warrant, directing the Warden of the Florida State Prison to cause the sentence of death to be executed upon JAMES AREN DUCKETT, in accordance with the provisions of the Laws of the State of Florida.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, this 27th day of February, 2026.


GOVERNOR

ATTEST:


SECRETARY OF STATE

FILED
2026 FEB 27 PM 3:58
DEPARTMENT OF STATE
TALLAHASSEE, FL

**GENERAL INFORMATION RELATED TO LEGAL/ SOCIAL VISITS AND
TELEPHONE PRIVILEGES FOR INMATES UNDER DEATH WARRANT:**

**GENERAL INFORMATION
INMATES UNDER WARRANT**

Phase I

Legal Visits

Inmates under warrant may receive legal visits upon the attorney's request during:

Monday – Friday 8:30 - 11:30 a.m. and 1:00 - 3:30 p.m.
(Contact Visits)

Legal visits may be requested through the Office of the Warden by telephoning (904)368-8699, or by faxing a request to (904)368-2732.

Social Visits – will be non-contact

Inmates under warrant may receive social visits from individuals on the approved visiting list:

Monday – Tuesday from 9:00 a.m. - 3:00 p.m.
Wednesday from 1:30 p.m. - 3:00 p.m.

*Not to exceed twelve (12) hours a week. Visits will be conducted in the Non-Contact Visiting Park.

(There will be no visits on weekends or during a legal state holiday. Additions will not be made to the approved visiting list unless approved by the institutional warden.) Visit requests must be made Seventy-two (72) hours in advance, through the Office of the Warden by telephoning (904)368-8699, or by faxing a request to (904)368-2732.

Religious Visits – Inmates may receive visits from their designated religious representative. Religious visits fall under the same guidelines as social visits and within the same twelve (12) hours each week. Religious visits will be conducted in the Non-Contact Visiting Park. Exceptions for cell front religious visits are at the discretion of the institutional warden. Visit requests must be made seventy-two (72) hours in advance, through the Office of the Warden by telephoning (904)368-8699, or by faxing a request to (904)368-2732.

Telephone Calls – *All telephone calls will be scheduled through the Office of the Warden*

Legal: Inmates under warrant may request collect telephone calls to their attorneys through the Office of the Warden.

Inmates under warrant may receive telephone calls from attorneys upon the request of the attorney. Telephone requests may be made through the Office of the Warden by telephoning (904)368-8699, or by faxing a request to (904)368-2732.

**Telephone calls will not exceed thirty (30) minutes in duration without prior approval from the warden.*

Social/Religious:

Inmates under warrant may request to receive two (2) telephone calls to persons on their approved visiting list each week and/or their designated religious representative.

**Telephone calls will not exceed ten (10) minutes in duration.*

Phase II

Legal Visits – Will be non-contact.

The week of execution inmates under warrant may receive legal visits upon the attorney's request during:

Monday – Friday from 9:00 a.m. - 3:30 p.m.

*Visitation will not be allowed during a legal state holiday.

*The Warden may approve any exceptions under extraordinary conditions.

Legal visits must be made twenty-four (24) hours in advance, while on phase II status, through the Office of the Warden by telephoning (904)368-8699, or by faxing a request to (904)368-2732.

The evening prior to the scheduled execution, legal visits will be non-contact from 6:00 p.m.-8:00 p.m. Legal visits will be limited to a pre-approved list submitted by the attorney on record at least seventy-two (72) hours in advance for review and consideration. Request should be made to the Office of the Warden.

Social Visits – Will be non-contact.

The week of the execution, inmates under warrant may receive up to twelve (12) hours of visits, as scheduling permits, not to exceed six (6) hours each week day and two (2) hours each weekend day:

**Monday – Tuesday from 9:00 a.m. - 3:00 p.m.
Wednesday from 1:30 p.m. - 3:00 p.m.**

*Visitation will not be allowed during a legal state holiday without the approval of the Institutional Warden. Additions will not be made to the approved visiting list. Minor children must be listed on the approved visitation list. Visit requests must be made twenty-four (24) hours in advance through the Office of the Warden by telephoning (904)368-8699, or by faxing a request to (904)368-2732.

The morning of the scheduled execution, social visits will be non-contact from 8:00 a.m. – 10:00 a.m. A final contact visit for the condemned inmate may be authorized by the Institutional Warden based on circumstances as deemed appropriate, from 10:00am until 11:00am. The final contact visit is at the discretion of the institutional warden on a case by case basis.

***TIMES LISTED ARE APPROXIMATE AND SUBJECT TO CHANGE
ACCORDING TO THE TIME OF THE EXECUTION***

Religious Visits – The day of the scheduled execution, religious visits by the designated religious leader will be non-contact, option for contact visit cell front at discretion of institutional warden, during the hours of 12:00 pm. – 2:00 p.m.

Telephone Calls - All telephone calls will be received/made during hours suitable for the institution and not during shift changes, count times, meals, showers, etc.

Legal: Inmates under warrant may request telephone calls to their attorneys through the Office of the Warden.

Inmates under warrant may receive telephone calls from attorneys upon the request of the attorney. Telephone requests may be made through the Office of the Warden by telephoning (904)368-8699, or by faxing a request to (904)368-2732.

****Legal Telephone calls will not exceed thirty (30) minutes in duration without approval of the institutional warden.***

Social/Religious:

Inmates under warrant may request to receive or place two (2) collect telephone calls to persons on their approved visiting list each week.

****Social Telephone calls will not exceed ten (10) minutes in duration.***

All exceptions must be approved by the Institutional Warden.

We Never Walk Alone

Respect ★ Integrity ★ Courage ★ Selfless Service ★ Compassion

Bri Lacy

From: Cox, Karen <Karen.Starlin@fdc.myflorida.com>
Sent: Thursday, July 23, 2026 10:11 AM
To: Bri Lacy
Cc: Beth Wells (Law Office of ME Wells); Courtney Hammer; Olivia Civettini
Subject: RE: Death Watch Policies

Good morning,

No ma'am, there are no updates.

Thank you,

Karen Starlin-Cox on behalf of Warden Polk
Administrative Assistant 1
Florida State Prison
Florida Department of Corrections
P.O. Box 800
Raiford, FL 32083
Office: 904-368-8699
Fax: 904-368-2732



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From: Bri Lacy <LacyB@ccsr.state.fl.us>
Sent: Thursday, July 23, 2026 10:09 AM
To: Cox, Karen <Karen.Starlin@fdc.myflorida.com>
Cc: Beth Wells (Law Office of ME Wells) <mewells27@comcast.net>; Courtney Hammer <hammerC@ccsr.state.fl.us>; Olivia Civettini <CivettiniO@ccsr.state.fl.us>
Subject: Death Watch Policies

Good morning Ms. Starlin,

I have a copy of the death watch policies (governing visits and calls) from when Tanzi was signed early last year. Are those the same or have they been updated?

Best,

Bri Lacy
Assistant CCRC
Office of the Capital Collateral Regional Counsel - South
110 SE 6th Street, Suite 701
Fort Lauderdale, FL 33301
P: 954.713.1284 | F: 954.713.1299
lacyb@ccsr.state.fl.us

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OKLAHOMA DEPARTMENT OF PUBLIC SAFETY

The Execution of Clayton D Lockett

Case Number 14-018951

Executive Summary

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Department of Public Safety

I. BACKGROUND

The State of Oklahoma, through the Office of the Attorney General (OAG), filed an *Application for Execution Date* for Clayton Derrell Lockett on January 13, 2014. Lockett had been convicted of first degree murder for a 1999 case in Noble County and sentenced to death. On January 22, the Oklahoma Court of Criminal Appeals ordered the execution to be set for March 20. Motions were later filed on behalf of Lockett and another offender sentenced to death, Charles Warner, that challenged Oklahoma's execution-secrecy law and execution protocol. On March 18, the Court of Criminal Appeals vacated Lockett's execution date and it was reset for April 29. This order also rescheduled Warner's execution from March 27 to April 29.

On April 9, the Court of Criminal Appeals denied an application for stay made by both offenders. On April 21, the Oklahoma Supreme Court issued a stay of execution for Lockett and Warner. In response, Governor Mary Fallin issued Executive Order 2014-08, which granted a stay of Lockett's execution and rescheduled it for April 29, based on the Supreme Court not having constitutional authority to issue a stay. On April 23, the Supreme Court dissolved their stay. Between April 23 and April 29, an application for extraordinary relief was denied by the courts, as was another request for a stay.

On the morning of April 29, Oklahoma Department of Corrections (DOC) personnel began procedures to prepare for Lockett's and Warner's executions at the Oklahoma State Penitentiary (OSP) in McAlester, Oklahoma. Lockett's execution was scheduled to begin at 6:00 p.m. Lockett was removed from his cell that morning and taken to the Institutional Health Care Center (IHCC), located on prison grounds, for self-inflicted lacerations to the inside of his arms and his pre-execution medical examination. Lockett remained at IHCC until later that afternoon, when he was returned to H-Unit to await his execution.

Lockett was taken to the execution chamber, placed onto the table, and after failed attempts in other locations, an intravenous (IV) line was started in Lockett's right groin area. On the order of Warden Anita Trammell, the administration of execution drugs began. Several minutes into the process, it was determined there was a problem with the IV patency. The execution was stopped and Lockett later died in the execution chamber.

On April 30, Governor Fallin issued Executive Order 2014-11, which appointed Secretary of Safety and Security and Department of Public Safety (DPS) Commissioner Michael Thompson to conduct an independent review of the events leading up to and during Lockett's execution. This order stated the review should include:

1. An inquiry into the cause of death by a forensic pathologist;
2. An inquiry into whether DOC correctly followed their current protocol for executions;
3. Recommendations to improve the execution protocol used by DOC. The order further directed that the Office of the Chief Medical Examiner (OCME) authorize the Southwestern Institute of Forensics Science (SWIFS) in Dallas, Texas to perform the autopsy, additional examination, and all other related testing of Lockett's remains.

In order to effectuate the examination, OCME was directed to transport Lockett's remains to and from SWIFS. OCME was also ordered to appropriately maintain Lockett's remains until they were released to his family. Commissioner Thompson assembled a team of DPS investigators to conduct this investigation and report its findings. This executive summary, along with its attachments and supporting documentation, are the result of the investigation conducted by this team.

II. INVESTIGATION

This investigation was conducted by a team of six investigators assigned full-time to the case. Nine investigators and a criminal intelligence analyst were also utilized part-time to assist with the case. All investigators were sworn, law enforcement members of the Oklahoma Highway Patrol (OHP) Division of DPS. A medical expert was also consulted during the investigation to assist the investigators in understanding the various technical aspects related to the medical procedures that were performed during the execution. The expert was a current, American Board of Surgery certified physician with more than 35 years of experience in the medical field. The remainder of this section outlines the methodology utilized by the team to complete this investigation.

A. Autopsy of Clayton D. Lockett

On April 29, at 7:50 p.m., DOC released Lockett's body to the OCME designated transport contractor, Ray Francisco's Embalming Service, who transported the body to OCME in Tulsa, Oklahoma. On the morning of April 30, OCME pathologists began an external examination of the body. A portion of the superficial veins of the right and left arms were explored, photographed and removed. Personnel also obtained a blood sample from the left femoral artery/vein. Around 11:30 a.m., pathologists were notified to stop the examination pursuant to the aforementioned Executive Order. They had not started a posterior body inspection or internal examination. OCME staff sealed the body and evidence in a body bag and placed it in storage. Later that day, Lockett's body and evidence were transported by Ray Francisco's Embalming Service to SWIFS and the transport was monitored by a member of the investigation team.

On May 1, the autopsy of Lockett's body was conducted by Dr. Joni McClain and other SWIFS staff. A member of the investigation team observed the autopsy and evidence processing procedures. Dr. McClain completed the external and internal examinations of the body utilizing SWIFS normal procedures and protocols. After the autopsy was complete, Lockett's body was released to Ray Francisco's Embalming Service and transported back to OCME in Tulsa.

During this investigation, the investigation team met with the SWIFS pathologists and staff to gain a better understanding of their autopsy process and its findings. The results of the autopsy and the toxicology tests that were completed are summarized in the *Findings* section of this report.

B. Tour of the Oklahoma State Penitentiary

On May 5, the investigation team met with Warden Trammell and several OSP staff members to prepare for a tour of H-Unit and IHCC. The team was escorted through H-Unit where they viewed the holding cells, shower, execution chamber, executioners' room and medical room. The team also collected evidence during the tour. The team was then escorted to IHCC and viewed the area where Lockett was treated for his self-inflicted wounds and the cell where he was held, until being returned to H-Unit. After the tour, the team met with Warden Trammell and her staff to collect additional evidence and

retrieve documents requested for the investigation. Several measurements and photographs were taken during the tour to document the execution facilities, which were later used to construct Diagram II.1.

OSP EXECUTION FACILITY

Executioners' Room

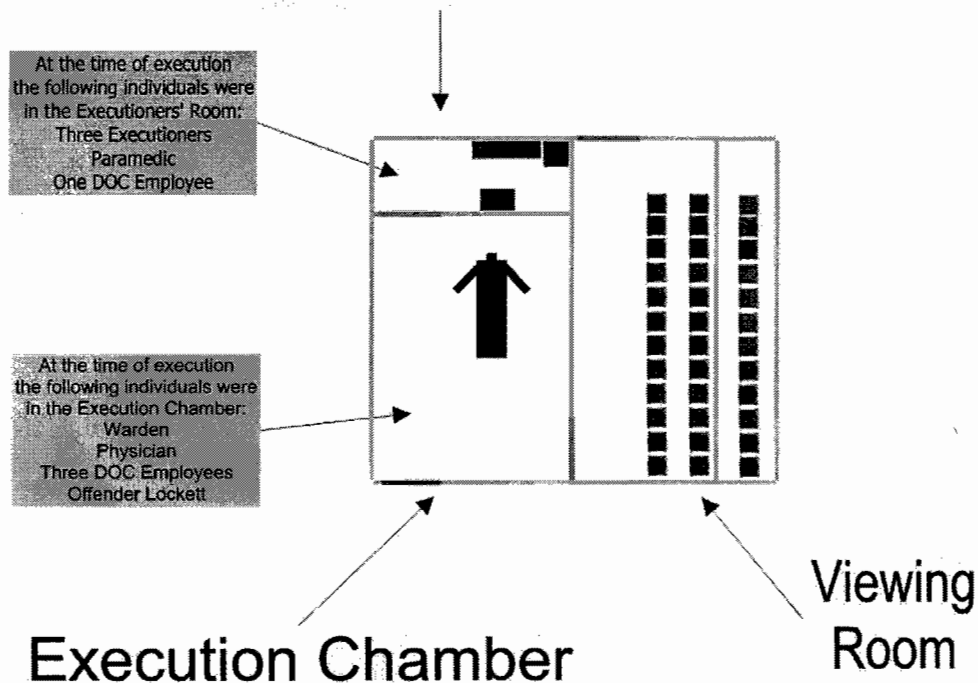


Diagram II.1

On June 30, members of the investigation team returned to OSP to gather additional information from the execution chamber. A team member was strapped to the execution table by two OSP strap-down team members who had strapped Lockett to the table. OSP staff observed the process to ensure that every strap was utilized in the same manner it was on the day of Lockett's execution. The team measured the ability for a person to move and their range of motion, once secured to the table, and took photographs from the viewing room to show the different perspectives from the various seating locations.

C. Collection of Evidence

Numerous items of evidence were collected and preserved during this investigation. This evidence included digital photographs, audio recordings, video recordings, documents and other items of physical evidence. The remainder of this section is a summary of the evidence collected.

During their examination, OCME staff collected a blood sample from Lockett's left femoral artery/vein. An aliquot of that sample was submitted by OCME to NMS Labs in Willow Grove, Pennsylvania, to test for the presence and concentration of midazolam and vecuronium bromide. On June 12, the investigation team obtained another aliquot of that sample and submitted it to ExperTox Laboratory in Deer Park, Texas, to test for the presence and concentration of potassium. In accordance with their normal procedure, OCME had not requested NMS Labs to test for the presence and concentration of potassium. The results of these examinations are included in the *Findings* section of this summary. The remainder of the sample is being stored by OCME.

On May 1, evidentiary items related to the administration of execution drugs to Lockett were released by SWIFS to the investigation team. These items were delivered by a team member to ExperTox. Evidence items that were inside Lockett's body bag and body are being maintained at SWIFS, the Oklahoma State Bureau of Investigation Laboratory or the OHP evidence storage facility. The team also collected the execution drugs and containers that were prescribed to offender Charles Warner. Custody was transferred from OSP personnel to a team member, who hand-delivered them to ExperTox for testing.

On May 6, approximately 200 items of evidence were collected at OSP, during the facility tour. They consisted of items from Lockett's cell, the execution chamber, the executioners' room and video footage from inside the facility prior to the execution. Executions are not recorded; therefore, there was no video footage of the actual execution. These items are being maintained at the OHP evidence storage facility.

D. Review of Surveillance and Camcorder Video

Thirty-two compact disks containing surveillance and camcorder video footage were collected and viewed. Following is a summary of this video provided by DOC:

1. Video surveillance footage from OSP for April 29, from 5:15 a.m. to 5:22 p.m., that recorded Lockett's movements in H-Unit and IHCC;
2. Camcorder video footage for the planned use of force that showed the extraction of Lockett from his cell on the morning of April 29. The footage contained statements explaining the force, restraints to be used and each extraction team member's duties. The footage also captured his treatment at H-Unit medical, his transport to IHCC, his treatment at IHCC and his X-ray;
3. Camcorder video footage of Lockett refusing a meal on April 29. The footage captured Lockett refusing a meal and had a statement from DOC personnel that Lockett had refused all three meals that day.

E. Documentation Provided by Oklahoma Department of Corrections

Throughout this investigation, several hundred pages of documents were requested and obtained from DOC. This team requested any documentation related to Lockett and his execution, including but not limited to logs, incident reports, timelines and historical medical records. Following is a non-inclusive summary of those documents obtained from DOC.

1. Memorandums from Warden Trammel to OSP personnel;
2. Legal documentation related to Lockett's court proceedings;
3. Use-of-force documentation from April 29, including TASER training records;
4. Property inventory and log of items sent to Lockett's family;
5. Sequence of events, execution logs and execution timeline;
6. Lockett's historical medical records, mental health check information and case management reports;
7. Execution drugs chain-of-custody forms;
8. Execution duties listed by department and training/practice logs;
9. Lockett's 30-day notification packets;
10. DOC execution procedures;
11. Various incident reports;
12. Affidavit of Warden Anita Trammell related to the execution drugs;
13. Diagram of the execution chamber;
14. Death warrant for Clayton Lockett;

15. Execution debrief personnel log;
16. Execution chamber key log;
17. Interoffice memorandums, emails and training documents related to the execution duties of DOC personnel.

F. Interviews

During this investigation, 113 people were identified to interview. Of those, 108 were interviewed, four media witnesses who viewed the execution declined to interview and one OCME employee was on extended leave and not available to interview. Follow-up interviews of select witnesses were also conducted. Each interview with the exception of four, was audio recorded and reduced to a typed report by a transcription service. The four interviews that were not recorded included the three executioners and the pharmacist. Below is a summary of those that were interviewed.

1. The physician, Warden Trammell and three additional DOC personnel that were in the execution chamber at the time of the execution;
2. The paramedic, one DOC employee and the three executioners that were in the executioners' room at the time of the execution;
3. Persons that viewed the execution from the viewing room or overflow area, including personnel from DOC, Office of the Attorney General, media outlets, Lockett's attorneys, members of the Neiman family, the Noble County District Attorney and Sheriff's offices, the Perry Police Department and the Secretary of Safety and Security;
4. Governor Fain and eight members of her staff;
5. Members of DOC's administrative staff including the Director, Associate Director, District Manager, current and former members of DOC's General Counsel staff;
6. OSP corrections officers involved in different aspects of the execution, including staff who interacted with Lockett several days leading up to the execution;
7. DOC medical and mental health staff members;
8. OCME staff involved in the examination and chain-of-custody of Lockett's body and evidence;

9. Employees of Ray Francisco's Embalming Service responsible for the transport of Lockett's body;
10. The pharmacist that filled the prescription of execution drugs.

III. FINDINGS

After reviewing and considering all interviews, documentation and evidence gathered during this investigation, this team has reached several conclusions regarding Lockett's execution. Some factors ultimately contributed to the issues that arose during the process, while others directly affected how those issues were handled by the personnel in the execution chamber. Each of this team's findings is listed below, along with a detailed timeline of events.

A. Timeline

The following is a timeline of events that occurred in regards to Lockett's execution. The approximate times associated with each event have been compiled utilizing witness accounts and documentation obtained during this investigation.

