

URGENT ACTION

OHIO EXECUTION ATTEMPT FAILS: NEW DATE SET

Romell Broom, a 53-year-old African American man, was taken to be executed on 15 September, but the team administering the lethal injection failed to find a useable vein, and gave up after two hours. The State of Ohio has now rescheduled his execution for 22 September.

Romell Broom has been on death row for nearly a quarter of a century. He was sentenced to death in 1985 for the rape and murder of 14-year-old Tryna Middleton in September 1984. After the death sentence was upheld on appeal, Broom sought to join a lawsuit challenging the constitutionality of Ohio's lethal injection process. However, the courts dismissed his attempt, ruling that the challenge was time-barred and should have been made earlier.

Romell Broom's execution was set for 15 September 2009 at 10am. The execution was delayed for several hours as a final appeal to the federal courts was awaited. Between 1 and 2pm, after the courts had lifted the stay of execution, the lethal injection team began preparations for the execution. After an hour of the team trying to find a suitable vein in his arms, Romell Broom tried to help them. According to Associated Press, "When his help made no difference, he turned onto his back and covered his face with both hands. His torso heaved up and down and his feet shook. He wiped his eyes and was handed a roll of toilet paper, which he used to wipe his brow."

Romell Broom's lawyer was in the attorney waiting room. When she questioned the delay she was taken to a room where she could watch the procedure on closed-circuit television. She has said that "it was perfectly apparent that the execution was going very wrong", and that Romell Broom was "wincing in pain" as the execution team held him down and tried to find a vein. At one point, she said, "they really hurt him", and he "grimaced in pain". She contacted her co-counsel to tell him what was happening – that the execution team had been trying for two hours to find a vein and had apparently now taken a "break." The co-counsel sent a letter by fax and email to the state Governor and the Chief Justice of the Ohio Supreme Court, urging that the execution be stopped. His letter to the court pointed out that in the ongoing legal challenge to Ohio's lethal injection protocol, the state's position had been that "the medical members of the execution team are skilled at obtaining IV access."

Governor Strickland, who had earlier denied Bloom clemency, issued a one-week reprieve. The warrant reads, "Difficulties in administering the execution protocol necessitate a temporary reprieve to allow the Department [of corrections] to recommend appropriate next steps to me...The Department should carry out Mr Broom's sentence [on 22 September] unless further reprieve or clemency is granted." On 17 September, in relation to the Ohio lethal injection lawsuit, a federal judge ordered that by 21 September a statement be taken from Romell Broom about the execution attempt, and that the state disclose relevant documents by 28 September.

PLEASE WRITE IMMEDIATELY in English or your own language, in your own words:

- Pointing out the inherent cruelty of the death penalty, starkly illustrated in this case, with a man under sentence of death for nearly 25 years put through a failed execution attempt and now having to prepare for another execution date;
- Calling on the Governor to stop this execution and to reconsider his decision to deny Romell Bloom clemency;
- explaining that you are not seeking to excuse violent crime or to downplay the suffering caused to its victims.

PLEASE SEND APPEALS BEFORE 22 SEPTEMBER 2009 TO:

Governor Ted Strickland, Governor's Office,
Riffe Center, 30th Floor, 77 South High Street
Columbus, OH 43215-6108, USA
Fax: +1 614 466 9354

Email:
<http://www.governor.ohio.gov/Assistance/ContacttheGovernor/tabid/150/Default.aspx>
Salutation: Dear Governor

Also send copies to diplomatic representatives of the USA accredited to your country. Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

On 3 May 1946, Willie Francis, an African American prisoner convicted of a murder committed when he was 17 years old, was taken to Louisiana's death chamber and placed in the electric chair, but due to some malfunction in the equipment, he survived and was returned to his cell. In January 1947, the US Supreme Court concluded that the prisoner's constitutional rights had not been violated, dismissing the argument that because he had undergone the mental strain of preparing for execution, to require him to undergo it again would be to subject him to a lingering and cruel punishment. The Court continued, "Even the fact that petitioner has already been subjected to a current of electricity does not make his subsequent execution any more cruel in the constitutional sense than any other execution. The cruelty against which the Constitution protects a convicted man is cruelty inherent in the method of punishment, not the necessary suffering involved in any method employed to extinguish life humanely. The fact that an unforeseeable accident prevented the prompt consummation of the sentence cannot, it seems to us, add an element of cruelty to a subsequent execution." Willie Francis was returned to the electric chair on 9 May 1947 and killed.

In the six decades since that chilling episode, the world has turned inexorably against the death penalty, recognizing its inherent flaws. Today, 139 countries are abolitionist in law or practice. The USA, in contrast, has carried out 1,174 executions since resuming judicial killing in 1977, with 1,003 carried out by lethal injection, the method currently promoted by advocates of the death penalty as "humane." In April 2007 the US Supreme Court upheld the constitutionality of Kentucky's execution protocol. A majority of the USA's death penalty states, and the federal government, use the same three-drug combination as Kentucky to anaesthetise, paralyse and kill the condemned prisoner. In its *Baze v. Rees* ruling, the Court recalled its 1947 decision in the *Francis* case, noting that "simply because an execution method may result in pain, either by accident or as an inescapable consequence of death, does not establish the sort of objectively intolerable risk of harm that qualifies as cruel and unusual."

There have been regular "botched" lethal injections in the USA. In Ohio in May 2006, for example, it took the execution team 22 minutes to find a useable vein in Joseph Clark's arm for insertion of the catheter. A few minutes later, however, the vein collapsed, and Clark's arm began to swell. The team then tried for another 30 minutes to find another vein, while witnesses heard "moaning, crying out and guttural noises" coming from behind the curtain. Death was pronounced about 90 minutes after the execution began. The following year, also in Ohio, the execution team struggled to find useable veins in Christopher Newton's arms, and the prisoner was not declared dead until almost two hours after the execution process began.

Amnesty International opposes the death penalty in all cases, unconditionally, regardless of the method chosen to kill the condemned prisoner. The death penalty is inherently cruel and degrading, incompatible with human dignity. To end the death penalty is to abandon a destructive, diversionary and divisive public policy that is not consistent with widely held values. It not only runs the risk of irrevocable error, it is also costly, to the public purse as well as in social and psychological terms. It has not been proved to have a special deterrent effect. It tends to be applied in a discriminatory way, on grounds of race and class. It denies the possibility of reconciliation and rehabilitation. It prolongs the suffering of the murder victim's family, and extends that suffering to the loved ones of the condemned prisoner. It diverts resources that could be better used to work against violent crime and assist those affected by it.

There have been 38 executions in the USA this year, four of them in Ohio.

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