

Exhibit 11

GAS KILLS CONVICT ALMOST INSTANTLY

Nevada Test of New Method of
Execution Called Success
by Officials.

WITNESSES AT A WINDOW

Texas in First Test of Electro-
cution Puts Five to
Death.

CARSON CITY, Nev., Feb. 8 (Associated Press).—Lethal gas as a form of capital punishment was used for the first time here today when Gee Jon, a Chinaman, convicted of killing a rival tong man, was put to death.

Physicians and scientists who attended the execution were unanimous in pronouncing it a swift and painless method. Several of them said they thought it the most merciful form yet devised.

The official physicians, who watched at a window with newspaper men, were A. Huftaker, E. E. Hamer and Major D. A. Turner of the Army Medical Reserve Corps. The doctors asserted that the Chinaman lapsed into unconsciousness after his first breath of the vaporized acid. Death, they said, came virtually instantly, although the condemned man's head continued to move up and down for six minutes. This movement, they explained, was probably muscular reaction after death. The doctors agreed that the condemned man did not suffer.

The condemned prisoner was walked forty yards into the prison yard. When he approached the death chamber, he walked steadily, although two guards held him by the arms. He was immediately strapped in the chair in the death house.

Gee Jon was in the chair when reporters arrived. Guards reported that he had wept a little as he was placed in the chair. The Captain of the guards said to him, "Brace up!" and after that he displayed no emotion.

When the gas was turned on he raised his head and looked around at the hissing sound of the liquid hydrocyanic acid being blown in from an adjoining compartment of the little building. Then his head fell forward. His expression remained placid during the six minutes that followed while his head moved.

During the execution, the witnesses could smell the gas, but it did not appear to have any harmful results or even bother any one. After the execution, the chemists ordered that thirty minutes elapse before the chamber was emptied of gas, but an hour passed before the physicians were permitted to enter.

It was charged that Gee Jon and another Chinese, now serving a life term, were sent from San Francisco by a Tong to "execute" Tom Quon Kee, member of a rival Tong. In the long legal fight to stave off the execution, two appeals were made to the Supreme Court of the United States on the ground that the lethal gas was an "unusual and inhuman" form of execution. The Supreme Court refused to hear the petitions.

Exhibit 12

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EXCERPT OF AUDIO RECORDING

SENATE SESSION 32
Subject: Senate Bill Number 2287
Date: March 9, 1994

MELISSA M. SMITH, RPR, LCR, CCR
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1 * * *

2 (WHEREUPON, the following excerpt is
3 transcribed from an audio recording:)

4
5 CLERK: Senate Bill Number 2287 by
6 Senator Gilbert relative to persons attending
7 executions, House Bill 2036 on the desk.

8 CHAIRMAN: Senator Gilbert.

9 SENATOR GILBERT: Thank you,
10 Mr. Speaker. Move to substitute and conform.

11 CHAIRMAN: Made and entered.

12 SENATOR GILBERT: For the purposes of
13 calling up amendments, I move this on third and
14 final consideration.

15 CHAIRMAN: Moved and seconded.

16 Amendment Number 1.

17 CLERK: Amendment Number 1, Senate
18 state and local government committee amendment.

19 CHAIRMAN: Senator Cohen.

20 SENATOR COHEN: Oh, my god. I'll
21 yield to Senator Gilbert.

22 CHAIRMAN: Senator Gilbert.

23 SENATOR GILBERT: Amendment Number 1
24 just makes it clear that the regulations will
25 dictate who's selected to attend in the -- in the

1 way of media representation, as opposed to the
2 Commissioner.

3 I move its passage.

4 CHAIRMAN: On the amendment of voice
5 vote, those favoring, say "aye."

6 Opposed, "no."

7 You adopt.

8 Number 2.

9 CLERK: Amendment Number 2, state and
10 local government committee amendment.

11 CHAIRMAN: Senator Gilbert.

12 SENATOR GILBERT: Amendment 2 changes
13 the effective date from July 1st, '94, to upon
14 becoming a law, the public welfare requiring it.

15 I move its passage.

16 CHAIRMAN: So moved and seconded.

17 Those favoring, say "aye."

18 Opposed, "no."

19 You adopt.

20 CLERK: That's all the amendments.

21 CHAIRMAN: On the bill, Senator
22 Gilbert.

23 SENATOR GILBERT: This bill corrects
24 a problem that we have in our current statutory
25 scheme. The statutes since 1909 have set out

1 select individuals that may attend an execution
2 in Tennessee. Excluded from the list are any
3 members from the media. Indeed, it's a
4 misdemeanor for a warden of a prison to allow
5 anyone not on the permitted list to attend such
6 an execution.