April 29, 2014

- | | |
|-----------------|--|
| 12:00-4:30 a.m. | DOC personnel conducted a unit check and count in H-Unit every 30 minutes. At 12:30 a.m., personnel conducted a welfare check of Lockett and no problems were noted or discovered. |
| 4:30-5:05 a.m. | The Correctional Emergency Response Team (CERT) arrived at H-Unit and began preparations to remove Lockett from cell SW-3-JJ to escort him to IHCC for x-rays. |
| 5:06 a.m. | CERT arrived at cell SW-3-JJ and Lockett refused to comply with orders. He was covered by a blanket and moving, but would not uncover or approach the cell door to be restrained. |
| 5:09-5:50 a.m. | CERT exited the area of cell SW-3-JJ to prepare for cell entry and extraction. Blood was observed by DOC personnel inside cell SW-3-JJ. A use of force plan was established and approval was given by DOC administration to utilize a TASER. |

5:30 a.m. DOC personnel performed another check and Lockett failed to comply with the order to approach the cell door and uncover himself.

5:50 a.m. CERT arrived at cell SW-3-JJ for extraction and determined Lockett had attempted to jam the door. The door was forced open, Lockett refused to comply with verbal commands and a TASER was deployed. CERT members observed self-inflicted lacerations on Lockett's arms.

5:53 a.m. Lockett was secured by CERT, removed from the cell, placed on a gurney and transported to H-Unit medical. A razor blade from an issued, disposable shaving razor was located inside the cell and confiscated.

5:53-6:45 a.m. Lockett was medically evaluated at H-Unit medical.

6:35 a.m. Lockett was transported from H-Unit medical to IHCC. He was placed in IHCC holding cell S2 and remained in handcuffs and leg irons.

6:45 a.m. DOC personnel entered cell S2 and medical staff evaluated Lockett's lacerations.

7:00-8:15 a.m. DOC personnel entered cell S2 every 15 minutes to check Lockett.

8:15 a.m. Lockett was removed from cell S2 and taken to the IHCC emergency room to be examined by DOC medical staff.

8:40 a.m. Lockett was returned to cell S2.

8:50-9:35 a.m. DOC personnel entered cell S2 every 10-15 minutes to check Lockett.

9:15 a.m. Lockett refused visits from his attorneys.

9:42 a.m. Lockett refused a food tray.

9:55 a.m. DOC personnel entered cell S2 to check Lockett.

10:15-10:30 a.m. DOC personnel entered cell S2 to check Lockett every 15 minutes.

10:25 a.m. Lockett confirmed his refusal to visit with his attorneys.

10:45 a.m. DOC personnel entered cell S2 to check Lockett and adjust restraints.

11:11 a.m. Lockett refused a food tray.

11:20 a.m. DOC personnel entered cell S2 to check Lockett and adjusted restraints.

11:35a.m.-3:55p.m. DOC personnel entered cell S2 to check Lockett every 15-20 minutes.

3:35 p.m. DOC personnel retrieved the execution drugs from refrigerated storage at OSP for transport to the execution chamber.

4:10 p.m. DOC personnel entered cell S2 to adjust restraints, redress and prepare Lockett for transport from IHCC to H-Unit.

4:15 p.m. DOC personnel placed the execution drugs in the executioners' room.

4:31 p.m. The three executioners and paramedic entered the executioners' room and began preparation.

4:40 p.m. Lockett was transported to H-Unit and placed into shower SW-4.

4:55-5:10 p.m. Lockett visited with a DOC mental health staff member.

5:19 p.m. The five strap-down team members and Warden Trammell entered the cell area to remove Lockett from shower SW-4.

5:21 p.m. Lockett was removed from shower SW-4 and escorted to the execution chamber.

5:22 p.m. Lockett was placed onto the execution table and strapped down.

5:26 p.m. The strap-down team exited the execution chamber.

5:27-6:18 p.m. The paramedic and physician attempted IV placement access in multiple locations and were unsuccessful. The physician believed he started an IV in Lockett's right groin area.

5:45-5:57 p.m. Victim's witnesses, media personnel, and Lockett's attorneys were summoned to the viewing room and seated.

6:18 p.m. The paramedic and physician determined the IV line was viable.

6:20 p.m. The paramedic re-entered the executioners' room.

6:22 p.m. DOC Director Robert Patton and selected officials were summoned and seated in the viewing room.

6:23 p.m. Director Patton received approval from the Governor's Office to proceed with the execution. He then approved Warden Trammell to proceed. The blinds between the viewing room and execution chamber were raised and Lockett was asked if he wished to make a statement. He refused and Warden Trammell announced that the execution was to begin.

The full dose of midazolam and an appropriate saline flush were administered. A DOC employee began to keep time on a stopwatch.

6:30 p.m. The signal was given that five minutes had elapsed and the physician determined Lockett was conscious. DOC personnel began to keep additional time on a stopwatch.

6:33 p.m. The signal was given that two minutes had elapsed and the physician determined Lockett was unconscious. Warden Trammell signaled for the execution to continue. The full dose of vecuronium bromide, an appropriate saline flush and a majority of the potassium chloride were administered.

6:33-6:42 p.m. Lockett began to move and make sounds on the execution table. It should be noted that the interview statements of the witnesses regarding Lockett's movements and sounds were inconsistent. The physician inspected the IV insertion site and determined there was an issue, which was relayed to Warden Trammell.

6:42 p.m. At the direction of Warden Trammell, the blinds were lowered. The executioner stopped administering the potassium chloride.

6:42-7:06 p.m. It should be noted that the interview statements of the individuals in the execution chamber were inconsistent. However, it was determined the following events did occur inside the execution chamber during this time period.

- The paramedic re-entered the execution chamber to assist the physician.
- The physician attempted IV access into Lockett's left, femoral vein. However, no access was completed.

- When questioned by Warden Trammell, the physician initially believed that Lockett may not have received enough of the execution drugs to induce death. He also believed there were not enough execution drugs left to continue the execution.
- The physician and paramedic continued to monitor Lockett's heart rate utilizing an EKG machine. While attempting to gain the IV access, it was observed that Lockett's heart rate continued to decrease.
- The physician made the observation that the drugs appeared to be absorbing into Lockett's tissue.
- The physician and paramedic concluded that Lockett's heart rate had entered a state of bradycardia and eventually slowed to an observed six beats per minute.
- There were three different recollections of Lockett's movements during this period. Four reported that Lockett did not move, one reported he moved slightly and the last recalled a more aggressive movement.

The following events occurred outside the viewing room door in the H-Unit hallway.

- Director Patton, OAG representatives Tom Bates and John Hadden and Secretary Thompson removed themselves from the viewing room and discussed with the Governor's Office about how to proceed.

6:56 p.m. Director Patton halted/stopped the execution, which was relayed to the execution chamber.

6:57-7:06 p.m. Witnesses were escorted out of the viewing room.

7:06 p.m. The physician pronounced Lockett deceased.

7:50 p.m. After being unstrapped from the execution table, Lockett's body was removed from OSP and transferred to the Office of the Chief Medical Examiner transport.

B. Autopsy Results for Clayton D. Lockett

Based on the autopsy, Lockett's cause of death was listed as *Judicial Execution by Lethal Injection*. The manner of death was listed as *Judicially Ordered Execution*. SWIFS pathologists concluded that Lockett died as the result of judicial execution by lethal injection. Following is a summary of the findings made by SWIFS personnel during their examination of Lockett's body and additional information obtained by the investigation team from SWIFS or through the investigation:

1. Judicial execution with:
 - a. Execution protocol medications used: midazolam, rocuronium and potassium chloride.
 - b. History of difficulty finding intravenous access sites resulting in numerous attempts to start an IV.
 - c. Attempts in both antecubital fossa, both inguinal regions, left subclavian region, right foot and right jugular region.
2. Superficial incised wounds of the upper extremities consistent with history of self-inflicted incised wounds with a safety razor.
3. Contusions and abrasions of extremities.
4. Cardiac hypertrophy (480 grams)
5. Mild coronary artery atherosclerosis.
6. Hydroxyzine detected.
 - a. Lockett was prescribed hydroxyzine, but the prescription had ended March 3. There were emails from DOC personnel alleging Lockett had been hoarding medication. SWIFS personnel stated there were higher than therapeutic levels of hydroxyzine present in Lockett's system and hydroxyzine should not have interfered with the execution drugs administered. They also could not determine when or how much of the hydroxyzine was taken.
7. No evidence of dehydration.
8. No Taser marks on the body.
9. Toxicology indicated elevated concentrations of midazolam in the tissue near the insertion site in the right groin area, which is indicative of it not being administered into the vein as prescribed in execution protocols. The presence of midazolam in the psoas muscle indicates midazolam was distributed

throughout Lockett's body during the execution. According to SWIFS pathologists, the concentration of midazolam located in Lockett's blood was greater than the therapeutic level necessary to render an average person unconscious.

10. Vecuronium bromide was found in the femoral blood sample taken from Lockett's body. The presence of vecuronium bromide in the psoas muscle indicates vecuronium bromide was distributed throughout Lockett's body during the execution.
11. Potassium was found in the femoral blood sample taken from Lockett's body.

C. DOC Execution Protocols

Regarding whether DOC correctly followed their current execution protocols, it was determined there were minor deviations from specific requirements outlined in the protocol in effect on April 29. Despite those deviations, it was determined the protocol was substantially and correctly complied with throughout the entire process. None of the identified deviations contributed to the complications encountered during this execution.

D. IV Insertion, Viability and Administration of Execution Drugs

The physician and paramedic made several attempts to start a viable IV access point. They both believed the IV access was the major issue with this execution. This investigation concluded the viability of the IV access point was the single greatest factor that contributed to the difficulty in administering the execution drugs.

While exploring this issue, several DOC personnel made statements referencing Lockett purposely dehydrating himself. Lockett made statements to the paramedic that he had been dehydrating himself for three days. However, SWIFS pathologists found no indication that Lockett was dehydrated at the time of his execution. SWIFS also concluded Lockett's blood loss from the self-inflicted wounds to his arms should not have caused issues with the IV access.

Interviews and documentation indicated several vein checks had been performed by DOC medical personnel leading up to and on the day of the execution. Each check indicated that Lockett's veins were "good". At least three interviews of DOC medical personnel indicated they viewed Lockett's veins on the morning of the execution. Their observations concluded his veins were "good" and acceptable for IV access.

The IV insertion process was started by an emergency medical technician licensed as a paramedic. The paramedic had been licensed in emergency medical services for more than 40 years and as a paramedic for over 20 years. This person had also instructed at the intermediate level. The licenses possessed at the time of the execution were valid until 2015 and were from the Oklahoma State Department of Health and the National Registry of Emergency Medical Technicians. The paramedic provided the prison a copy of the above licenses in January or February 2014. The paramedic estimated he/she had been involved in every lethal injection execution in Oklahoma, except for two. His/her specific assignments were to start an IV, ensure a proper infusion of saline, attach a cardiac monitor to Lockett and during the execution, make sure the executioners did their part of the procedure aseptically, at the correct time and the correct speed.

The IV access was completed by a physician licensed as a medical doctor. The physician graduated medical school over 15 years ago, currently worked in emergency medicine and was certified in family medicine. His license expires July 1 of each year and was current at the time of the execution. He had not provided a current copy of his license to DOC prior to April 29, but days later was called and asked for a copy. This was his second execution with the first being four to five years earlier. The physician understood his duties were to assess Lockett to determine if he was unconscious and ultimately to pronounce his death. He was contacted two days prior to the execution date and asked to fill in for another physician that had a scheduling conflict.

Before Lockett was moved into the chamber, the paramedic prepared the IV lines and available execution tools. He/she also verified the drugs were properly labeled and were for Lockett. After Lockett was brought to the chamber and secured to the execution table, the paramedic began to assess his veins. The paramedic first attempted access in the left arm and found a vein with an 18-gauge needle/catheter and observed flashback, a condition sought during IV placement. The paramedic did not have adhesive tape on

his/her person to secure the catheter. Before the tape was retrieved, the vein became unviable. The paramedic then attempted two additional IV insertions into the left arm using the same type needles/catheters, but never observed flashback.

After these attempts, the physician became involved and attempted IV access into Lockett's left, external jugular vein utilizing a 1¼ inch, 14-gauge needle/catheter. During his interview, the physician stated he penetrated this vein and obtained flashback. Seconds later, it became unviable and he was unable to continue with that vein. As the physician was attempting this access, the paramedic was attempting IV access into Lockett's right arm. After three attempts, the paramedic was unable to start a viable IV access point in this arm.

Next, the physician attempted to locate the subclavian vein on Lockett's left side utilizing a central venous catheterization kit. During the attempt, the physician observed a very small amount of flashback, but he was unable to repeat it. The physician believed the needle was penetrating through the vein. He noted during his interview he did not have access to an ultrasound machine, which is a commonly used tool to locate and penetrate veins.

As the physician attempted subclavian access, the paramedic attempted IV access in two separate locations on Lockett's right foot with 20 gauge needles/catheters. The paramedic said the veins rolled and disappeared during those attempts. The paramedic believed the needle penetrated the veins, but flashback was never observed. The paramedic did not attempt access into any other veins because the physician made the decision to attempt access into a femoral vein.

The physician requested a longer needle/catheter for the femoral access. The paramedic attempted to locate a 2 or 2½-inch, 14-gauge needle/catheter, but none were readily available. The physician also asked for an intraosseous infusion needle, but was told the prison did not have those either. Both agreed their preferred needle/catheter length would have been 1¾ to 2½ inches. The physician had never attempted femoral vein access with a 1¼ inch needle/catheter; however, it was the longest DOC had readily available. An additional central venous catheterization kit was available, but the physician did not think about utilizing one for femoral access.

Lockett's scrub pants and underwear were cut in order to expose the femoral area. The physician located the femoral vein and believed the vein was penetrated because he observed good flashback. The paramedic taped the catheter to Lockett's body, and stated during his/her interview it became positional. The physician believed it was bending because of its length. He and the paramedic positioned the catheter where they were able to observe slow infusion of saline and secured it with adhesive tape. The autopsy did not conclude the femoral vein was punctured. However, SWIFS personnel indicated they only examined the portion of the femoral vein that had been dissected by OCME and not the entire vein.

The physician was asked about starting a second IV line. He stated he was not going to make another attempt. The physician and paramedic were comfortable with the IV placement and the infusion of saline through the line. This was not the first execution in Oklahoma where only one IV access point had been obtained and protocol allowed for only one access point.

Warden Trammell decided to cover Lockett's body with a sheet, including the IV insertion area, which, according to her, was normal in all executions. Another reason for her decision was to maintain Lockett's dignity and keep his genital area covered. From that time, no one had visual observation of the IV insertion point until it was determined there was an issue and the physician raised the sheet. Warden Trammell acknowledged it would be her normal duty to observe an IV insertion point for problems. She believed if the IV insertion point had been viewed, the issue would have been detected earlier. The physician added that an IV would normally be monitored by watching the flow of the IV line and the area around the insertion point for any signs of infiltration. This investigation found that neither of these observations occurred, which led to the issue being discovered several minutes after the execution began.

After the IV insertion was complete, the paramedic went into the executioners' room and the physician remained in the execution chamber. Once Warden Trammell announced it was time to begin the execution, the paramedic began the procedure to administer the drugs. The paramedic first used a hemostat to clamp the IV line above the access port, to stop the flow of execution drugs from going up the line. The IV drip was never reestablished after that point. The midazolam and the appropriate flushes were

administered into the single access port by the executioners in the order they were presented by the paramedic. The paramedic and executioners were certain the drugs were pushed steady and in the proper manner because of their past experiences in performing the same roles. The DOC employee in the executioners' room then began to keep time using a stopwatch.

According to execution protocol, the vecuronium bromide shall not be administered until at least five minutes after the administration of midazolam. Prior to the execution, DOC administration determined if Lockett was not unconscious after five minutes, he would be checked every two minutes, until he was declared unconscious. Five minutes after the administration of midazolam, the physician determined Lockett was conscious. After an additional two minutes, the physician determined that Lockett was unconscious.

Warden Trammell signaled for the execution process to continue. The executioners, with assistance from the paramedic, began administering the vecuronium bromide, the potassium chloride and the appropriate saline flushes. Both syringes of the vecuronium bromide, appropriate saline flushes, the first full syringe of potassium chloride and a portion of the second syringe of potassium chloride were administered. At some point during the administration of these two drugs, Lockett began to move and the physician recognized there was a problem.

The physician approached Lockett and indicated to Warden Trammell that something was wrong. He looked under the sheet and recognized the IV had infiltrated. At this same time, Warden Trammell viewed what appeared to be a clear liquid and blood on Lockett's skin in the groin area. The physician observed an area of swelling underneath the skin and described it as smaller than a tennis ball, but larger than a golf ball. The physician believed the swelling would have been noticeable if the access point had been viewed during the process.

The execution process was stopped as one of the executioners was administering the second syringe of potassium chloride. The executioner immediately stopped pushing the syringe with approximately 10 milliliters of potassium chloride remaining. The remainder of the drug was later wasted into a bio-hazard bin by the paramedic.

The blinds to the execution chamber were lowered and the paramedic exited the executioners' room to assist the physician. The physician told the paramedic the catheter dislodged. The paramedic observed the catheter was tilted to one side and believed it was no longer penetrating the vein. The physician decided to attempt IV insertion into the left-side femoral vein. The physician first penetrated Lockett's femoral artery and another access point into the vein was never completed because the physician believed the drugs were being absorbed into his tissue.

The physician and paramedic were unsure when the catheter became dislodged and how much of each drug had made it into Lockett's vein. The autopsy indicated elevated concentrations of midazolam in the tissue near the insertion site in the right groin area, which was indicative of the drugs not being administered into the vein as intended. Thus, the IV access was not viable as early as the administration of the midazolam.

E. Toxicology Results of Femoral Blood Sample: Clayton D. Lockett

On May 14 and May 19, OCME documented the toxicology results they received from NMS Labs on an aliquot of the femoral blood sample they obtained from Lockett's body on April 30. The results indicated a midazolam concentration of 0.57 mcg/mL and a vecuronium concentration of 320 ng/mL. On June 26, ExperTox completed toxicology testing of an aliquot of the same femoral blood sample. The results of this test indicated a potassium concentration of 0.74 mole/L. It should be noted that testing for the concentration of potassium after death can be problematic due to the body's natural processes, which cause an increase in the concentrations of potassium in the blood over time.

F. Toxicology Results of Execution Supplies: Clayton D. Lockett

On May 5, ExperTox completed testing of the execution supplies utilized during Lockett's execution. They analyzed the contents by liquid chromatography/triple quad mass spectrometry (LC/MSMS) and inductively coupled argon plasma-mass spectrometry (ICP-MS) for the detection and quantitation of midazolam, vecuronium bromide and potassium chloride. ExperTox reported the following:

1. The two syringes labeled midazolam contained residues consistent with the listed label content of 5 mg/mL.
2. The two syringes labeled vecuronium bromide contained residues consistent with the listed label content of 1 mg/mL.
3. The two syringes labeled potassium chloride contained residues consistent with the listed label content of 2 meq/mL.
4. The IV Tubing connected to two 0.9% NaCl one liter IV bags contained sodium chloride, blood, residues of vecuronium bromide at the final concentration of 0.013 g/mL and residues of potassium chloride at the final concentration of 1.3 meq/mL.

G. Toxicology Results of Execution Drugs: Charles Warner

On May 5, ExperTox completed testing of the drugs intended for use during the execution of Charles Warner. They analyzed the contents by LC/MSMS and ICP-MS for the detection and quantitation of midazolam, vecuronium bromide and potassium chloride. These tests were also utilized to determine drug agent potency. ExperTox reported the following:

1. The two 0.9% NaCl injection USP 1 liter IV bags tested consistent with the listed contents.
2. The seven 0.9% NaCl 50 mL bags tested consistent with the listed contents.
3. The two syringes labeled midazolam tested consistent with the listed label content of 5 mg/mL.
4. The two syringes labeled vecuronium bromide tested consistent with the listed label content of 1 mg/mL.
5. The two syringes labeled potassium chloride tested consistent with the listed label content of 2 meq/mL.

H. Execution Protocol Training of Execution Team

This investigation determined that DOC personnel did conduct training sessions as required by the protocol in effect on April 29. The sessions were conducted during the weeks and days leading up to the execution and consisted of planning meetings, on-the-job training for each of the respective positions in the execution chamber and

executioners' room and walk-through training sessions for all involved staff members. The paramedic, physician and the three executioners were not included in this training prior to the day of the execution. The final training session included DOC administrative staff reviewing the sequence of events with all parties in the execution chamber just prior to the execution.

Field Memorandum OSP-040301-01, *Procedure for the Execution of Offenders Sentenced to Death*, outlines the training requirements that should occur prior to an execution. The following is a summary of the training procedures that were conducted prior to Lockett's execution.

1. A deputy warden or designee was required to review the sequence of events inside the executioners' room with the executioners and paramedic prior to each execution. Documentation and interviews substantiated this requirement was completed on April 29 at 5:06 p.m.
2. The paramedic was required to give the following instructions to the executioners, "Administer the drugs at a steady flow without pulling back on the plunger of the syringe." The paramedic did not give this statement prior to this execution. However, the three involved executioners had been involved in multiple executions prior to Lockett's and each acknowledged their roles and duties. The paramedic also acknowledged his/her role to ensure the executioners did their job aseptically, at the correct time, speed and dosage.
3. The warden was required to review the sequence of events with the physician and other DOC personnel in the execution chamber prior to beginning the execution. Interviews and documentation indicated this occurred on April 29 at 5:15 p.m.
4. DOC protocol required the strap-down team to conduct a walk-through of the strap-down procedures no later than two weeks prior to the execution. There were multiple walk-through training sessions conducted prior to Lockett's execution. The last session was conducted within two weeks of Lockett's execution, as required by protocol.

This investigation revealed areas of training that need to be addressed. It was noted there was no formal training process involving the paramedic, the physician or the executioners and their specific roles. They were not involved in any pre-execution training or exercises to ensure they understood the overall process. For those individuals, the current protocol had very minimal training requirements. The executioners only receive formal training from the paramedic on the day of the execution and informal training from previous executioners during actual executions.

Warden Trammell and Director Patton both acknowledged the training DOC personnel received prior to the execution was inadequate. Warden Trammell stated the only training she received was on-the-job training and that DOC had no formalized training procedures or processes concerning the duties of each specific position's responsibility. The warden and director both indicated DOC had no training protocols or contingency plans on how to proceed with an execution if complications occur during the process.

I. Contingency Planning for Executions

The DOC execution protocol in effect on April 29 had limited provisions for contingencies once the execution process began. One contingency allowed the physician to assist with initial IV access and the other concerned life-saving measures if a stay was granted. After it was determined that problems were present during Lockett's execution, personnel involved with the execution were unaware of how to proceed due to the lack of policies and/or protocols in place at that time. It was determined that no contingency actions were taken inside the chamber other than the physician attempting to locate the femoral vein on Lockett's left side, which was never completed prior to his death.

J. Cessation of Execution Protocols

When an issue with the administration of execution drugs was discovered, the blinds between the chamber and viewing room were lowered. Several conversations took place inside and outside the chamber regarding how to proceed. The conversation outside the chamber included whether to continue or how to stop the execution. The conversations inside the chamber included whether to provide life-saving measures.

Outside the execution chamber, there were several conversations between Director Patton, Secretary Thompson, OAG representatives at the execution and General Counsel Steve Mullins with the Governor's Office. It was determined between Director Patton and General Counsel Mullins, who had conversed with the Governor, that the execution would be stopped. Director Patton then relayed to the witnesses and the personnel in the chamber that the execution was being stopped. In an additional conversation, General Counsel Mullins further told Director Patton that they would begin preparing a stay at the direction of the Governor. Lockett died prior to the order for a stay being relayed to the personnel inside the execution chamber. There was conversation inside the chamber about administering life-saving measures to Lockett, including transporting him to the emergency room, but no order was given.

K. Two Executions Scheduled on the Same Day

It was apparent the stress level at OSP was raised because two executions had been scheduled on the same day. This was the first time since 2000 two offenders were scheduled to be executed the same day. Four days prior to the execution, the protocol was revised to accommodate the logistics for two offenders.

Several comments were made about the feeling of extra stress. Warden Trammell believed this caused extra stress for all staff. The paramedic stated he/she felt stress and a sense of urgency in the air. This was based on him/her having been involved in numerous executions.

L. Maintenance of Daily Logs

In accordance with protocol, OSP staff maintained a daily log of events and occurrences related to Lockett. Protocol stated, "Seven days prior to the execution of an offender sentenced to death, a daily log will be kept regarding every aspect of the proceedings except names." This investigation determined the information recorded on the logs was incomplete.

M. Use of Midazolam, Vecuronium Bromide and Potassium Chloride

The new three drug protocol utilized in this execution included the administration of midazolam, vecuronium bromide and potassium chloride. It was determined vecuronium bromide and potassium chloride had both been used in previous executions as the second and third drugs to be administered. This was the first Oklahoma execution where midazolam was used.

On April 14, midazolam was the newest drug added to the protocol after it was determined pentobarbital was not available. Pursuant to the death warrant, a dosage of 100 mg was ordered and administered to Lockett. According to protocol, vecuronium bromide was to be administered at a total quantity of 40 mg and the potassium chloride at a total quantity of 200 meq. These dosages were equivalent to the quantities used in other Oklahoma three-drug methods dating back to at least 2011.

This investigation could not make a determination as to the effectiveness of the drugs at the specified concentration and volume. They were independently tested and found to be the appropriate potency as prescribed. The IV failure complicated the ability to determine the effectiveness of the drugs.

On the day of the execution, OAG representatives presented an affidavit to Warden Trammell related to the execution drugs. The warden signed the affidavit and attested that the drugs had been obtained legally from a licensed pharmacy and had been handled appropriately since their acquisition. Interviews of DOC and OAG staff revealed this type of affidavit had been signed in the past, but never on the day of an execution. According to OAG representatives, the affidavit was executed on the day of the execution, due to ongoing litigation concerns regarding the drugs.

N. Historical Incident Reports and Medical Records

The investigation team obtained historical incident reports, emails and medical records from OSP regarding Lockett. The incident reports included approximately 42 instances where Lockett was disciplined for behavioral issues and for contraband located or suspected by DOC personnel. Examples include:

1. A cellular telephone was discovered in Lockett's cell several months prior to the execution;

2. DOC personnel suspected Lockett had been hoarding Vistaril (hydroxyzine) from a prescription that ended March 3;
3. A homemade rope was discovered on the floor of Lockett's cell during his extraction on the day of the execution;
4. A razor blade from an issued, disposable shaving razor was discovered in Lockett's cell on the day of the execution.

The review of Lockett's medical records by a medical professional indicated that he had no past medical conditions or factors that would be considered problematic for IV insertion or drug administration.

O. Lockett's Movements and Sounds after Drug Administration

The description of Lockett's movements and sounds varied among the witnesses. The movement descriptions ranged from quivering to thrashing, but most agreed Lockett's head did rise off the table. There were differing recollections regarding whether Lockett's eyes opened after he was deemed unconscious. The sound descriptions varied from mumbling to Lockett making statements. The recollections varied greatly; therefore it was difficult to determine what was said, if anything.

Several conclusions were made pursuant to the execution table assessment. While strapped to the table, the team member made attempts to move all parts of his body. He was able to rotate his feet inward and outward, move his shoulders slightly and his head had a full range of motion. He was not able to bend or move his knees and had minimal movement in his hips as he attempted to move from side to side. He could not move his hips up and down. The hands had no movement and the arms had minimal movement due to the elbow having limited motion. Based on what was observed, witnesses would have a different perspective of the amount of movement depending on where they were seated. Due to the restrictiveness of the straps, the movements were minimal to non-existent with the exception of the head and feet.

IV. RECOMMENDATIONS

Based on the findings, the following recommendations are made for future lethal injection executions in Oklahoma. DOC, the Office of the Attorney General and any other entity or individual responsible for execution protocols in this state are urged to thoroughly research, review and deliberate these recommendations prior to their implementation. Further, DOC should review and consider policies and protocols from other states responsible for executions. Any changes to the current policies and protocols should comply with Oklahoma and federal law.

A. Observation of IV Insertion Point(s) and Infusion

1. The IV catheter insertion point(s) should remain visible during all phases of the execution and continuously observed by a person with proper medical training in assessing the ongoing viability of an IV. This person should remain inside the execution chamber during the entire process.
2. Once the appropriate saline infusion has started, it should not be stopped, except for the times that execution drugs are being administered. It should be continuously monitored to assist in ensuring IV viability in accordance with current medical practices and standards;
3. After one hour of unsuccessful IV attempts, DOC should contact the Governor to advise the status and potentially request a postponement of the execution.

B. Training and Maintenance of Execution Log for Condemned

Offenders

1. Conduct formal, specific training related to information documented on all execution logs.
2. The information to be recorded on execution logs should include, but not be limited to:
 - a. all statements or behaviors that could be detrimental to completing an execution;
 - b. all meals provided to an offender and what portions of the meals the offender consumed or refused;

- c. all medication provided to an offender and the observations made by personnel as to whether the offender ingested the medication as prescribed;
- d. all liquids consumed by the offender.

C. Additional Execution Supplies

DOC should maintain and provide their own equipment and supplies ensuring their operability prior to each execution.

1. DOC should obtain from the selected pharmacist, one complete, additional set of each execution drug being utilized for an execution to be used in the event an issue arises with the primary set.
2. DOC should consult with appropriate medical personnel to determine any and all supplies or equipment necessary including but not limited to the following:
 - a. Heart monitoring equipment;
 - b. Venous ultrasound equipment;
 - c. Appropriate needle/catheters to coincide with the IV access options listed in protocol.

D. Contingency Plans & Protocols/Policy

DOC should evaluate and establish protocols and training for possible contingencies if an issue arises during the execution procedure. DOC should consider planning for contingencies including, but not limited to:

1. Issues with execution equipment or supplies;
2. Issues with offender IV access, including obtaining alternate IV access site(s);
3. The offender is not rendered unconscious after execution drug administration;
4. A combative offender;
5. Unanticipated medical or other issues concerning the offender or an execution team member;
6. Issues regarding order, security or facilities at OSP.

E. Formal and Continuing Training Program for Execution Personnel

DOC should establish formal and continual training programs for all personnel involved in the execution process. They should explore successful training procedures used by other correctional institutions and implement accordingly.

F. Formal After-Action Review of the Execution Processes

At the conclusion of each execution, all personnel with assigned execution duties should attend an after-action review. The review should be completed within five business days and conducted by the director or his designee. The events that occurred during the execution should be discussed in detail and each involved person should discuss their responsibilities and observations. The review should serve as an opportunity for all involved personnel to voice their opinions, concerns and/or recommendations in order for continuous improvement to the process. The review should be formally documented and retained for future reference.

G. Defined Execution Terminology

It was apparent during this investigation that specific terminology should be clearly defined so they are understood by all personnel involved in the execution process. This will allow DOC, OAG and Governor's Office personnel to have a common understanding of how each term affects the execution process and the actions that should take place, if such terms are used. Defined terms should include, but are not limited to "stop," "stay," and "halt".

H. Completion of One Execution per Seven Calendar Days

Due to manpower and facility concerns, executions should not be scheduled within seven calendar days of each other.

I. Updated Methods of Communication

The current communication methods used during the execution process are antiquated and require unnecessary multi-tasking from key personnel in the execution chamber. DOC should explore options on how to update the following:

1. Communication between the execution chamber and executioners' room.
 - a. DOC should research and implement modern methods that allow personnel in these two areas to communicate clearly.
 - b. The current processes, including the use of color pencils and hand signals, could be used as a contingency if other modern methods fail.
2. Communication between DOC and the Governor's Office.
 - a. DOC should research and implement methods to modernize the communication link that would allow direct, constant contact between the personnel in the execution chamber and the Governor's Office.

J. Disposition of Executed Offender's Property

DOC should explore maintaining an executed offender's personal property and any items removed from his/her cell until the autopsy report is completed. This would allow DOC administrative personnel time to determine if such property should be maintained for an additional period of time, if appropriate circumstances exist. In any event, no property should be released until it has been properly searched and inventoried.

K. Execution Witness Briefing

As a result of the changing execution protocols and procedures, DOC should conduct a prepared pre-execution briefing with all attending witnesses. This briefing should include, but not be limited to the following:

1. An overview of the events the witnesses will view during the execution process, including an explanation that witnesses will not be allowed to view all aspects of the execution;
2. Requirements regarding the conduct of witnesses throughout the process.

IN THE COURT OF CRIMINAL APPEALS FOR THE STATE OF OKLAHOMA

In Re:	)	
The Setting of Execution Dates	)	
In --	)	
	)	
RICHARD NORMAN ROJEM,	)	Case Nos. D-2007-660
EMMANUEL LITTLEJOHN,	)	D-2000-1609
KEVIN RAY UNDERWOOD,	)	D-2008-319
WENDELL ARDEN GRISSOM,	)	D-2008-595
TREMANE WOOD, and	)	D-2005-171
KENDRICK ANTONIO SIMPSON,	)	D-2007-1055
	)	
Appellants,	)	FILED
	)	COURT OF CRIMINAL APPEALS
	)	STATE OF OKLAHOMA
v.	)	JAN 30 2024
	)	
STATE OF OKLAHOMA,	)	JOHN D. HADDEN
	)	CLERK
Appellee.	)	

**JOINT MOTION TO SET THE PHASE THREE
EXECUTION DATES AT 90-DAY INTERVALS**

COME NOW, the State of Oklahoma, by and through Attorney General Gentner F. Drummond, and Oklahoma Department of Corrections ("DOC") Executive Director Steven Harpe, by and through DOC General Counsel Kari Y. Hawkins, and hereby move this Court to set, at 90-day intervals, the Phase Three execution dates for Richard Norman Rojem, Emmanuel Littlejohn, Kevin Ray Underwood, Wendell Arden Grissom, Tremane Wood, and Kendrick Antonio Simpson. See 22 O.S.2021, § 1001.1(D), (E), (F) (obligating the Attorney General to "suggest the appropriateness of the setting of a new execution date"). For the reasons below, Director Harpe has determined that "[t]he present pace of executions, every 60 days, is too onerous and not sustainable," Affidavit of

Director Harpe, at ¶ 5, attached as Exhibit A ("Ex. A"), and it is therefore respectfully requested that this Court set the Phase Three Execution Dates to begin approximately 90 days after the conclusion of Phase Two and at intervals of 90 days between executions.

I. Procedural History

On June 10, 2022, the State notified this Court that there were twenty-five death row inmates whose appeals were exhausted and for whom execution dates should be set in light of Oklahoma's "Execution of Inmates Sentenced to Death" Protocol being ruled constitutional. After consultation with DOC, the State requested that executions be held at least four weeks apart, only on Thursdays.

On July 1, 2022, this Court issued two orders. The first order set execution dates for six inmates. These "Phase One" dates were scheduled four weeks apart. This Court's second order provided execution dates for the remaining nineteen inmates, in four additional phases. Phase Two was scheduled to begin on March 9, 2023, with the execution of Jemaine Monteil Cannon. Each of the other five executions in Phase Two was set to take place four weeks apart, with the exception of the execution of Michael DeWayne Smith, which was scheduled five weeks from the prior execution.

On January 9, 2023, this Court issued an order confirming the execution dates for Phase Two. On January 17, 2023, however, the State filed a Motion to Reset Execution Dates Set Pursuant to 22 O.S.2021, § 1001.1 ("Motion to Reset"), explaining that the then-current pace of executions—one every four

weeks—was not sustainable for DOC. The State noted that it would “return to the Court at the appropriate time to address the dates for the remaining thirteen executions.” Motion to Reset at 4.

On January 24, 2023, this Court granted the State’s Motion to Reset and rescheduled the Phase Two execution dates for approximately 60 days apart from each other (“1/24/2023 Order”). Specifically, this Court rescheduled the execution dates for Cannon, Anthony Castillo Sanchez, Phillip Dean Hancock, James Chandler Ryder, Smith, and Wade Greely Lay and stated that it would “address the dates for the remaining executions at an appropriate time in the future.” 1/24/2023 Order at 4. Cannon, Sanchez, and Hancock have been executed. The execution for Ryder, scheduled for February 1, 2024, is currently stayed by this Court for competency proceedings. Smith is scheduled for execution on April 4, 2024, and Lay is scheduled for execution on June 6, 2024.

II. Request for Scheduling of Phase Three Execution Dates at 90-Day Intervals

Since October 28, 2021, the DOC has successfully carried out eleven executions,¹ exhibiting superior work ethic, professionalism, and concern for the victims’ families throughout. As is to be expected, DOC leadership and personnel have continuously sought to learn and improve during this process.

As the agency director, pursuant to the execution protocol, Director Harpe “must select and oversee the training of the execution teams, ensure all team

¹ John Marion Grant, Bigler Jobe Stouffer, Donald Anthony Grant, Gilbert Ray Postelle, James Allen Coddington, Benjamin Robert Cole, Richard Stephen Fairchild, Scott James Eizember, Cannon, Sanchez, and Hancock.

members understand and comply with protocol provisions, establish and maintain a training schedule, and oversee the training schedule as well as all executions.” Ex. A, at ¶ 2. He “can thus speak to the tremendous burden that executions, and the weeks of process leading up to each execution, place on DOC operations and staff.” Ex. A, at ¶ 2. Likewise, as the State’s chief law officer, the Attorney General has personally attended and witnessed each of the four executions carried out since he took office to ensure they were conducted in a constitutional manner and in accordance with the execution protocol. This has allowed the Attorney General to interview DOC leadership and personnel about the execution process, both before and after each execution, and has given him unprecedented insight into the burden imposed on DOC personnel by each execution.

As Director Harpe explains, “[t]he scheduling of an execution date triggers a series of tasks that must be completed by DOC staff, many of which must occur weeks before the scheduled execution.” Ex. A, at ¶ 3. In addition, “[t]he day of an execution affects not only those directly involved in the execution, but the entirety of Oklahoma State Penitentiary, which goes into a near complete lockdown until the execution is completed.” Ex. A, at ¶ 3.

Director Harpe further describes that “[e]ach execution, including the preceding weeks of protocol tasks, involves eight different teams, each of which is comprised of multiple individuals.” Ex. A, at ¶ 4. “These teams must conduct multiple extensive, intensive trainings—i.e., mock executions—in the weeks and

days leading up to each execution.” Ex. A, at ¶ 4. Critically, “[s]taff participation in the execution process is strictly voluntary, staff is not required to attend or participate in an execution, and any staff volunteers may withdraw from performing their assigned duties specific to the execution.” Ex. A, at ¶ 4 (quotation marks omitted, alterations adopted).

Based on all of the above, Director Harpe has determined that “[t]he present pace of executions, every 60 days, is too onerous and not sustainable.” Ex. A, at ¶ 5. “Instead, a sustainable pace would be every 90 days[.]” Ex. A, at ¶ 4.² The Attorney General concurs in this determination and, respectfully, assures this Court that an enlarged spacing, of 90 days, is suggested not as a matter of convenience, but only after careful consultation and deliberation and out of the Attorney General’s solemn duty to ensure that executions are carried out constitutionally and in compliance with the Execution Protocol. With a sustainable pace of every 90 days, the State does not anticipate requesting further enlargements between executions. Ex. A, at ¶ 5.

WHEREFORE, the State respectfully asks that this Court set the Phase Three execution dates, for Rojem, Littlejohn, Underwood, Grissom, Wood, and Simpson, beginning approximately 90 days out from Lay’s scheduled execution on June 6, 2024, with each execution scheduled for a Thursday and each execution spaced approximately 90 days apart from each other.

² Director Harpe confirms that “[e]nlarging the time between executions from 60 days to 90 days will not cause the execution drugs possessed by DOC to expire before they can be used.” Ex. A, at ¶ 6.

Respectfully submitted,

GENTNER F. DRUMMOND
ATTORNEY GENERAL OF OKLAHOMA



Gentner F. Drummond, OBA #16645

313 N.E. 21st Street

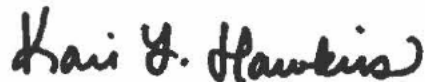
Oklahoma City, OK 73105

(405) 521-3921

(405) 522-4534 (FAX)

**ATTORNEY FOR APPELLEE, THE STATE OF
OKLAHOMA**

STEVEN HARPE
EXECUTIVE DIRECTOR OF THE OKLAHOMA
DEPARTMENT OF CORRECTIONS



Karl Y. Hawkins, OBA #19824

**General Counsel for Oklahoma Department of
Corrections**

Oklahoma Department of Corrections

3400 N. Martin Luther King Avenue

Oklahoma City, OK 73111

(405) 425-2517

ATTORNEY FOR DIRECTOR HARPE

CERTIFICATE OF MAILING

On this 30th day of January, 2024, a true and correct copy of the foregoing was mailed to:

Mr. Jack Fisher
PO Box 1976
Edmond, OK 73083
Counsel for Rojem

Ms. Emma Rolls
First Assistant Federal Public Defender
215 Dean A. McGee, Suite 707
Oklahoma City, OK 73102
Counsel for Littlejohn, Underwood, Grissom, & Simpson

Ms. Amanda Bass
Assistant Federal Public Defender
850 W Adams St, Suite 201
Phoenix, AZ 85007
Counsel for Wood


Gentner F. Drummond

AFFIDAVIT

STATE OF OKLAHOMA)
) **ss:**
COUNTY OF OKLAHOMA)

Steven Harpe, being first duly sworn, deposes and states:

1. I am the Executive Director of the Oklahoma Department of Corrections ("DOC").

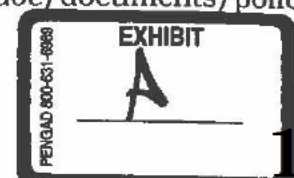
2. Executions in Oklahoma are governed by the "Execution of Inmates Sentenced to Death" Protocol ("Execution Protocol"),¹ promulgated in February 2020. Pursuant to the Execution Protocol, as agency director, I must select and oversee the training of the execution teams, ensure all team members understand and comply with protocol provisions, establish and maintain a training schedule, and oversee the training schedule as well as all executions. Execution Protocol at 5, 9, 20, 25-27. I can thus speak to the tremendous burden that executions, and the weeks of process leading up to each execution, place on DOC operations and staff.

3. The scheduling of an execution date triggers a series of tasks that must be completed by DOC staff, many of which must occur weeks before the scheduled execution. Execution Protocol at 13-21. The day of an execution affects not only those directly involved in the execution, but the entirety of Oklahoma State Penitentiary, which goes into a near complete lockdown until the execution is completed. Execution Protocol at 21-22.

4. Each execution, including the preceding weeks of protocol tasks, involves eight different teams, each of which is comprised of multiple individuals. Execution Protocol at 5-9. These teams must conduct multiple extensive, intensive trainings—i.e., mock executions—in the weeks and days leading up to each execution. Execution Protocol at 9-10. "Staff participation in the execution process is strictly voluntary," "staff is not required to attend or participate in an execution," and "[a]ny staff volunteers may withdraw from performing their assigned duties specific to the execution" Execution Protocol at 5.

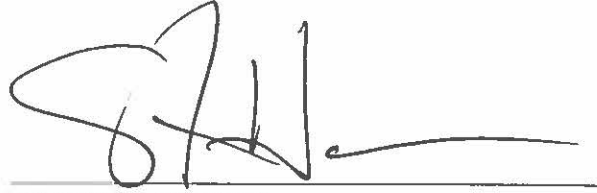
5. Based on the executions I have overseen, and in my judgment as executive director, the present pace of executions, every 60 days, is too onerous and not sustainable. Instead, a sustainable pace would be every 90 days, for all the aforementioned reasons, particularly given the volunteer nature of the execution teams. With a sustainable pace of every 90 days, I do not anticipate requesting further enlargements between executions.

¹ Available at <https://oklahoma.gov/content/dam/ok/en/doc/documents/policy/section-04/op040301.pdf>.



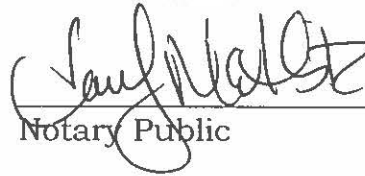
6. Enlarging the time between executions from 60 days to 90 days will not cause the execution drugs possessed by DOC to expire before they can be used.

Further Affiant sayeth not.



STEVEN HARPE

Subscribed and sworn to before me this 29 day of January, 2024.


Notary Public



ORIGINAL

**IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA**

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

MAY - 7 2024

JOHN D. HADDEN
CLERK

In Re:
The Setting of Execution Dates
In --

RICHARD EUGENE GLOSSIP,
JOHN FITZGERALD HANSON,
JAMES CHANDLER RYDER,
WADE GREELY LAY,
RICHARD NORMAN ROJEM,
EMMANUEL LITTLEJOHN,
KEVIN RAY UNDERWOOD,
WENDELL ARDEN GRISSOM,
TREMANE WOOD,
KENDRICK ANTONIO SIMPSON,
RAYMOND EUGENE JOHNSON,
CARLOS CUESTA-RODRIGUEZ,
JAMES DWIGHT PAVATT,
CLARENCE ROZELL GOODE, JR.,
RONSON KYLE BUSH,
ALFRED BRIAN MITCHELL, and
MARLON DEON HARMON,

Case Nos. D-2005-310
D-2006-126
D-2000-886
D-2005-1081
D-2007-660
D-2000-1609
D-2008-319
D-2008-595
D-2005-171
D-2007-1055
D-2009-702
D-2007-825
D-2003-1186
D-2008-43
DC-2009-1113
D-2008-57
D-2008-657

Appellant,

v.

THE STATE OF OKLAHOMA,

Appellee.

ORDER

On January 30, 2024, the State of Oklahoma, by and through Attorney General Gentner F. Drummond, jointly with the Oklahoma Department of Corrections (DOC) Executive Director Steven Harpe, by and through DOC General Counsel Kari Y. Hawkins, filed with this Court a Joint Motion to Set the Phase Three Execution Dates at 90-Day Intervals pursuant to Title 22, Section 1001.1(D), (E), and (F).

In June of 2022, the State advised this Court that there were no further legal impediments to carrying out executions of approximately twenty-five inmates following a federal court judgment pursuant to its duty to inform the Court and suggest the appropriateness of setting new execution dates. 22 O.S.2021, § 1001.1(D) and (E); *See Glossip v. Chandler*, 2022 WL 1997194 (W.D. Okla. June 6, 2022). The State then requested that this Court set execution dates for these inmates, provided “that each execution be carried out on a Thursday and that executions be scheduled no less than four weeks apart.”¹

¹ *In Re: The Setting of Execution Dates in Jemaine Monteil Cannon, et al.*, Nos. D-1996-369, D-2006-627, D-2004-1097, D-2000-886, D-2003-1120, D-2005-1081, D-2007-660, D-2000-1609, D-2008-319, D-2008-595, D-2005-171, D-2007-1055, D-2009-702, D-2007-825, D-2003-1186, D-2008-43, DC-2009-1113, D-2008-57, D-2008-657, at 3 (Okla. Cr. Jul. 1, 2022) (unpublished) (*In Re*

Recognizing the unprecedented nature of the situation and the “sheer volume of cases, . . . along with the execution dates already ordered[,] and the need to ensure compliance with constitutional requirements[,]” this Court divided the cases into four phases consisting of six inmates each being set for execution that honored the State’s requested criteria along with a fifth phase containing a single inmate. *In Re Execution Dates I* at 4. This Court further recognized the likelihood of unforeseen delays or other circumstances that may arise requiring adjustment and review. *Id.* at 6. As a result, this Court noted that it would confirm the execution dates for inmates in future phases by written order prior to beginning the phase. *Id.*

In January 2023, this Court entered an order confirming the Phase Two execution dates as previously set in *In Re Execution Dates I*.² Subsequently, the State filed a motion with this Court requesting we reset the execution dates in Phase Two to have sixty days between executions. This Court granted the State’s request, resetting the

Execution Dates I).

² *In Re: The Setting of Execution Dates in Jemaine Monteil Cannon, et al.*, Nos. D-1996-369, D-2006-627, D-2004-1097, D-2000-886, D-2003-1120, and D-2005-1081 (Okla. Cr. Jan. 9, 2023) (unpublished) (*In Re Execution Dates II*).

execution dates in Phase Two approximately sixty days apart.³ However, we noted that “[t]he execution dates for Phases Three through Five have not been confirmed. This Court will address the dates for the remaining executions at an appropriate time in the future.” *In Re Execution Dates III* at 4.

To that end, the State has filed the present motion for setting Phase Three execution dates with a request for enlargement of time between each execution from sixty to ninety days. This Court continues to recognize the unique nature of the situation. To provide further assistance and details to the Court in discharging both the Attorney General’s duty to suggest the appropriateness of execution dates, and this Court’s ultimate responsibility to set executions dates under Section 1001.1(D), (E), and (F), the State appeared at a show cause hearing before this Court on March 26, 2024.

Upon our reevaluation, we give consideration to the Attorney General’s request to set executions apart in ninety-day intervals. We also reaffirm our original conviction to “ensure that executions progress in a timely and orderly manner.” *In Re Execution Dates I*, at

³ *In Re: The Setting of Execution Dates in Richard Glossip, et al.*, Nos. D-2005-310, D-1996-369, D-2006-627, D-2004-1097, D-2000-886, D-2003-1120, and D-2005-1081 (Okl. Cr. Jan. 24, 2023) (unpublished) (*In Re Execution Dates III*).

6. However, it has also become apparent that setting of executions in phases may exacerbate unforeseen delays that arise in any individual case. To that end, we recognize the recommendations the State has for the setting of an execution date:

1. executions should occur at approximately ninety-day intervals;
2. executions should be set on a Thursday; and
3. DOC requires a minimum of thirty-five-day notice that a defendant is scheduled for execution.

In light of the above, we **DENY** the State's motion to set Phase III execution dates as a group. Rather, this Court will proceed to set executions one at a time. This Court will implement each of the above recommendations when scheduling execution dates, unless circumstances dictate modification as to the interval between executions.

FURTHERMORE, we hereby order the Attorney General's Office to timely notify this Court upon the entering, or dissolution, of a stay affecting a scheduled execution. The Attorney General's Office is further ordered to notify this Court upon the execution of a death warrant. Said notice should contain the next eligible inmate. The next eligible inmate shall be determined by the order in which the inmate has exhausted the appeals of their convictions and death sentence,

provided there is no legal impediment to carrying out the execution, as set forth in "Appendix A" attached to this Order. *See In Re Execution Dates I*, at 5. The State shall also timely notify this Court when other inmates not originally included within the phase structure are, or become, eligible. *E.g. Malone v. State*, No. D-2010-1084.

IT IS SO ORDERED.

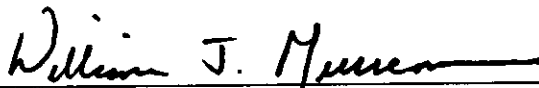
WITNESS OUR HANDS AND THE SEAL OF THIS COURT this

1st day of May, 2024.



SCOTT ROWLAND, Presiding Judge*

***I recuse in the cases of Richard Eugene Glossip, No. D-2005-310, Carlos Cuesta-Rodriguez, No. D-2007-825, and Marlon Deon Harmon, No. D-2008-657, but concur as to all other cases.**

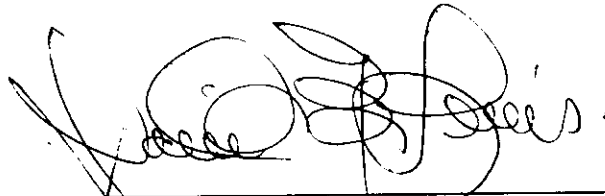


WILLIAM J. MUSSEMAN, Vice Presiding Judge**

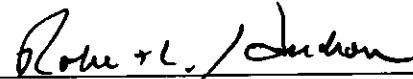
****I recuse in the cases of John Fitzgerald Hanson, No. D-2001-717, Wade Greely Lay, No. D-2005-1081, Raymond Eugene Johnson, No. D-2009-702, and Clarence Rozell Goode, Jr., No. D-2008-43, but concur as to all other cases.**



GARY L. LUMPKIN, Judge *in part with writing attached*

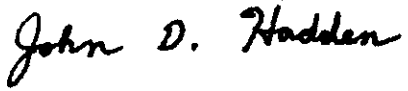
 - concurs in Result
writing Attached

DAVID B. LEWIS, Judge



ROBERT L. HUDSON, Judge

ATTEST:



Clerk

“APPENDIX A”

1. Richard Eugene Glossip, No. D-2005-310;
2. John Fitzgerald Hanson, No. D-2006-126;
3. James Chandler Ryder, No. D-2000-886;
4. Wade Greely Lay, No. D-2005-1081;
5. Richard Norman Rojem, No. D-2007-660;
6. Emmanuel Littlejohn, No. D-2000-1609;
7. Kevin Ray Underwood, No. D-2008-319;
8. Wendell Arden Grissom, No. D-2008-595;
9. Tremane Wood, No. D-2005-171;
10. Kendrick Antonio Simpson, No. D-2007-1055;
11. Raymond Eugene Johnson, No. D-2009-702;
12. Carlos Cuesta-Rodriguez, No. D-2007-825;
13. James Dwight Pavatt, No. D-2003-1186;
14. Clarence Rozell Goode, Jr., No. D-2008-43;
15. Ronson Kyle Bush, No. DC-2009-1113;
16. Alfred Brian Mitchell, No. D-2008-57; and
17. Marlon Deon Harmon, No. D-2008-657

LUMPKIN, JUDGE: CONCUR IN PART/DISSENT IN PART

I agree execution dates should be set individually rather than in groups. However, I cannot agree to granting additional time between execution dates.

Citizens serving in a capital jury trial vested with the responsibility of rendering the difficult decision as to the appropriate punishment upon a finding of guilt, experience both physical and emotional demands as they do their duty. In the present cases, those citizens, despite the difficulty of rendering the sentence in a capital case, performed their sworn duty and determined death was the appropriate punishment. Their verdict regarding the appropriate sentence must be honored by the State of Oklahoma. Such honor is shown by fulfilling the duty to carry out each sentence in a timely and professional manner.

The Attorney General and the Department of Corrections (DOC) seem to think the current situation facing the state, *i.e.*, multiple executions becoming due at the same time, is unique to them and has not occurred before. That is not correct. During the period of 2001-03, DOC encountered a similar situation when multiple cases requiring the execution of the death penalty procedure occurred.

DOC's leadership at that time stepped up and carried out the required duties with proficiency and professionalism. In 2001, DOC executed 18 prisoners under the sentence of death. In 2002, DOC executed 7 prisoners under the sentence of death. In 2003, DOC executed 14 prisoners under the sentence of death. During those 3 years there were months where as many as 7 executions took place and several months with 3 executions. The staff of DOC accepted their duties under the law and their oaths of office to faithfully execute those duties professionally, humanely, and with the decorum due such a solemn responsibility. Being a part of the process that takes the life of a human being is a demanding challenge both emotionally and physically, but those leaders and officers met the challenge presented to them and performed their duties honorably.

This Court is now faced with a request to allow 90 days separation between each execution. This is the third time the Court has acceded to the request by the Attorney General and DOC to enlarge the time between executions. Initially this Court followed the State's request for spacing executions thirty (30) days apart. Then the State requested the Court extend that spacing to sixty (60) days and the Court acquiesced. Now the State wants to extend that

spacing to ninety (90) days. What is the difference between 2001-03 and today? Is it the level of leadership or staffing of DOC now versus that of DOC in previous years? Individuals in many professions face demanding and arduous duties as part of their job requirements. Personnel in our military continuously face life and death situations, but they step up each day and do their duty. Therefore, I cannot join in extending the spacing between executions to ninety (90) days.

It is time to realize the victims and their families must be remembered and the law established by the Oklahoma Legislature followed. Regardless of how a person feels about the death penalty, it is a part of the law established by the Oklahoma Legislature. Amendments to those laws made in recent years reveal the Legislature has set a priority on expediting them. Until the Legislature changes the procedures it is the responsibility of each person involved in that process to perform his or her duties in a timely manner. This is true whether it be judges, prosecutors, or those charged with carrying out the judgment and sentence entered by the citizens who served on the juries in each of these cases.

During the show cause hearing the State made much about the 35-day protocol to prepare for an execution. It must be remembered

there are no statutes or case law which mandate such a protocol. The genesis of that protocol occurred because of a single inmate, Clayton Lockett, D-2000-1330. As Lockett awaited execution, he willfully refused to hydrate his body, thereby making it extremely difficult for the physician to insert the needle for administration of lethal injection drugs. As a result of this single incident, DOC has reacted with a 35-day protocol leading up to the execution. It appears this 35-day protocol was developed without consideration of the timeline prescribed by the Legislature in 22 O.S.2021, § 1001.1. That section requires this Court to set an execution date within thirty (30) days after a defendant fails to meet certain time conditions.¹ The protocol developed by DOC seems to be the State's main argument that more time is needed between execution dates, with lesser emphasis on the emotional stress on DOC employees involved in the execution process. However, as shown in 2001-03 by the actions of DOC employees, they can step up to meet the challenges placed before them when proper leadership is provided.

¹ 22 O.S.2021, § 1001.1(A) requires this Court to set an execution date within thirty (30) days after the defendant fails to meet certain specifically listed time conditions. 22 O.S.2021, § 1001.1(D) provides that should a stay of execution be issued by any state or federal court, a new execution date shall be set by this Court sixty (60) days after the dissolution of the stay of execution.

I would deny the State's motion to extend the time between executions to 90 days and let the time remain as currently set.² However, I do agree with the court that each execution date should be set individually rather than in groups, and I join in the determination that some executions may be set within less than the allowable time period. As Judge Hudson noted during the show cause hearing: William E. Gladstone (Statesman and Prime Minister of Great Britian) said, "Justice delayed is justice denied"; and in 1963 Martin Luther King, Jr. (apparently writing from jail) said, "Justice too long delayed is justice denied." It is important to reflect on the wisdom of those who have gone before us and do our duty to provide justice in a timely manner.

² I recognize the Court's Order states that it denies the Attorney General's motion. However, on page 5 of the Order, the Court states it "will implement each of the above [State's] recommendations when scheduling execution dates". This indicates the 90 day request will be granted.

LEWIS, J: CONCUR IN RESULTS

I would first note that during the moratorium on the death penalty many defendants exhausted their appeals and became eligible for execution.¹ This Court, therefore, is unable to apply the literal terms of 22 O.S.2021, § 1001.1, in setting executions. We must, however, give deference to the legislative intent that executions generally be scheduled no more than sixty days after a defendant's appeals have been exhausted.

I agree with the majority that we should end the phases; however, I would reject the recommendation of the Attorney General to hold executions at ninety day intervals, and would schedule the first execution within sixty days of this order, utilizing the list of eligible defendants previously provided by the State. I would then schedule subsequent executions individually at intervals of approximately sixty days, evaluating each potential execution date on an individual basis.

¹ In the three years prior to the moratorium, the State executed an average of five defendants per year. The Attorney General has made no showing that time between executions will be a contributor to faulty executions.

The Supreme Court of South Carolina

Richard Bernard Moore, Brad Keith Sigmon, Freddie
Eugene Owens, Mikal D. Mahdi, and Marion Bowman,
Jr., Petitioners,

v.

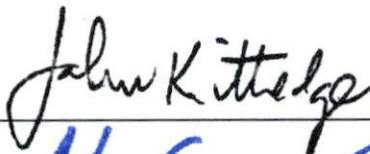
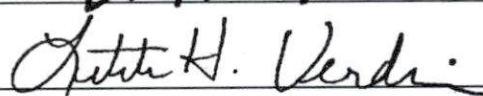
State of South Carolina, Respondent.

Appellate Case No. 2024-001373

AMENDED ORDER

Petitioners are death-sentenced inmates whose executions were stayed pending this Court's decision in *Owens v. Stirling*, Op. No. 28222 (S.C. Sup. Ct. filed July 31, 2024) (Howard Advance Sheet No. 29 at 18). Petitioners filed a motion to direct or stay the issuance of execution notices to a minimum interval of thirteen weeks between death notices. By order dated August 23, 2024, this Court stayed the issuance of execution notices for all eligible death-sentenced inmates, except Petitioner Freddie Eugene Owens for whom an execution notice has already been issued, pending resolution of this motion.

We deny Petitioners' specific request. We nevertheless recognize that a reasonable interval between the issuance of death notices is warranted. Accordingly, we direct the Clerk of this Court to issue death notices in a manner to ensure an interval of at least thirty-five days between notices, provided we may alter the thirty-five day interval should circumstances warrant. We direct that the order of future notices shall be determined in the same manner as Petitioner Owens, that is, by the oldest conviction that is not subject to a hold based on a pending collateral proceeding, a finding of incompetency, or otherwise. Based on this criteria, the following is the order in which subsequent notices shall be issued: (1) Richard Bernard Moore; (2) Marion Bowman, Jr.; (3) Brad Keith Sigmon; (4) Mikal D. Mahdi; (5) Steven V. Bixby.

	C.J.
	J.
	J.
D. Hanlin	J.
	J.

Columbia, South Carolina
August 30, 2024

cc:

Lindsey Sterling Vann
Joshua Snow Kendrick
Gabrielle Amber Pittman
Alan McCrory Wilson
Melody Jane Brown
Donald J. Zelenka
Gerald W. King, Jr.

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Case Nos. 2001-021895; 2002-024388; 2006-038802;
2007-045260; 2002-023546

Richard Bernard Moore, Brad Keith Sigmon,
Freddie Eugene Owens, Mikal D. Mahdi, and Marion Bowman, Jr.
Movants,
v.

STATE OF SOUTH CAROLINA,
Respondent.

MOTION TO DIRECT OR STAY THE ISSUANCE OF EXECUTION DATES AT
INTERVALS OF NO LESS THAN 13 WEEKS.

Come now Richard Bernard Moore, Brad Keith Sigmon, Freddie Eugene Owens, Mikal Mahdi, and Marion Bowman, Jr. (“Movants”), South Carolina prisoners whose death sentences were affirmed through federal habeas corpus proceedings. Assuming the Court deems it appropriate to set execution dates after its decision in *Owens v. Stirling*, Case No. 2022-001280; Opinion No. 28,222 (S.C. July 31, 2024)¹, Movants move this Court to direct or stay the issuance of execution notices to ensure a reasonable interval of no fewer than 13 weeks (or 91 days) before and between execution dates. The basis for this request is threefold. First, scheduling executions close in time to one another heightens the risk of serious error during the execution, likely resulting in cruel or unusual punishment. Second—as the accounts of South Carolina’s prior execution team members illustrate, and as Oklahoma realized after attempting the expedited resumption of capital

¹ References hereafter will be to the Slip Opinion (“Op.”).

punishment after a lengthy pause—conducting multiple executions in a compressed time period will overburden the corrections staff involved in the process, and exact a punishing toll on their physical and mental health while further heightening the risk of a cruel or unusual execution. Finally, scheduling executions at a more frenetic pace will result in hurried litigation and adjudication of any critical concerns that arise during the election and execution processes, while affording a reasonable interval before and between executions to permit the court system to address any final matters that death-sentenced prisoners may raise in an orderly and thorough fashion. *See, e.g., Butler v. State*, 302 S.C. 466, 468, 397 S.E.2d 87, 88 (1990) (granting a writ of *habeas corpus* filed in its original jurisdiction because of a constitutional “violation, which, in the setting, constitutes a denial of fundamental fairness shocking to the universal sense of justice”); *Tucker v. Catoe*, 346 S.C. 483, 495, 552 S.E.2d 712, 718 (2001) (granting habeas relief in its original jurisdiction due to a combination of errors “shocking to the universal sense of justice”).

Movants ask the Court to consider these matters in the context of safeguards established by the Eighth and Fourteenth Amendments of the United States Constitution, and Article I, Sections 3 and 15 of the South Carolina Constitution.

I. Relevant procedural history

South Carolina last carried out an execution on May 6, 2011, with the lethal injection of Jeffrey Motts. At the time of Mr. Motts’ execution, South Carolina’s default method of execution was lethal injection, although the condemned prisoner could choose the electric chair.

On May 14, 2021, the South Carolina Legislature amended its statute to make the electric chair the default method of execution, with the prisoner permitted to elect between that method or, if available, lethal injection or the firing squad. S.C. Code Ann. § 24-3-530(A).

Following a trial in August of 2022, a South Carolina Circuit Court issued a declaratory judgment finding that execution by firing squad or the electric chair, and section 24-3-350 as amended, violated the state constitution. Following appeal and oral arguments, this Court ruled on July 31, 2024, that section 24-3-350 and the methods of executions it provides are constitutional. Per the statute and this Court’s opinion, if this Court determines that executions should resume, its clerk will issue a notice of execution on a Friday, with the execution to be “duly carried out” on the “fourth Friday after the receipt of such notice.” S.C. Code Ann. § 17-25-370. Five days after the notice issues, the South Carolina Department of Corrections (SCDC) must certify the availability of the statutorily authorized methods of execution. The prisoner must elect between these three methods of execution eight days later—exactly two weeks before his execution date.

The five movants in this action have completed the ordinary course of their appeals and are eligible for execution.

II. Establishing an appropriate schedule for executions will protect Movants’ statutory and due process rights.

This Court predicated its decision in *Owens* on the assumption that, “[u]nder the choice provisions of section § 24-3-530, a condemned inmate in South Carolina will *never* be subjected to execution by a method he contends is more inhumane than another method that is available.” Op. at 39 (emphasis added). An accelerated execution schedule would threaten that premise.

Imagine the following scenario (consistent with this Court’s historical practice): four inmates are given execution dates on four consecutive Fridays. Under S.C. Code Ann. § 24-3-530(C), each of these inmates would be required to elect their execution method fourteen days prior to their execution date. Because execution dates are set “the fourth Friday” after the Clerk of the Supreme Court issues an execution notice, the second and third inmates would be required to elect their method prior to the execution of the first. As South Carolina’s authorized methods of

execution are either antiquated or entirely novel, the question of which is the “more inhumane” has yet to be informed by their actual use. If a method is used and is botched, or otherwise reveals itself to be “more inhumane,” a compressed execution schedule might subject a prisoner to execution by a method that they would never have chosen had the execution that revealed its “inhuman[ity]” occurred before their election date.

This would not only defeat this Court’s central premise in *Owens*; it would also implicate the prisoner’s due process rights. The concept of due process “expresses the requirement of ‘fundamental fairness,’ a requirement whose meaning can be as opaque as its importance is lofty,” and courts must therefore look to a “a particular situation by first considering any relevant precedents and then by assessing the several interests that are at stake.” *Lassiter v. Dep’t of Soc. Servs. of Durham Cty., N.C.*, 452 U.S. 18, 24-25 (1981). When the government seeks to deprive a citizen of the most fundamental of all rights—the right to life—procedural due process requires that the state provide sufficient process to fully protect the interests at stake. *See Mathews v. Eldridge*, 424 U.S. 319, 323 (1976). In this circumstance, the right of election codified in section 24-3-530, and recognized by *Owens* as integral to the constitutionality of that statute, can only be protected if the execution schedule does not operate to render the prisoner unable to avoid being “subjected to execution by a method he contends is more inhumane than another method that is available.” *Op.* at 39. Executions scheduled close in time would yield a high risk of error because it has been a significant time since the last execution, one method is antiquated, and the other two are untested.

Because all three methods are either untested or more than a decade out of use, sufficient time should be provided before and between executions for the correctional staff to learn and, as needed, to adjust the protocols in light of knowledge obtained from executions, and so that inmates

under sentence of death can make an informed election of an execution method based on prior executions. Each of the three methods will be unfamiliar to the correctional staff charged with carrying them out. No one in South Carolina has ever been executed using the firing squad; its protocols were not developed until 2022. The last execution by lethal injection occurred in 2011 and used a three-drug protocol; the current protocol requires a single dose of pentobarbital and has never been used in South Carolina. “Since the advent of death by lethal injection in 1995, very few inmates have been executed in the electric chair in South Carolina.” Op. at 23. No executions by electrocution have been carried out in South Carolina since 2008.

As this Court has acknowledged, “the history of capital punishment is replete with incidents of failed executions.” Op. at 22. As is capital punishment’s future: “The inescapable reality [is] that an execution by any method may not go as planned—that it will be ‘botched.’” *Id.* at 23. The certainty of that risk argues for precautions. If the Court deems it appropriate to schedule executions, those dates should be set at least ninety days apart to ensure that corrections staff have sufficient time to carefully plan for each execution, to minimize the risk of error, and to address any irregularities that occur during one execution prior to the subsequent execution.

Movants respectfully suggest that it behooves everyone involved—from the Movants, to corrections staff, to the South Carolina judicial system more broadly—to ensure that any unintentional errors or accidents, particularly those that may inflict unnecessary pain, are not repeated during later executions. By eschewing an accelerated schedule for executions, the Court can ensure that “state officials [have the capacity to carry] out their duties under the death warrant in a careful and humane manner.” *State of La. ex rel. Francis v. Resweber*, 329 U.S. 459, 462, 67 S. Ct. 374, 375, 91 L. Ed. 422 (1947). If repetition of an accident could be prevented through

sufficient time for investigation and the implementation of additional precautions or updated protocols, the failure to provide such time could pose an imminent danger of needless suffering.

III. Similar circumstances in Oklahoma necessitated an interval between executions.

With South Carolina poised to resume executions for the first time in thirteen years, recent events in Oklahoma illustrate the concerns addressed in this motion. Shortly after resuming executions after a hiatus of nearly seven years, Oklahoma attempted to accelerate the pace of executions, only to conclude that an interval of less than ninety days was unsustainable for the staff of its Department of Corrections. *See* Joint Motion to Set the Phase Three Execution Dates at 90-Day Intervals, *In Re the Setting of Execution Dates*, filed January 30, 2024 (Attachment A). In June 2022, the state of Oklahoma notified the Oklahoma Court of Criminal Appeals that there were twenty-five inmates who were eligible for execution. Initially, the request was for executions to occur at least four weeks apart and only on Thursdays. *Id.* This request was granted. *Id.* In January 2023, the State of Oklahoma filed a motion seeking to reset execution dates because “the then-current pace of executions—one every four weeks—was not sustainable for DOC.” *Id.* The Oklahoma Court of Criminal Appeals granted the motion and rescheduled execution dates for “approximately 60 days apart from each other.” *Id.*

In January 2024, the State of Oklahoma requested ninety-day intervals between executions. Department of Corrections leadership noted that there existed “a tremendous burden that executions, and the weeks of process leading up to each execution, place on DOC operations and staff.” *Id.* The Oklahoma Attorney General attended and witnessed all of the executions to ensure that they were conducted in a constitutional manner. *Id.* He interviewed correctional staff and leadership both before and after executions, granting him “unprecedented insight into the burden

imposed on DOC personnel by each execution.” *Id.* In requesting ninety-day intervals, the Attorney General explained:

an enlarged spacing, of 90 days, is suggested not as a matter of convenience, but only after careful consultation and deliberation and out of the Attorney General’s solemn duty to ensure that executions are carried out constitutionally and in compliance with the execution protocol.

Id. Participating as a member of the execution staff is strictly voluntary in Oklahoma, which is similar to the situation in South Carolina; thus, the impact and burden of executions on those staff members is critical because “staff volunteers may withdraw from performing their assigned duties specific to the execution.” *Id.*

After a hearing, the Oklahoma Court of Criminal Appeals granted the motion to set executions ninety days apart. *See Order on Joint Motion to Set the Phase Three Execution Dates at 90-Day Intervals, In Re the Setting of Execution Dates*, filed May 7, 2024 (Attachment B). Acknowledging the “unique nature of the situation,” the Court of Criminal Appeals explained that the “setting of executions in phases may exacerbate unforeseen delays that arise in any individual case.” *Id.*

Like Oklahoma, South Carolina has had an extended period when no executions have occurred and has multiple persons under death sentences who are eligible for execution. South Carolina law directs the setting of an execution for “the fourth Friday” after the Clerk of this Court issues an execution notice, S.C. Code Ann. § 17-25-370, but it does not restrict this Court’s ability to establish intervals before and between executions by issuing stays or directing when the Clerk issues the execution notice.²

² If this Court wished to establish an interval of thirteen weeks between executions, it could do so simply by issuing execution notices thirteen weeks apart, which would preserve *Owens*’s timetable for the Department of Corrections’ certification of the available methods and the due date for any motions for stay of execution filed in this Court.

When Oklahoma began executing people at four-week intervals, that pace took its toll, resulting in two separate orders to slow down the pace of executions, first to sixty-days apart, then ninety-days. Moreover, given the election requirements, the South Carolina Department of Corrections will only have a roughly two-week notice period to prepare for an execution after the election is made or the date for an election ends. Limiting executions to, at the very least, ninety-day intervals, would ease the burden on correctional leadership and staff who must carry out executions and safeguard the rights of death-sentenced inmates to a constitutionally compliant execution process.

IV. Assuming the Court schedules executions, it should consider the likelihood of a negative impact on corrections staff.

Those selected to be on execution teams are charged with taking the life of another human being—often one they have known for years. The gravity of this matter is undeniable. “Despite the stark conditions, death rows are still places where human connections form.”³ Execution team members are not the only individuals impacted by this substantial undertaking. There are correctional officers who have worked beside these incarcerated persons for years, responsible for maintaining their safety and security. Medical staff, tasked with keeping these individuals alive and well, even under a death sentence. Maintenance crews, who ensure execution chamber equipment is operational. Custodial staff, who may be inmates themselves, tasked with cleaning the execution chamber following an execution. All of these people, and others, can be profoundly impacted by executions.

³ Penal Reform Int’l, *Prison guards and the death penalty*, (2015), available at <https://cdn.penalreform.org/wp-content/uploads/2015/04/PRI-Prison-guards-briefing-paper.pdf> (last visited Aug. 14, 2024) (Attachment C).

Jim Harvey, former Warden at Broad River Correctional Institution who oversaw thirteen executions, has acknowledged the hardship participating in executions has caused him, his family, and those he supervised.⁴ Harvey was “consumed by stress for weeks before each execution.” *Id.* Even Harvey’s wife suffered depressive episodes as a result of her husband’s involvement in executions. *Id.*

Craig Baxley and Terry Bracey, former execution team members at SCDC have been diagnosed with depression and Post-Traumatic Stress Disorder since leaving their jobs. *Id.* When carrying out executions, Baxley succumbed to feelings of worthlessness and binge drinking, while Bracy was haunted by the sights and smells of electrocutions, and came to view himself as a serial killer. *Id.* A third member of their execution team has died by suicide. *Id.*

Ron McAndrew, former Warden of the Florida State Penitentiary has experienced the effects executions can have on those who participate.⁵ McAndrew has acknowledged that despite “meticulous preparation” for an execution, the likelihood of an execution going wrong is ever present, and the likelihood of those involved experiencing trauma is substantially increased. As the Warden who oversaw executions, he witnessed the impacts on his staff: “substance abuse, domestic troubles, depression, even suicide. Some left correctional work altogether.” *Id.* When speaking about the use of the firing squad, McAndrew contrasts participating in an execution with participating in an act of war, acknowledging that “[i]t’s one thing when armed soldiers . . . must

⁴ *South Carolina Execution-Team Members Talk of the Debilitating Emotional Toll of Capital Punishment, Former Warden Calls Death Penalty ‘Inequitable’*, <https://deathpenaltyinfo.org/news/south-carolina-execution-team-members-talk-of-debilitating-emotional-toll-of-capital-punishment-former-warden-calls-death-penalty-inequitable> (last visited Aug. 10, 2024) (Attachment D).

⁵ Ron McAndrew, *South Carolina Death Penalty is Traumatic for Prison Workers*, THE STATE, (June 6, 2021, 1:00 AM), <https://www.thestate.com/opinion/article251900888.html> (last visited Aug. 14, 2024) (Attachment E).

use deadly force to subdue an aggressor. It's quite another thing to kill someone who is no longer a threat the others. The burdens state workers are being asked to take on are significant, and unnecessary." *Id.*

Dr. Green Neal, a medical doctor designated as an essential member of the execution team in South Carolina, was in the room during eight executions, and pronounced people dead to certify the executions.⁶ As a licensed physician and the medical director of the prison, he found the moral dilemma of participating in the executions of individuals he was once tasked with keeping alive and well so confounding that it silenced him for decades. *Id.*

In addition to the challenges caused by participating in and witnessing executions, ensuring executions are carried out in a manner that limits the possibility for error entails intensive preparation. That preparation becomes even more paramount when implementing a method of execution that has never been used. George Martin, former Warden at Broad River Correctional Institution, oversaw numerous executions and the people involved in carrying them out: the execution team, their alternates, chaplains, maintenance, medical, and human services staff. *Id.* Mr. Martin has discussed the concentrated efforts taken to "refine . . . procedures[s] down to the smallest detail, select . . . team[s] of primary and alternate members for each position, and then practice, practice, practice."⁷

A compressed execution schedule necessarily constrains preparation and practice, Evidence from other jurisdictions provides insight into the dangers of back-to-back executions.

⁶ Chiara Eisner, *SC Physician Involved in Executions Shares His Experience*, THE STATE, Apr. 26, 2022; <https://www.thestate.com/news/state/south-carolina/article260531507.html> (last visited Aug. 14, 2024) (Attachment F).

⁷ George N. Martin III, *Enforcing the Death Penalty with Competence, Compassion*, CORRECTIONS TODAY, July 1993 (Attachment G).

Justin Jones, the director of the Oklahoma Department of Corrections has acknowledged his fear “that when staff are put under such extreme pressure, they are more likely to make mistakes.”⁸

Should the Court move forward with setting execution dates, Movants ask that it take into account the significant degree to which carrying out executions take a toll on prison staff members. Multiple executions in short order will not only amplify this toll, but also increase the risk that overburdened prison staff will make an unintentional error during an execution that will lead to needless, cruel, or unusual suffering.

V. A 13-week interval between executions will ensure the thorough and orderly disposition of any final matters that Movants may raise prior to their potential executions.

As noted above, State officials have a constitutional duty to ensure that death sentences are imposed in a careful and humane manner. Likewise, this Court takes seriously its duty to ensure that the justice system operates with fairness as well as the appearance of fairness. Both are necessary for maintaining the integrity of the court system. *Ex parte Greenville News*, 326 S.C. 1, 4, 482 S.E.2d 556, 558 (1997) (in the context of public trials, noting the State interest in “promot[ing] fairness and the appearance of fairness.”). Specifically, this Court has taken great care to establish adequate substantive and procedural safeguards in the adjudication and administration of capital punishment. *See, e.g., State v. Torrence*, 305 S.C. 45, 69, 406 S.E.2d 315, 328 (1991) (Toal, J., concurrence with which a majority joined) (recognizing this Court’s ability to act on a writ of *habeas corpus* filed in its original jurisdiction as a final safeguard in capital cases, “where there has been a ‘violation, which, in the setting, constitutes a denial of fundamental fairness shocking to the universal sense of justice’” (quoting *Butler v. State*, 302 S.C. 466, 468,

⁸ Ed Pilkington, *Prison officers traumatized by rate of executions in US death penalty states*, THE GUARDIAN, (Apr. 28, 2024, 7:00 AM); <https://www.theguardian.com/world/2024/apr/28/prison-guard-trauma-execution-death-penalty> (last visited Aug. 14, 2024) (Attachment H).

397 S.E.2d 87, 88 (1990)); *Singleton v. State*, 313 S.C. 75, 437 S.E.2d 53 (1993) (establishing procedures and analysis to be used in adjudicating competency to be executed claims under state law); *In re Stays*, 321 S.C. 544, 471 S.E.2d 140 (1996) (establishing “the procedure and standards to be followed regarding stays of the death sentence” as capital cases move through the system); *Franklin v. Maynard*, 356 S.C. 276, 588 S.E.2d 604 (2003) (establishing procedures and standards to implement *Atkins v. Virginia*, 536 U.S. 304 (2002), prohibiting execution of persons with intellectual disability). Movants suggest that establishing a reasonable interval between execution dates will preserve both the fairness as well as the appearance of fairness in these capital cases.

An expedited schedule of executions will undercut these duties of care, humanity, and fairness. Unexpected issues may arise as prior executions occur, or new evidentiary discoveries may come to light as end-stage investigations are conducted. But, with an execution (or executions) looming, any consideration or factual development of these issues will be conducted at breakneck speed. Moreover, as both the Movants and their fellow death-sentenced prisoners are largely represented by the same attorneys, the case needs and time demands created by having multiple clients scheduled for execution creates impossible conflicts that can impede representation when it is most needed.

The resumption of executions in South Carolina would be a sober and significant event. Doing so in a rapid and seriatim manner risks an execution proceeding inexorably even where grave misgivings have emerged—perhaps about the method used in the last execution, or evidence of innocence, or a flawed conviction or sentence. A more reasonable interval before and between executions would prevent the consideration of those final concerns from appearing hasty, ill-considered, uninformed, or unfair.

CONCLUSION

For the reasons contained herein, as well as any additional reasons that may appear to this Court, Richard Bernard Moore, Brad Keith Sigmon, Freddie Eugene Owens, Mikal Mahdi, and Marion Bowman, Jr., request that, if this Court schedules executions, it stay or direct the issuance of execution notices to ensure intervals of no less than thirteen weeks between executions.

Respectfully submitted,

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August 21, 2024.

Oklahoma Attorney General Gentner Drummond
Via email

Dear Attorney General Drummond,

We are writing in our capacity as former Oklahoma Department of Corrections officials to urge you to revisit the State of Oklahoma's plan to execute more than 20 men over the next two years. A reassessment of this execution schedule is necessary to protect the correctional staff who are already experiencing lasting trauma as a result of the back-to-back executions Oklahoma began carrying out in August.

From our collective decades of work in corrections, we know that the execution process harms corrections officers and the morale of the Department of Corrections. The psychological toll of carrying out a death sentence is well-documented. Those of us who have participated in executions experienced the trauma first-hand, while others of us witnessed the toll it took on colleagues. Post traumatic stress disorder, substance abuse, and even suicide increase among corrections staff following proximity to an execution, even among those who did not participate directly. A recent story on NPR highlighted the trauma experienced by correctional officers as a result of the execution process. We encourage you to listen to it at this link: <https://tinyurl.com/22x8dstx>.

The risk to correctional staff is heightened when multiple executions are carried out in rapid sequence, as Oklahoma has been doing since the previous Attorney General requested and received 25 execution dates over a 29-month period. That relentless pace of executions means the prison never really returns to normal operations after the emotional and logistical upheaval of an execution.

Indeed, reports from the Oklahoma State Penitentiary describe near-constant mock executions being conducted within earshot of prisoners' cells, staff offices, and visiting rooms, and correctional staff have communicated privately with visiting defense mental health experts about the distress they are experiencing due to the nonstop executions.

This compressed execution schedule also increases the risk of something going wrong during the execution process because the stress created by each execution compounds the difficulty of an already complex procedure. If even a routine execution can inflict lasting harm on corrections staff, the traumatic impact of a botched execution is exponentially worse. Oklahoma has experienced this harm on multiple occasions and should not needlessly place its hardworking correctional staff at risk of another such mistake.

Our colleagues in the Oklahoma corrections system are professionals. Still, it is incumbent on leaders to avoid putting public servants in positions where they face a real risk of harm. In addition to the problems outlined above, the Oklahoma Department of Corrections—and the Oklahoma State Penitentiary in particular—are currently experiencing a severe staffing shortage. Short staffing exacerbates stressors on correctional staff and interferes with the Department's ability to rotate staff off death row at six-month intervals as required by policy and correctional best practices.

For all these reasons, we hope you will do everything in your power to reevaluate Oklahoma's remaining scheduled executions, including by seeking a revised execution schedule from the

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Oklahoma Court of Criminal Appeals¹ that provides more time between executions, spacing them a minimum of several months apart, in order to ensure the safety and well-being of the State's correctional employees.

Sincerely,

The undersigned (listed in alphabetical order)

195a

Joe M. Allbaugh, Director, Oklahoma Department of Corrections, 2016-2019. Also served as Director of the Federal Emergency Management Agency under President George W. Bush, Chief of Staff to Texas Governor George W. Bush, Deputy Oklahoma Transportation Secretary, and Staff Executive to Oklahoma Governor Henry Bellmon.

Ed Evans, Associate Director, Oklahoma Department of Corrections, 2005-2016, including oversight of Oklahoma State Penitentiary. Also served in ODOC as Regional Director, Acting Director (four separate occasions), Warden, James Crabtree Center, and Warden, James Hamilton Correctional Center.

Reginald Hines, Division Manager, Community Corrections and numerous other positions, Oklahoma Department of Corrections, 1978-2017. Also served on the Board of Corrections, 2017- 2019.

Joyce Jackson, Executive Communications Director, Oklahoma Department of Corrections, 2005- 2015. Also served as Public Relations Officer and Public Information Officer for ODOC from 1982-1997.

Clinton Johnson, Assistant to the Associate Director, Oklahoma Department of Corrections, 1999-2001. Also served as Regional Administrator for Community Sentencing, 1997-1999, and Deputy Warden, Lexington Assessment and Reception Center, 1994-1997.

Justin Jones, Director, Oklahoma Department of Corrections, 2005-2013, also served in numerous other positions within ODOC over a 37-year correctional career.

Neville Massie, Assistant to the Director and Legislative Liaison, Oklahoma Department of Corrections, 2006-2014. Also served as Warden, Mabel Bassett Correctional Center and in several other positions within ODOC.

J'me Overstreet, Associate Director, Oklahoma Department of Corrections, 2005-2012, including oversight of recruitment, training, and master rosters. Also served in ODOC as Director of Employee Assistance Program, correctional officer, and probation/parole officer.

Dan Reynolds, Warden, Oklahoma State Penitentiary, 1991-94, including overseeing two executions. Also served in numerous other positions within ODOC over a 31-year career.

¹ There is precedent for this. In 2015, following a series of problematic executions and near executions, then-Oklahoma Attorney General Scott Pruitt moved the Oklahoma Court of Criminal Appeals for an indefinite stay of all scheduled executions to afford the Oklahoma Attorney General's Office time to evaluate the Oklahoma Department of Corrections' practices and procedures relating to the State's execution protocol. See State's Notice and Request for Stay of Execution Dates at 2, *Richard Eugene Glossip, et al. v. State of Oklahoma*, No. D-2005-310 (Okla. Crim. App. Oct. 1, 2015). The OCCA granted the requested stay. Order Issuing Stay, *Richard Eugene Glossip, et al. v. State of Oklahoma*, No. D-2005-310 (Okla. Crim. App. Oct. 3, 2015).

Capital punishment

● This article is more than 9 years old

Eight executions in 11 days: Arkansas order may endanger staff's mental health

The psychological impact on execution teams is one of the least discussed aspects of capital punishment in the US, yet arguably one of the most disturbing



📷 The lethal injection chamber at San Quentin state prison, California. Those who watch or participate in executions can suffer long-lasting ill effects. Photograph: Wally Skalij/LA Times via Getty Images



Ed Pilkington in New York

Wed 29 Mar 2017 06:00 EDT

 Prefer the Guardian on Google

It's been more than 20 years since Dr Allen Ault stood in a death chamber and gave the order for the execution to go ahead.

"I said, 'It's time,' and the electrician threw the switch."

Despite the passage of so many years, he feels troubled to this day by what he did. "I had a lot of guilt, my conscience totally bothered me," he said. "When the switch was thrown that first time, and I realized I had just killed a man, that was pretty traumatic. Then to have to do it again and again and again, it got so that I absolutely could not go through with it."

As commissioner of the department of corrections in **Georgia**, Ault gave the order for five executions by electric chair in 1994 and 1995. After the fifth life was taken, the cumulative distress reached breaking point and he resigned from the post and moved to a job in the US justice department that had nothing to do with the death penalty.

Since then, he has found himself haunted by the memory of the five men whose lives he ended. "I don't remember their names, but I still see them in my nightmares," he said.

Now those nightmares are back in force, triggered by the knowledge that what Ault considers to be a disaster-in-the-making is about to unfold in Arkansas. Next month, the



📷 Governor Asa Hutchinson, left, has ordered eight executions in 11 days. Photograph: Kelly Kissel/AP

state's Republican governor, Asa Hutchinson, has **scheduled** no fewer than eight executions over 11 days – a conveyor belt of killing dispensed at a clip not seen in the US for at least half a century.

The executions are set to take place by lethal injection at a rate of two a day over four separate days. On 17 April, it will be the turn of the inmates Don Davis and Bruce Ward;

on 20 April, Stacey Johnson and Ledell Lee; 24 April, Marcel Williams and Jack Jones; 27 April, Jason McGehee and Kenneth Williams.

On Wednesday, 23 former corrections officials from 16 different states sent a joint **letter** to Hutchinson urging him to reconsider. They warned, several on the basis of personal experience, that participating in executions can exact a “severe toll on corrections officers’ wellbeing” and that by doing so many so quickly Arkansas was “needlessly exacerbating the strain and stress placed on these officers”.

One of Ault’s prime concerns relates not to the eight convicted capital murderers who are set to die, but to the men and women of the execution team who are being asked, just as he was two decades ago, to kill in the name of justice. “To ask corrections officials in **Arkansas** to kill eight people, two a day – as someone who went through this, I can’t tell you how deeply concerned I am for their mental health,” he said.

“As the old saying goes,” he went on, “you dig two graves: one for the condemned, one for the avenger. That’s what will happen to this execution team – many of them will figuratively have to dig their own grave too.”

Ault said his role at the head of the team that had killed five men left him feeling “lower than the most despicable person”. He felt degraded to a level below that of the heinous murderers he was confronting, a sense that was amplified by how much planning went into the protocols. “I had a manual about an inch thick that I had to follow. What I did was much more premeditated than any of the murders committed by those I executed.”

■ ■ What I did was much more premeditated than any of the murders committed by those I executed.
Dr Allen Ault

Then there was the defenselessness of the man on the gurney: “You are taking a totally defenseless person, planning, premeditating, even rehearsing, then killing him – any sane person other than a psychopath would be dramatically affected by that.”

The Arkansas governor has so far given scant details about how he intends to deal with the intense psychological burden he is placing on the shoulders of the state’s execution team, beyond indicating that counseling will be available. When the Guardian put a series of questions to Hutchinson, including what was being done to protect the execution team from potential mental or emotional harm, a spokesman declined to answer.

All the spokesman would say was that the governor had no intention of talking to the national or international media before next month’s executions, on the grounds that there was nothing to discuss. “There’s no debate here – this is not like the future of healthcare in America. The governor has the duty to carry out these executions that were decided by a jury. This is the law of Arkansas and of the federal government of the United States.”

In previous **statements**, the governor’s office has argued that it will be “more efficient and less stressful” for those involved in carrying out the killing to

see them through in quick succession. Given his rich personal experience, that sounds like arrogant negligence to Allen Ault.

“If the governor is so hot on this, he ought to go down to the death chamber and do it himself. But he won’t, they don’t, they never do. Politicians are never in the room when it happens, they never have to suffer anything.”

Ault found that several members of his team were so troubled by the part they played in snuffing out life that they required therapeutic help, and one senior member of the corrections department had to be relieved of his job. He has seen the same pattern of damaged psyches repeated in death penalty states across the country. He personally knew, he said, three former corrections officials who participated, to their distress, in executions and went on to take their own lives.



📷 The condemned men (left to right, from top): Don Davis, Stacey Johnson, Jack Jones and Ledell Lee; Jason McGehee, Bruce Ward, Kenneth Williams and Marcel Williams. Photograph: HO/AFP/Getty Images

The psychological impact on execution teams is one of the least discussed aspects of capital punishment in the US, yet arguably one of the most disturbing. *There Will Be No Stay*, a documentary [film](#) released last year, profiles two former majors in South Carolina’s department of corrections Swat team who sued the state for allegedly pressuring them into assisting in multiple executions with minimal training and no counselling (the case was eventually dismissed by a judge).

Craig Baxley, who was responsible for plunging the lethal injection syringe into at least eight prisoners, has himself attempted suicide and is now on six types of medication for PTSD and depression. One detail of his years working in the death chamber stuck in his mind: the cause of mortality given on the inmates’ death certificates was always the same: “homicide”.

The other major, Terry Bracey, told the film-makers he had struggled with the effects of trauma for years: “I expected to be trained and counseled - none of that took place. Taking that plunger and pushing it in set me on a course I wasn’t prepared for.”

The members of the Arkansas execution team are shrouded in anonymity, as they are in all death penalty states. Typically, the group consists of a “tie-down team” who escort the prisoner from his cell to the death chamber and then strap him to the gurney; medically trained personnel who set the intravenous lines; and those, like Bracey and Baxley, who sit on the other side of a glass wall and press the buttons to inject the lethal drugs into the prisoner once the team leader gives the order.

Frank Thompson gave that order twice when he was superintendent of Oregon state penitentiary - the only two completed executions in that state in over 50 years. Thompson said he could not comment on the specifics of the Arkansas team, but he was clear that based on his own experiences, they needed to be extremely careful.

Several of the members of his own team quit their jobs in the fallout of what they went through. Despite the intensive training he put them through, he said he was ultimately unable to spare them the brutalizing consequences.

“There is absolutely no way to conduct a well-run execution without causing at least one person to lose a little bit of their humanity, or to start at least one person on the cumulative path to post-traumatic stress. So for Arkansas to do this eight times in 10 days, to me that is unimaginable - it is compounding the stress, laying traumatic experiences on top of each other.”

▲▲ There's no way to conduct a well-run execution without at least one person losing a little bit of their humanity.

Such trauma often manifests itself in fevered sleep and harrowing dreams. Rich Robertson recalls being hounded by a recurring nightmare after the then local TV reporter witnessed the last use of the gas chamber in Arizona in 1999 - he watched a prisoner

named Walter LaGrand being engulfed in a light fog of cyanide, then gagging forcefully and flailing from side to side before slumping forward into unconsciousness.

Robertson described his dream to the Guardian: “I was standing at a window with venetian blinds just like the actual gas chamber, and the blinds opened up and I could see a crib in the middle of the room. There was a baby in the crib with lines running from its arms and legs that ran to a set of levers on the wall, and standing there was an evil-looking clown throwing the switches.”

It's not just potential psychological damage that is raising the alarm over the Arkansas plans. Legal experts also fear that the unseemly rush could greatly increase the risk of mistakes leading to botched procedures.



Arkansas's supply of the execution drug Midazolam is due to expire at the end of April and further stocks will be hard to secure because of a boycott by European companies. Photograph: AP

Hutchinson's professed reason for the tight schedule is that the state's batch of midazolam, a sedative used in many recent US executions, reaches its expiration date at the end of April and fresh supplies of the drug will be hard to secure because of the **boycott** of US corrections departments by pharmaceutical companies and foreign governments. Yet even without the added complications that can come from haste, midazolam has a patchy reputation in capital punishment.

It was the same drug that was deployed in the gruesome killing of Clayton Lockett in Oklahoma in 2014, in which the **inmate** writhed and groaned on

the gurney for 43 minutes. The state's subsequent investigation found that one factor behind the calamity was that the execution team had been placed under undue stress as they were primed to carry out two judicial killings on the same day. "Due to manpower and facility concerns, executions should not be scheduled within seven calendar days of each other," the [report](#) concluded.

"The example of Oklahoma should be very troubling for Arkansas officials," said Dale Baich, a defense attorney who represented Joseph Wood, who died in similarly [grotesque](#) circumstances in a botched execution involving midazolam in Arizona that same year. "What will happen if the first prisoner has the same sort of reaction as Wood or Lockett - will the governor press ahead with the next execution? This rush to execute is foolish and irresponsible."

Jennifer Moreno, a staff attorney with the Berkeley Law death penalty clinic, said that by choosing to use midazolam, Arkansas had opted for a protocol that had no margin of error. "When you add to that the pressure of executing eight men in 11 days, you are just asking for something to go wrong - they are putting their team in a really difficult spot."

The eight condemned men on Monday lodged a new [lawsuit](#) in a federal court in Arkansas seeking to prevent Hutchinson from going ahead with his plan. The complaint warns that the intense stress placed on the execution team, and the lack of a pause between killings to allow for review, will heighten the risk of the inmates suffering unconstitutional cruel and unusual punishment as they die.

"The people who will make up the execution team will be called upon to take part in the killing of an otherwise healthy human being, under intense scrutiny and pressure, in a process that they have little to no prior experience with, using a drug that has not been used before for executions in this state. And then they are going to be asked to do it again. And then come back to work and do it again. And again. And again. And again. And again. And finally again, for the eighth time."

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Why Is Florida Executing So Many Prisoners?

In most of the country, executions are a thing of the past. But one state has been carrying them out at a record pace.

By Pamela Colloff Photographs by Alec Soth

Pamela Colloff has been covering the death penalty for more than 25 years. She reported this article from Florida, interviewing a former death-row warden, capital defense attorneys, clergy, prisoners and protesters.

June 30, 2026

This spring, Father Dustin Feddon began waking up in the middle of the night. Heart racing, he would stand at the bathroom sink in the dark, splashing cold water on his face until the feeling passed.

For about a dozen years, Father Dustin had visited prisoners on Florida's death row as their appeals wound their way through the courts. Some had waited for decades, but the priest learned, more or less, how to accompany people through years of confinement and isolation without losing himself in their desolation. Then in January 2025, Gov. Ron DeSantis began signing death warrants at an accelerated rate. What followed was the busiest period of executions in more than eight decades in a state that has long been a stronghold of capital punishment.

In November, DeSantis set the execution date for Frank Walls, one of the men Father Dustin was counseling. Walls was moved from death row, at Union Correctional Institution, about an hour west of Jacksonville in the northeast part of the state, to nearby Florida State Prison. There he was placed in one of the three cells, known as death watch, that sit 30 feet from the execution chamber. And with that, Father Dustin was drawn into the strange, intimate work of accompanying a condemned person through the final weeks of his life.

Seven days before Christmas, he sat beside Walls in the execution chamber, his hand resting on the man's leg. Walls, with whom he shared communion just hours before, lay strapped to the gurney, his head freshly shaved, intravenous lines running into his right arm. His chest began to heave as he gasped for air for several minutes. Father Dustin watched as the man's eyes rolled back and his body went slack and then fell still.

He was the 19th man put to death that year, shattering the state's annual record of 11, first set in 1936; the Sunshine State accounted for 40 percent of all executions in the United States in 2025.

Soon there were more prisoners who sought out the priest. One received an execution date in February, another in May. With each new death warrant, Father Dustin felt the panic rising in his chest. The pace of executions had upended the nature of his work; no longer was he ministering to men living under sentences of death; he was preparing them to die.

Father Dustin spent years getting ready for this role without quite knowing it. He entered the seminary in his 30s after temporarily taking a break from a doctoral program in religion, and during a year of hands-on ministry before his ordination, he began visiting prisoners. He went on to found Joseph House, a re-entry home in Tallahassee, where he lives alongside men newly released from prison and often scarred by years in solitary confinement. There, he helps residents rebuild their lives — driving them to jobs, doctors' appointments and therapy sessions; helping them obtain ID cards and open bank accounts; refereeing the inevitable dramas of communal living. There were no off days. He spent one Christmas waiting with a resident in an emergency room.



Father Dustin Feddon ministers to death-row prisoners in Florida, where a significant increase in the number of executions has overwhelmed him.

By the spring, he was ministering to the two men on death watch. As often as allowed, he came to see them, spending four hours on the road, round trip, to talk and pray with the men as they awaited execution. Some mornings he drove to Florida State Prison after only a few hours of sleep; and some days he returned to Joseph House so drained that the demands and small crises awaiting him there seemed strangely distant. At a spiritual retreat one afternoon, he suddenly became preoccupied with the idea that the

priest who stood before him speaking was on the verge of collapse. Searching for an explanation, he told me he had become “hypervigilant of mortality — of other people dying, not me dying, but other people dying right in front of me.”

Florida has executed nine men this year, more than all other states combined. The pace has transformed death watch, which had typically been empty or held one man at a time. Now all three cells are often occupied, with the next man scheduled to die housed closest to the chamber. After each execution, the prisoners advance one cell closer; then another condemned man receives an execution date and is moved into the vacant cell. Death watch, once a lonely way station, has begun to resemble an assembly line.

Florida’s renewed embrace of the death penalty has unfolded against the backdrop of a decades-long national retreat from capital punishment. Thirty-three states have either abolished the death penalty or not carried out an execution in at least a decade. New death sentences have dropped even more precipitously, with prosecutors in capital cases seeking them less often and jurors more likely to choose life in prison. Just 23 people were sentenced to death in the United States last year, according to the Death Penalty Information Center, compared with 307 in 1995.

Support for capital punishment has been worn away by an accumulation of forces. The mounting number of death-row exonerations — more than 200 since the early 1970s — has made the risk of executing an innocent person impossible to ignore. The steep cost of capital prosecutions has forced many prosecutors to think twice before seeking death; the years of litigation required to obtain and defend a death sentence can add millions of dollars to a case. Decades of declining violent crime have further blunted the public appetite for executions. Support for the death penalty now stands at its lowest since 1972; a Gallup poll last year found that a majority of Americans under 55 opposed it.

This July marks the 50th anniversary of the U.S. Supreme Court’s decision in *Gregg v. Georgia*, which reinstated the death penalty, making it a defining feature of the American criminal justice system. But capital punishment has since lost its hold on the political imagination, with executions persisting in only a small number of states, including Texas, Oklahoma, Alabama and Missouri.

That retreat from capital punishment is apparent in governors’ offices across the country. In 2000, Gov. George Ryan of Illinois, a Republican, declared a moratorium on executions, after the exoneration of 13 men who had been on death row; before leaving

office, he commuted nearly all death sentences in the state to life in prison. More recently, Democrats like Gov. Gavin Newsom of California and Gov. Josh Shapiro of Pennsylvania imposed or maintained moratoriums. In June, Ohio's governor, Mike DeWine, a Republican and a former prosecutor who helped write his state's death-penalty statute, called for abolishing capital punishment there, concluding that it did not deter murder and abandoning his belief that it was morally justified.

President Trump, by contrast, has long been one of the death penalty's most outspoken champions, making it a cornerstone of his law-and-order agenda. He resumed federal executions in 2020, ending a 17-year hiatus and reviving a punishment that had become an increasingly rare exercise of federal power. Before Trump took office, the federal government had executed just three people since 1963; in the final six months of his first term, it executed 13. He returned to the issue repeatedly on the 2024 campaign trail, calling for broadening the categories of crimes eligible for execution by proposing death sentences for drug dealers, human traffickers and migrants who kill American citizens.

Hours after taking office in January 2025, he signed a sweeping executive order titled "Restoring the Death Penalty and Protecting Public Safety" — signaling that the White House intended to put the full weight of the federal government behind the revival of capital punishment. He instructed the attorney general to pursue death sentences more aggressively; called on the Justice Department to challenge Supreme Court decisions limiting the death penalty; directed federal officials to help states obtain the increasingly scarce lethal injection drugs needed to carry out executions; and encouraged state prosecutors to seek capital punishment more often.

Nowhere has the president's vision been pursued more relentlessly than in Florida, thanks to an unusual concentration of power in the governor's office. In most states that still carry out executions, the process follows a familiar legal path: Once a condemned prisoner has exhausted his appeals, courts — not governors — set execution dates. In Florida, however, the decision rests entirely with the governor, who decides whether — and when — to sign a death warrant for one of the state's eligible prisoners.

DeSantis, like his predecessors, makes execution decisions behind closed doors; the state's Supreme Court has long held that setting execution dates is an exercise of the governor's executive authority, putting it beyond the reach of the state's otherwise expansive open-government laws. As a result, there is no way to know what criteria

DeSantis uses when he chooses who will be put to death, a Tampa-based attorney with the A.C.L.U.'s Capital Punishment Project, Maria DeLiberato, told me. "He could be deciding who is next to die by throwing darts at a list of names," she said, "or spinning a roulette wheel."



Gov. Ron DeSantis has the sole discretion to choose which eligible death-row inmate will be executed, and when.

The secrecy surrounding those decisions has left victims' families, prisoners and their lawyers searching for clues about what principles, if any, guide DeSantis's selection process. How long a prisoner has spent on death row does not appear to be a deciding factor; DeSantis has bypassed prisoners who committed their crimes as far back as the 1970s, scheduling the executions of men convicted of murders committed decades later.

With no obvious overarching logic governing who is chosen next, the process has become a contest to attract — or avoid — his attention. Hoping to prompt him to issue a death warrant for Ronald Heath, convicted of the 1989 robbery and murder of a traveling salesman, the victim's family sent DeSantis custom blue Sharpies — his pen of choice for signing both legislation and death warrants. DeSantis subsequently did so, and Heath was executed on Feb. 10.

In March, after the execution of a man named Billy Kearsse by lethal injection took roughly twice as long as usual, lawyers for another man on death row, Chadwick Willacy, filed a public records request seeking information about the state's execution protocol. A week later, DeSantis signed Willacy's death warrant. That timing introduced more fear and uncertainty into an already opaque process. Lawyers representing condemned prisoners were left to wonder whether every legal challenge they raised risked drawing the governor's scrutiny — and whether vigorous advocacy, intended to save a client's life, could instead move him closer to death.

DeSantis has offered little public explanation for the record number of executions carried out since 2025 on his watch. The acceleration is particularly striking because it came after years of relative inactivity. In 2019, the first year of DeSantis's governorship, Florida carried out two executions, and then three years passed without another. Though six men were executed in 2023, just one was put to death the following year before the pace abruptly ramped up in 2025. At a news conference in Jacksonville last November, a reporter asked him to explain the sudden increase.

DeSantis blamed the disruptions of the pandemic as well as bureaucratic challenges for the slow pace at the start of his governorship. Meeting with victims' families, he said, had reinforced his determination to see old death sentences carried out. "There's a saying: Justice delayed is justice denied," DeSantis said. "We're doing it to be able to bring justice to the victims' families." When I asked his office for comment, the head of communications, Alex Lanfranconi, sent a short response: "My advice to those who are seeking to avoid the death penalty in Florida would be to not murder people."

Some observers see a different calculus. DeSantis is term-limited and will leave office in January, but his political future remains an open question. Since ending his campaign for the White House in 2024, he has worked to repair his relationship with Trump; in April, Axios reported that he was lobbying for a position in the administration, with an eye

toward attorney general. Few who follow Florida politics believe he has abandoned his presidential ambitions. The sheer number of death warrants, wrote the editorial boards of The Orlando Sentinel and The South Florida Sun Sentinel last summer, “gives rise to wonder: Why the sudden rush? Is it another sign that he’s planning another run for president in 2028? Would he campaign as the governor who tried to empty his state’s death row?”

When Governor DeSantis signs a death warrant, no one on death row knows who among them has been selected until prison officials arrive at the condemned man’s cell. Of the 242 prisoners on death row, roughly half have exhausted their appeals and are eligible for a warrant. The routine is always the same: a cluster of officials in dress uniforms suddenly appears, the arrival announced by the heavy cadence of boots on concrete and the metallic jangle of handcuffs and restraints. “The warden is first, followed by the colonel and the major and the captain and about four of the biggest guards you’ve ever seen in your life,” a former death-row inmate, John Buzia, who was resentenced to life in 2017, told me from prison. “They come walking down the wing and it’s dead silent, because they’ve got their game faces on.”

The men listen as the footsteps pass one cell, then another. From inside their cells, they can see little beyond their immediate neighbors, unless they slip a mirror between the bars in violation of prison rules. Somewhere along the way, the footsteps stop. The warden informs the man whose name appears on the piece of paper he carries that the governor has signed his death warrant. The prisoner is placed in restraints and led back down the wing before being transported to Florida State Prison and placed on death watch.

Even before the ramp-up of executions in 2025, waiting for this moment was an exercise in near constant, close listening. “You become very ear-sensitive, sound-sensitive,” Buzia said. Years spent in near total isolation and the same monotonous routine sharpen the senses, lending the smallest break from the ordinary an outsize and terrifying significance: the unmistakable sound of several officers approaching, a certain rattle of keys, the wing suddenly falling silent.



In the prison cemetery lies the grave marker of Frank Johnson, the first person to be executed in the electric chair in Florida, on Oct. 7, 1924.

Father Dustin saw the effects of this last July, when he went to visit Walls, who had been sentenced to death for killing an Air Force airman and his girlfriend during a 1987 robbery. Ten death warrants had been served in the previous seven months, and Walls was visibly on edge, telling the priest that he was barely sleeping because he was sure that his death warrant was going to come down at any moment. “They kind of know there’s this mysterious list,” Father Dustin said, “and they know they’re on it.” Walls,

usually animated as he talked about whichever saint or prayer had most recently captured his imagination, struggled to collect his thoughts, and they sat in silence while he tried to focus. Father Dustin watched as exhaustion eventually overtook Walls and he nodded off.

The lawyers who represent condemned prisoners, most of whom work for Florida's Capital Collateral Regional Counsel — a state-funded agency responsible for representing death-row inmates in their final rounds of appeals — live with the same uncertainty, never knowing which client will suddenly be scheduled to die, or when. Until a warrant is handed down, they can only guess which of the many cases they juggle will become their most urgent.

Texas, which has historically had the most active death chamber, requires at least 90 days to pass between the setting of an execution date and the execution itself. But in Florida, the period between the signing of a death warrant and an execution is roughly one month, on average. When a warrant arrives, it can set off an all-consuming race against the clock to determine whether there is any legal or factual reason the execution should not go forward: Were there witnesses who were overlooked? Or leads that earlier attorneys failed to recognize or fully investigate? Newer, more sensitive forms of forensic testing — which may have been unavailable, or less reliable, just a few years earlier — can shed light on old evidence. Advances in science and research can alter how courts view a prisoner's longstanding claims of mental illness or intellectual disability. The imminence of an execution can prompt witnesses who have remained silent for years to speak.



Bill Campbell, a death-penalty supporter and a mainstay at the executions, on May 21. His sign keeps a running list of the names of prisoners executed since 2025, crossed out in red, and his boombox blares songs like "Another One Bites the Dust."

This spring, a prisoner named James Duckett, convicted of the 1987 rape and murder of an 11-year-old girl, received an execution date. Five days before Duckett was to be put to death, the Florida Supreme Court stayed his execution while last-minute DNA testing and analysis in the case was completed.

Cases like Duckett's illustrate why the period between a death warrant and an execution is so important, serving as a final safeguard against an irreversible punishment. Florida's own history of wrongful convictions in capital cases underscores what is at stake. No state has exonerated more death-row prisoners, 30 men in all.

Now, with the added strain of one death warrant following another in rapid succession, the burden on the lawyers who are responsible for these cases has grown even heavier. “You have an execution, and then within a week or two, you’re working on a warrant again,” says Linda McDermott, chief of the Capital Habeas Unit at the Office of the Federal Defender in Tallahassee, which represents Florida death-row prisoners in federal court. Last year, eight prisoners represented by her office were executed.

The state’s accelerated pace leaves little room for error, or for the demands of life beyond the courtroom. When DeSantis signed a death warrant for Billy Kearsse on Jan. 29, Kearsse’s lead attorney of more than 20 years, Paul Kalil, was grappling with a family crisis: His father, who had been hospitalized for several months, would enter hospice care less than a week later. As Kalil worked to prepare the final challenges to Kearsse’s death sentence, his colleagues sought additional time, explaining in one court filing that “due to his ethical obligations to Mr. Kearsse,” Kalil had not been able to spend sufficient time with his father in the final days of his life. The courts granted only 48 additional hours.

Kalil’s father died on Feb. 8. Afterward, Kalil’s colleagues again asked for more time, explaining that the lawyer with the deepest knowledge of the case was now grieving his father’s death and making funeral arrangements. The Florida Supreme Court denied the request, and three weeks later, Kearsse was executed.

On April 21, the day Florida was set to execute Chadwick Willacy, I made my way to the vigil that would be taking place outside Florida State Prison, near the small town of Starke. Across the two-lane highway that leads to the prison, a few dozen people were unfolding camping chairs on a sunbaked field, carrying signs with messages like “Execute justice not people” and “Thou shalt not kill.” A single, broad-canopied oak tree provided the only shade. There were no satellite trucks or television crews, no signs that something momentous was about to take place, other than a single counterprotester: a death-penalty proponent who held up a sign listing the names of every man executed since early 2025, each name crossed out with a red X. Every so often, a lone car or pickup would come barreling down the highway, hurtle past the protesters and vanish.



Protesters at a vigil on May 21 before the execution of Richard Knight.

The relative invisibility of executions — the sense that they take place with little public awareness — was what prompted Melanie Verdecia, a Jacksonville attorney, to start writing a newsletter on Substack, “Tracking Florida’s Death Penalty,” that chronicles everything from new capital prosecutions to last-minute death warrant litigation, in real time. Years ago, Verdecia told me, she was driving to the Florida Supreme Court, where she was clerking, on the day of a scheduled execution, having spent weeks immersed in the legal battle over whether it would proceed. As she sat in traffic looking at the commuters around her, she realized none of them had any idea that a man was slated to die that day.

Verdecia is one of a small number of Floridians who meticulously track the state's use of the death penalty, trying to make sure executions — and more recently, the ramp-up in death warrants — do not pass completely unnoticed. On the afternoon of the Willacy execution, Grace Hanna was sitting in a doughnut shop in Starke, keeping a different kind of record. Hanna, the 29-year-old executive director of Floridians for Alternatives to the Death Penalty, sat at her laptop as she communicated with a network of people who were affected, in one way or another, by Florida's death penalty, including capital defenders whose clients were under active death warrants, the state's many death-row exonerees and family members of condemned prisoners who were preparing for final visits or grieving in the wake of an execution. Hanna told me that one of the most haunting parts of her job is when she is needed to collect the ashes of a condemned man and deliver them to his family.

When Hanna was 8 years old and growing up in Tallahassee, a cousin who worked the overnight shift at a convenience store in North Carolina was beaten to death during a robbery. The crime spurred long-running conversations in her home about crime, punishment and how society should respond after someone commits an act of violence. Her parents, Baptist deacons who ultimately left the church over its refusal to ordain women, raised their children to wrestle with such questions. "Clearly, something stuck," Hanna told me. She went on to become a social worker, her brother a public defender. The man who killed her cousin received a sentence of life without parole, a punishment that spared her family from the many years or even decades of appeals that often accompany a death sentence. Justice, she said, had not demanded putting another person to death.



Grace Hanna, whose cousin was killed during a robbery when she was young, is now the director of Floridians for Alternatives to the Death Penalty, which connects with people affected by Florida's policies and actions.

That day, Hanna was drafting a news release, as her team did every execution day, to be sent out after Willacy was put to death. It began by acknowledging the victim at the center of the case, Marlys Sather, who was 56 when she returned to her home in Palm Bay during her lunch break one day in 1990, interrupting a burglary. Court records show that Willacy beat her, bound her and set her on fire before fleeing.

These news releases try to hold two realities at once: the suffering caused by the crime and the complicated path that led there. Drawing on court filings, prison records and years of discussions with the lawyers and family members who know these men best, Hanna writes about forces that shaped their lives before prison: mental illness, intellectual disabilities, addiction, physical and sexual abuse and childhoods marked by neglect. She also looks at the decades of incarceration that follow their convictions, during which sometimes profound transformations take place. “This is often the only obituary these men will get,” she said.

Yet that was not the central focus of the Willacy release she was writing. Hanna devoted much of it to his unsuccessful effort to force the state to disclose records about its lethal-injection protocol. “Every Floridian,” she typed, “should be asking themselves tonight: What is the State of Florida hiding in those records?”

The execution went forward that evening. Shortly after 6 o’clock, around the time the lethal-injection drugs began to flow, the protesters gathered around a large metal bell. One by one, they stepped forward. “Not in my name,” each said before striking it. The sound was low and resonant, reverberating after each blow. The counterprotester, meanwhile, a lean retiree named Bill Campbell, tried to drown out the sound with a boombox blasting “Another One Bites the Dust.”

Above them, the sky stretched to the horizon, luminous in the early evening light. “Whenever we’re here for an execution, something wild happens in the sky, like a torrential downpour or the most beautiful sunset you’ve ever seen,” Hanna told me. She often takes a photograph of the sky and sends it to the prisoner’s family if they cannot bear to be there.

Soon a convoy of white vans emerged from the prison gates carrying witnesses, two members of the media and prison officials. The Florida Department of Corrections announced Willacy’s time of death as 6:15 p.m.

The protesters folded their chairs and gathered their belongings. A half-hour later, the vigil site had emptied out. Across the road, there was no visible sign that a man was put to death there that evening.

Another execution was already scheduled for nine days later. James Hitchcock, one of the longest-serving prisoners on Florida's death row, was set to die on April 30. As Hanna headed to her car, she called out to another woman: "See you next week."



Rain on May 21 did not deter a vigil for Richard Knight's execution. "Whenever we're here for an execution, something wild happens in the sky, like a torrential downpour or the most beautiful sunset you've ever seen," Grace Hanna said.

Last December, with Florida on the verge of carrying out its 19th execution of the year, a retired warden named Ron McAndrew sat down to write an opinion piece for The Tampa Bay Times. A two-time DeSantis voter and self-described "law-and-order guy," McAndrew was troubled by the rapid increase in executions. "That pace matters," he wrote, "because executions depend on human beings performing complex, high-risk

tasks under extreme pressure.” He warned of the potential for a serious error and the toll on those responsible for carrying out death sentences. “When something goes wrong in an execution chamber, it is not elected officials who absorb the consequences,” he wrote. It was prison staff members “who carry the memories long after the chamber is cleaned and the state moves on.”

McAndrew served as warden of Florida State Prison in the mid-90s, when Florida still used the electric chair. He walked three men to the execution chamber and gave the signal that sent electricity coursing through their bodies. The last execution he oversaw, on March 25, 1997, would help hasten the end of Florida’s reliance on the electric chair. Moments after that prisoner, Pedro Medina, received the first jolt of electricity, his head caught fire and flames leaped into the air. Smoke filled the chamber. Medina’s chest heaved until he was pronounced dead.

McAndrew threw out the uniform he wore that day, which smelled of burning flesh. Afterward, Gov. Lawton Chiles sent him to Texas to study lethal injection, the primary method Florida uses today. The cumulative weight of the executions followed him. He drank heavily, sometimes downing a bottle of Johnnie Walker in a single day. At night, he often awoke to find the men whose executions he had overseen sitting on the edge of his bed. “They’re haunting me,” he told his wife.



Ron McAndrew, a former warden at Florida State Prison, was haunted for years by the electric-chair executions he oversaw. He says Florida is not taking the burden on prison employees into consideration with the current execution rate.

Thirteen years of therapy allowed him to regain his footing. Now retired, he lives in the small town of Dunnellon, roughly 70 miles southwest of Florida State Prison, where he had hoped for a quiet life, puttering along the Withlacoochee River on his pontoon boat. But as executions accelerated last year, he found himself worrying about the people inside Florida State Prison who were being asked to shoulder the burden he once carried, and of the effect on them of so much killing. He knew what it was like to stand

inside the execution chamber, and what it was like for the other prison officials and staff members who were required to see the process through to the end. “It was damaging, and I mean very damaging, to the people in that room.”

I thought of the emotion with which McAndrew said “*damaging*” — as if he were describing an injury that never fully healed — when I spoke to Father Dustin on June 3, the day after a prisoner named Andrew Lukehart was executed.

Father Dustin had accompanied Lukehart, who was sentenced to death for the 1996 killing of his girlfriend’s 5-month-old daughter, through the final month of his life. The crime, the remorse he carried and the abuse that had marked his childhood were not the subjects to which Lukehart most often returned. Again and again, he spoke of the Camino de Santiago, the ancient pilgrimage route that winds across northern Spain, imagining that one day he might somehow walk its dusty roads. He and Father Dustin recited prayers, which the priest had found for him, that pilgrims have spoken for generations along the Camino.

Late in the afternoon on June 2, Father Dustin had been brought into the execution chamber at Florida State Prison, where he took a seat beside Lukehart, who was strapped to the gurney, and rested his hand on the man’s leg. Lukehart’s execution was the third that the priest would witness at Florida State Prison and his voice was heavy as he spoke to me the following morning. “To begin the sacrament of last rites for an otherwise utterly healthy man ...” he said, trailing off.



Around the time executions are scheduled to begin, protesters strike a large metal bell, intoning, “Not in my name.”

He told me he had been flooded with images of the execution since waking before dawn. The scenes returned one after another: Lukehart’s face, flushed with pooled blood, as if he had been doing a headstand; a doctor leaning over the gurney, raising Lukehart’s eyelids to verify that he was dead; the prayer rope Father Dustin laid across the man’s still chest. Before Mass that morning, the images looped in his mind. “I just was seeing it, and seeing it, and seeing it.”

The priest was struggling to reconcile what he believed he was called to do with what that calling now required of him, and how to move forward as death warrants continued to be signed at a relentless pace. How could he keep doing this work? And yet, how could he abandon the men who had asked him to walk beside them? Inside the death

chamber with Lukehart, Father Dustin told me, he felt a tension between the privilege of being with the condemned, he said, “to speak words of healing, of love, of God’s mercy” at their hour of greatest need, contrasted with the taking of a life. “Everything makes you want to cry out to the people around you, ‘Why are you making me do this?’” he said.

Lukehart was gone, but another prisoner he was counseling, James Duckett, whose execution had been put on hold for DNA testing, remained. The testing yielded no clear answers, and prosecutors were now asking the Florida Supreme Court to lift its stay so that the execution could proceed. The machinery of death had paused for him, but only briefly. Father Dustin would return to Florida State Prison to see him in just a few days.

Pamela Colloff is a staff writer for the magazine and a reporter for ProPublica, covering criminal justice. Her book “Catch the Devil: A True Story of Murder, Deception and Injustice on the Gulf Coast,” which grew out of a 2019 magazine article, will be published in July.

Alec Soth is a photographer in Minneapolis. He has published over 30 books, including “Advice for Young Artists” in 2024. His work is in the collections of the Museum of Modern Art in New York and the San Francisco Museum of Modern Art, among many others.

Read by Janina Edwards Narration produced by Tanya Pérez Engineered by Alec K. Redfearn

A version of this article appears in print on , Page 36 of the Sunday Magazine with the headline: In Most of The Country, Executions Are a Thing Of the Past. In Florida, They’re Being Carried Out At a Record Pace

Emergency Grievance

I Am Finally this Emergency Grievance due to FDOC/State of Florida Intentional Execution scheduled for noon Tuesday 28th July 2026. The Death Warrant Expires on 4th August 2026 with such a short 2 weeks from the governor signing my warrant to scheduled Execution, added to the fact a second Death Watch Inmate Dominick Ochreen is scheduled same day at 6pm. Then to resolve this improper scheduling, I request a Stop be Issued.

Filed 7-20-2026 1:40pm

[Signature] 112252

DECLARATION OF MARIA DeLIBERATO

I, Maria DeLiberato, hereby DECLARE:

1. I am Senior Counsel for the Capital Punishment Project of the American Civil Liberties Union.
2. I represent Tony Von Carruthers.
3. On May 21, 2026, I was present at Riverbend Maximum Security Institution (RMSI) as Mr. Carruthers' attorney witness for his scheduled execution.
4. I arrived at RMSI at 7:30 AM and placed my cell phone in a locker. I visited with Tony until approximately 9 AM. After our visit, I was escorted back to the front building.
5. At approximately 9:50 AM, I was escorted to RMSI's Death Watch Area alongside a lawyer with the state Attorney General's office.
6. I asked the lawyer and Warden Kenneth Nelson whether there had been any word from the courts regarding Mr. Carruthers' three outstanding claims. Both indicated they did not know the answer.
7. The Warden informed me, however, that he had been instructed to proceed with the execution.
8. I told the Warden that if there were any claims still pending, I would need access to a phone.
9. When we arrived at the Death Watch Area, Tony was in his cell, wearing a prayer shawl.
10. The execution gurney was rolled into the hallway in front of his cell. The Warden informed Tony that officers wearing tactical gear were going to enter his cell to strap him to the execution gurney.
11. As soon as the officers were about to enter Tony's cell, I heard a frantic knock at the door, and a female opened the door and shook her head and told them not to proceed. They wheeled the gurney back out of that same door.
12. The Warden then said that they were going to wait for the court to resolve Mr. Carruthers' outstanding claims before proceeding with the extraction.
13. I was escorted back to the front building. They allowed me to access my phone as long as I promised to not call the media.
14. Shortly thereafter, before I was able to get any signal to call co-counsel, the Warden's secretary informed me that they were going to proceed.

15. At 10:15 AM, as we were walking back to the Death Watch Area, I again asked the Warden whether the court had denied Tony's outstanding claims. The Warden just reiterated that they had permission to proceed.
16. At 10:17 AM, the corrections officers entered Tony's cell, told him to put his knees on his bunk and his forehead against the wall, whereupon they cuffed him. They walked him out of his cell and then lifted Tony and put him on the gurney.
17. As the officers began to strap Tony to the gurney, Tony held his hands in prayer.
18. At approximately 10:22 AM, the corrections officers wheeled Tony to the Execution Chamber, where they secured the gurney to the floor.
19. At approximately 10:24 AM, three members of TDOC's IV Team began their attempts to place a peripheral IV line in Tony's right arm.
20. During this process, I observed from about six feet away.
21. From the outset, I could tell that the IV Team members were struggling. One of them commented that Tony's veins were "rolling."
22. At approximately 10:31 AM, the IV Team managed to establish peripheral IV access in Tony's right arm.
23. They then attempted to place a second peripheral IV line in Tony's left arm.
24. Throughout this process, a TDOC corrections officer was handing needles back and forth with the IV Team member who was attempting to place the line. I saw the officer dispose of the used needles in a receptacle and heard the needles "clink" as they were thrown away.
25. From approximately 10:32 AM to 10:44 AM, the IV Team attempted to place the second IV line in Tony's left arm. They stuck him approximately 6 to 7 times.
26. At one point, the IV Team member who was attempting to place the line thought she had gotten it in and announced that she "saw a flash," but that it wouldn't flow.
27. At 10:44 AM, the IV Team member said that the line was not infiltrating but was also not flowing.
28. The IV Team member repeatedly shook her head and she wore an expression of visible effort as she tried to gain access.
29. Tony was wincing through most of the needle sticks.
30. At 10:48 AM, the IV Team member seemed to have established a peripheral line in Tony's left hand. But she quickly began shaking her head and said that it was not flowing.

31. At 10:54 AM, "Physician A" entered the Execution Chamber and identified himself by name.
32. Physician A instructed the IV Team members to take off Tony's socks to look for veins in his feet.
33. At 10:56 AM, they took out an infrared vein finder and dimmed the lights.
34. At 10:57 AM, Physician A said that they "got a flash, but it won't run." I could not see whether they had managed to set a line in Tony's foot.
35. At this point, I asked the Warden whether he was going to stop this. He said that he would not intervene until instructed to do so.
36. I then asked for a phone. The Warden and the lawyer with the Attorney General's office both had cell phones on them. But they did not offer to let me use their cell phones. Likewise, TDOC refused to let me use the wall phone in the Execution Chamber or the one in the adjoining Official Witness Room.
37. The Warden's secretary began looking for a phone that I could use and eventually escorted me back to the Death Watch Area.
38. The phones in the Death Watch Area were not plugged in. The Warden's secretary proceeded to plug in a phone, while I stood there and waited for it to dial up.
39. During this time, I could not hear or see Tony.
40. Once the phone was working, I called counsel at the Capital Habeas Unit of the Federal Public Defenders for the Middle District of Tennessee, and briefly explained the situation. I asked them whether TDOC was permitted to place a central line under its execution protocol. They informed me that TDOC was allowed to place a central line.
41. I then returned to the Execution Chamber at 11:06 AM, where I observed that Physician A and the IV Team were still trying to obtain peripheral IV access in Tony's left foot.
42. Tony was wincing during these efforts and seemed to be in pain.
43. Physician A then announced that he was going to place a central line.
44. At 11:09 AM, Physician A asked the members of the IV Team if any of them had experience with jugular access. One of the members said that they did.
45. They proceeded to undo Tony's chest straps and turned his head to the side. They then felt around Tony's neck.
46. At 11:10 AM they turned down the lights and brought out the infrared vein finder—which they used to assess Tony's neck. At this point, the IV Team member who volunteered to assist in finding jugular access said that he didn't "feel like he could do this."

47. Physician A then placed a drape over Tony's face and body—which they repositioned after realizing they had placed it on backwards.
48. Physician A got out the central line kit and asked whether someone could confirm that the kit was not expired. Someone said that it was not expired.
49. At 11:14 AM, Physician A asked whether “the patient” was allergic to lidocaine. The prison staff did not know.
50. At 11:15 AM, Physician A stuck Tony with a needle and administered the lidocaine below his right clavicle.
51. Physician A asked for a razor, but the prison staff did not have one.
52. Physician A then said that they were going to wait 5 minutes for the lidocaine to take effect.
53. At this point, I asked to access the phone. I was again taken out of the Execution Chamber and was out of sight of Tony.
54. Once again, I called counsel at the Capital Habeas Unit. I informed them that Physician A was attempting to place a central line. They explained that the physician had previously been deposed as part of their state court litigation and that he was not qualified to place a central line.
55. I immediately returned to the Execution Chamber, where I saw Physician A standing over Tony. I objected that Physician A was not qualified to place a central line. Physician A snapped back to me, “yes, I am qualified.” The Warden then said “Doctor, do your job.”
56. At 11:20 AM, Physician A began poking Tony with a needle in the area where he had administered the lidocaine (below the right clavicle). He asked Tony if it hurt. Tony said “yes,” he could feel it. Physician A responded, “well, it may just be some pressure.”
57. Physician A then proceeded to insert a needle under Tony's right clavicle.
58. Tony began gutturally groaning and said, “it hurts, it hurts.” I would later learn this groaning was audible to media witnesses.
59. There was about a half-dollar size amount of blood in the area where Physician A stuck the needle.
60. Physician A wiped the blood away and attempted a second time to insert the needle. I could observe at least two puncture wounds.
61. Physician A then attempted to thread something into one of the spots where he had inserted the needle.
62. Tony was moaning and groaning in pain. He looked at me and I assured him that I had called the rest of his legal team and that they knew what was happening.

63. At 11:22 AM, Physician A said that they would not be able to set a central line.
64. Physician A then attempted to obtain peripheral IV access in Tony's right shoulder.
65. At 11:28 AM, Physician appeared to set a line in Tony's right shoulder. I observed blood in the line.
66. At approximately 11:30 AM, someone announced that they "had flow."
67. Tony now had a line sticking out of his right arm and right shoulder, and there was blood visibly backfilling the right shoulder line.
68. At approximately 11:34 AM, the Warden left the room and came back shortly thereafter.
69. At 11:40 AM, one of the phones on the wall of the Execution Chamber rang and the Warden answered. After a brief conversation, the Warden hung up and said that they would not be moving forward with the execution "now."
70. I asked him to clarify and the Warden said that all he knew was that they would not be moving forward "now."
71. The IV Team then began removing the IVs from Tony's right arm and right shoulder. Blood continued to fill the lines, and Tony was clearly in pain.
72. Over the course of this entire process, I observed the IV Team and Physician A stick Tony over a dozen times.
73. I asked the prison staff if they would have Tony evaluated by medical and they assured me that they would.
74. They then took Tony back to his cell.
75. I was escorted out of the Execution Chamber and back to the front building, where I was able to access my phone.
76. Eventually, I was escorted out to a tent near the press conference tent, where I sat in a chair. An employee of TDOC told me that I could not go over to the press conference tent, but that I could listen from where I was sitting.
77. There, I listened to the media witnesses describe what they could hear from the Official Witness Room.
78. At this point, I texted reporter Steven Hale to let him know where I was sitting, because TDOC would not let me go over to the press conference tent.
79. Mr. Hale and other reporters came over to ask me questions. They informed me that the Governor had granted Tony a one-year reprieve.
80. I then went back into the prison to see Tony, where he was being held in Unit 2.

81. Tony was sweaty, pale, tearful, and he seemed to be in shock and pain.
82. The Warden informed me that Tony had been evaluated by medical, who said that Tony was "okay" and had given him ibuprofen.
83. I asked Tony what he needed, and he informed me that he was having trouble balancing and did not have any strength in his legs. I observed this to be true, as he could barely stand or walk.
84. Tony said that Physician A "was hurting me and knew he was hurting me."
85. I asked Tony if he would allow an independent doctor to come evaluate him, and he said that he would. I told him that we would try to get a doctor out to see him in the next couple days. To date, the prison has declined to allow an independent doctor to evaluate Tony.
86. When I was leaving the prison for the second time, I spoke briefly to the Warden. I observed him carrying a stack of papers, and the top paper was a document titled "syringe log."

I declare under penalty of perjury and the laws of the United States and the State of Tennessee that the foregoing is true and correct to the best of my knowledge.

Date this 20th day of July, 2026.



Maria DeLiberato

IV Misplaced in Oklahoma Execution, Report Says

By Erik Eckholm

Sept. 4, 2014

An official report released Thursday about a bungled execution in Oklahoma in April says that an improperly placed intravenous line in the prisoner's groin allowed the drugs to perfuse surrounding tissue rather than to flow directly into his bloodstream.

The report was ordered by Gov. Mary Fallin after the prolonged writhing and gasping of the prisoner, Clayton D. Lockett, during an execution that drew global attention to death penalty procedures and problems associated with lethal injections.

Because the groin area was covered with a sheet as the injections began — first a sedative intended to render Mr. Lockett unconscious, and then paralyzing and heart-stopping agents — the doctor and paramedic on the scene did not see the bulge, larger than a golf ball, indicating a procedure gone awry, said the report by Michael C. Thompson, the commissioner of public safety.

The report, which described prison officials as ill-prepared for unexpected events during an execution, recommended keeping injection sites visible at all times, improving the training of prison officials who inject the lethal drugs and developing procedures for emergency situations.

“I expect the Department of Corrections to implement the proposed improvements in protocols to ensure that future executions are performed effectively,” said Ms. Fallin in a statement on Thursday.

Mr. Lockett's execution on April 29 led Oklahoma to suspend executions and intensified the national debate about whether lethal injection can meet the constitutional standard barring cruel and unusual punishment.



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Capital punishment

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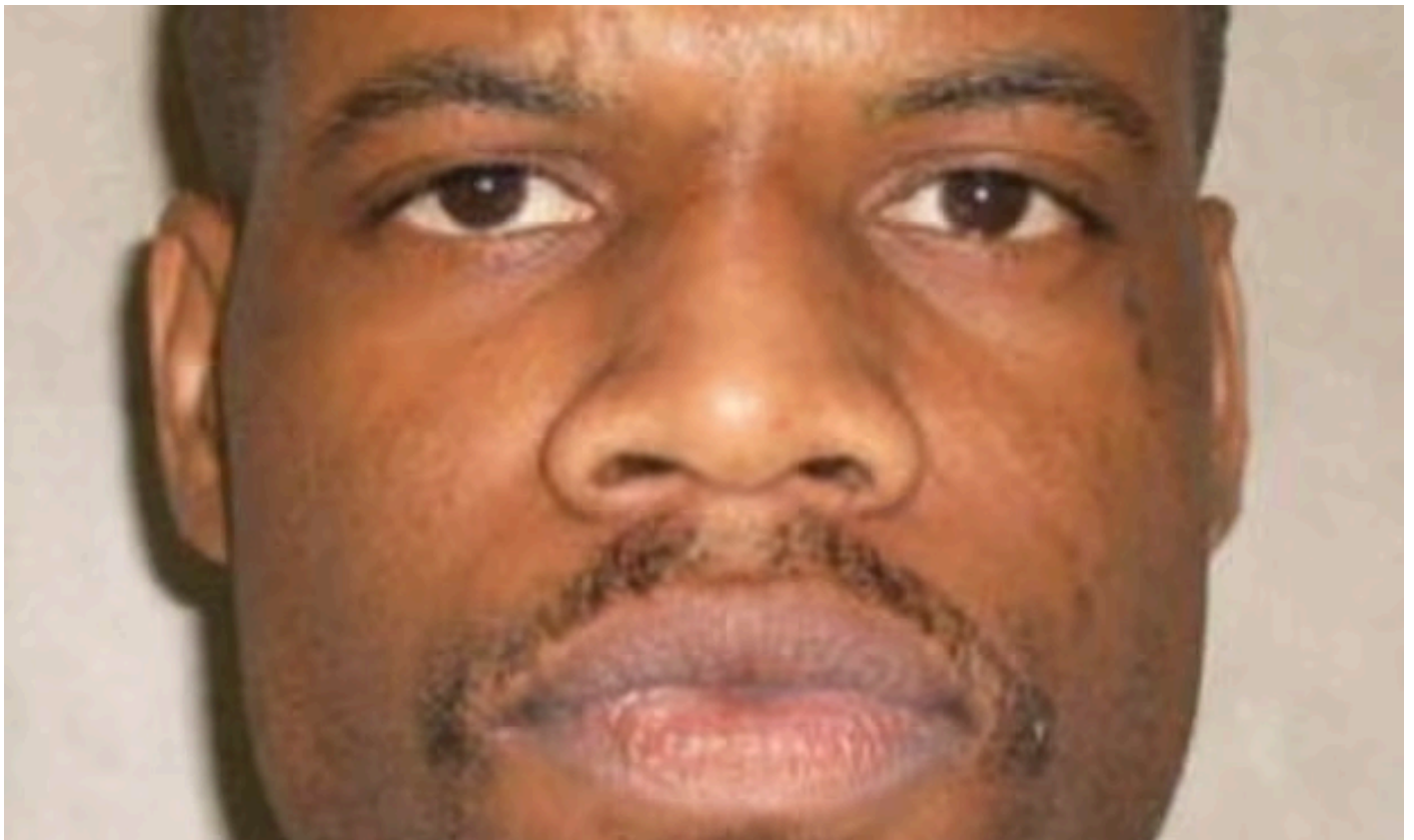
Scene at botched Oklahoma execution of Clayton Lockett was 'a bloody mess'

Doctor squirted with blood after hitting condemned man's artery

Court documents describe confusion and distress in execution chamber

Death penalty secrecy 'imperils integrity of the procedure'

Clayton Lockett execution: Guardian writer's witness account



📷 Clayton Lockett died 43 minutes after the first execution drug was administered on 29 April 2014 at Oklahoma state penitentiary. Photograph: Uncredited/AP

Katie Fretland *in Memphis*

Sat 13 Dec 2014 11.04 EST

A doctor tried to set a new intravenous line in the groin area of Clayton Lockett during the condemned Oklahoma inmate's botched execution, but blood squirted on to his clothing.

The prison warden described the scene as "a bloody mess", according to a court document lawyers filed on Friday night on behalf of a group of Oklahoma death row inmates. The lawyers are asking a federal court judge to stop their executions, arguing their killings would be unconstitutionally cruel.

Oklahoma plans to execute Charles Warner on 15 January, Richard Glossip on 29 January, John Grant on 19 February and Benjamin Cole on 5 March.

Lockett died 43 minutes after the first execution drug was administered on 29 April, at the Oklahoma state penitentiary. He groaned, writhed, lifted his head and shoulders off the gurney and said "man". Blinds were then drawn, blocking the killing from the view of journalists and his attorneys.

Lockett, 38, was convicted of the killing of 19-year-old Stephanie Neiman in 1999. She was shot and buried alive. Lockett was also convicted of raping her friend.

The court filing on Friday revealed new information about what happened to Lockett.

The doctor ran back and forth to check Lockett, according to the document. Lockett "raised up a little bit a couple of times and the phlebotomist told him to take deep breaths, you know, kind of out loud", a witness said.

The witness, whose name was redacted, said he held Lockett down. Lockett's movement "was a little bit more aggressive" than when the blinds were open, the witness said.

A paramedic involved in the execution described the doctor's efforts to introduce another IV.

"I said [redacted] you've hit the artery," the paramedic said. "Well, it'll be alright [sic]. We'll go ahead and get the drugs. No. We can't do that. It doesn't work that way and then I wasn't telling him that. I mean I wasn't trying to countermand his authority but he was a little anxious ... I don't think he realized that he hit the artery and I remember saying you've got the artery. We've got blood everywhere."

The court filing describes the accounts of other witnesses during the botched execution. The lawyers who made the filing have access to transcripts of interviews conducted by the state department of public safety about Lockett's execution. The transcripts are sealed in the court case, but the court did not find that the facts of the case should be sealed.

The first drug in the lethal injection was given at 6.23pm, records show. The doctor declared him unconscious at 6.33pm, but the doctor indicated that while the other drugs were given Lockett "raised his head up" and was "kind of jerking it", according to the court filing.

He said Lockett "started moaning" and he "thought he was seizing".

Warden Anita Trammell said she thought Lockett spoke.

"... I mean, I was kind of panicking," she said. "Thinking oh my God. He's coming out of this. It's not working."

Edith Shoals, a victim services advocate with the corrections department, was in an overflow room watching the execution. She said a woman ran out of the room. "It was like a horror movie ... he kept trying to talk," Shoals said.

Travis Brauer, an aide to the governor listening to the execution from the governor's office, said he heard "a moaning noise", according to the document.

Lockett was pricked at least 16 times in attempts to get the IV inserted for the lethal injection, according to the court filing. He was "in some pain", Trammell said.

The correct needle was unavailable, and the doctor used a 1.25in needle instead of a 2in to 2.25in needle to put an IV in Lockett's femoral vein. The doctor declined to set a second line.

"We had stuck this individual so many times, I didn't want to try and do another line," the doctor said. The state cited a failure of the IV in an investigation of the botched execution.

The corrections director, Robert Patton, called off the execution at about 6.56pm.

No life-saving measures were given to Lockett, according to the paramedic. Trammell asked the doctor if resuscitating Lockett was possible, according to the court filing.

According to the document, the doctor said "he would have to take Lockett to the emergency room, but someone told (the doctor) that they could not do

that”.

Another witness said Trammell asked “if they could bring him back to life” and he thought the physician “said no”, the document states.

Oklahoma injected Lockett with midazolam, which acts as a sedative and is also used as an anti-seizure drug, followed by vecuronium bromide and potassium chloride. The drugs came from a “licensed pharmacist in the State of Oklahoma”, according to the court filing.

Mike Oakley, the former general counsel for the corrections department, said he consulted with general counsels in other states about midazolam. Oakley also consulted the internet.

“I did have a discussion with our medical director at the time and he said, ‘Yeah Midazolam probably when administered will, will render sedation,’” Oakley said. “And that’s all he would say. Then, you know, I did my own research, I looked on-line, you know. Went past the key Wiki leaks, Wiki leaks or whatever it is, and I did find out that when administered, Midazolam would administer, would render a person unconscious. That’s what we needed ... So we thought it was okay.”

Oakley described “political pressure”, according to the document.

“[T]he attorney general’s office, being an elective office, was under a lot of pressure,” he said. “The, the staff over there was under a lot of pressure to, to say, ‘Get it done,’ you know, and so, yeah, I, I think it was a joint decision but there was, I got to say there was a definite push to make the decision, get it done, hurry up about it.”