7 This bill says that at least seven
8 members of the print, radio, and television news
9 media would be selected pursuant to regulations
10 issued by the Department and also states that the
11 Department shall consult with the Tennessee Press
12 Association and the Tennessee Associated Press
13 Managing Editors and the Tennessee Association of
14 Broadcasters in formulating a fair manner in
15 which to select those seven media
16 representatives.

17 I'd also remind the Senate that while
18 some of us in this room are opposed to capital
19 punishment -- and I certainly respect that --
20 that there is a very good policy reason why we
21 should pass this bill. Whether you're for
22 capital punishment or not, when the State
23 exercises that very awesome power, I think it's
24 imperative that we have the media there to
25 witness it, not just to promulgate and to spread

1 the news that it's being done as a deterrent, but
2 to also make sure that the State exercises that
3 awesome power with the highest level of decorum
4 and that it's carried out appropriately.

5 With that explanation and pending any
6 questions, I move it for third and final
7 consideration.

8 CHAIRMAN: So moved.

9 Senator Cohen.

10 SENATOR COHEN: Thank you,
11 Mr. Speaker.

12 Will the sponsor yield?

13 CHAIRMAN: State your question.

14 SENATOR COHEN: Would you mind an
15 amendment that also allowed the Press to witness
16 the first citizens in Tennessee in 160 years to
17 have the opportunity to vote on the lottery?

18 It looks like these two events might
19 occur at about the same time.

20 CHAIRMAN: Senator Cohen has -- is
21 added as a sponsor.

22 You ready on the bill?

23 Those favoring, vote "aye."

24 Opposed, "no."

25 Every senator vote. Every senator

1 vote.

2 Take the roll.

3 CLERK: Ayes, 29; nays, 2.

4 CHAIRMAN: You adopt. Without
5 objection, motion to reconsider goes to table.

6 END OF REQUESTED EXCERPT
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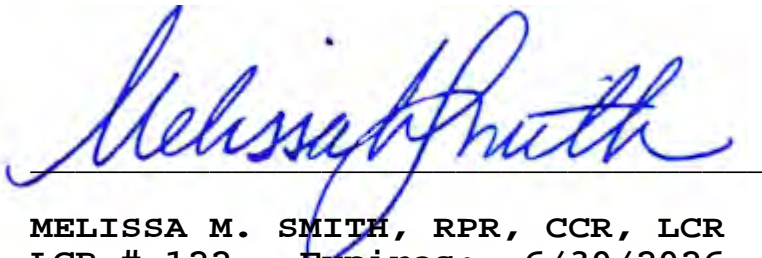
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STATE OF TENNESSEE

COUNTY OF HAMILTON

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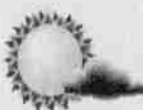
<hr/> <p style="text-align: center;">1</p> <hr/> <p>1 2:16,17,23</p> <p>160 5:16</p> <p>1909 3:25</p> <p>1st 3:13</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 3:8,9,12 6:3</p> <p>2036 2:7</p> <p>2287 2:5</p> <p>29 6:3</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>94 3:13</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>added 5:21</p> <p>adopt 3:7,19 6:4</p> <p>allowed 5:15</p> <p>amendment 2:16,17,18,23 3:4,9,10,12 5:15</p> <p>amendments 2:13 3:20</p> <p>appropriately 5:4</p> <p>Association 4:12,13</p> <p>attend 2:25 4:1,5</p> <p>attending 2:6</p> <p>awesome 4:23 5:3</p> <p>aye 3:5,17 5:23</p> <p>Ayes 6:3</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>bill 2:5,7 3:21,23 4:7,21 5:22</p> <p>Broadcasters 4:14</p>	<hr/> <p style="text-align: center;">C</p> <hr/> <p>calling 2:13</p> <p>capital 4:18,22</p> <p>carried 5:4</p> <p>CHAIRMAN 2:8,11,15,19,22 3:4,11,16,21 5:8,13,20 6:4</p> <p>citizens 5:16</p> <p>clear 2:24</p> <p>CLERK 2:5,17 3:9,20 6:3</p> <p>Cohen 2:19,20 5:9,10,14,20</p> <p>Commissioner 3:2</p> <p>committee 2:18 3:10</p> <p>conform 2:10</p> <p>consideration 2:14 5:7</p> <p>consult 4:11</p> <p>corrects 3:23</p> <p>current 3:24</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>date 3:13</p> <p>decorum 5:3</p> <p>Department 4:10,11</p> <p>desk 2:7</p> <p>deterrent 5:1</p> <p>dictate 2:25</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>Editors 4:13</p> <p>effective 3:13</p> <p>entered 2:11</p> <p>events 5:18</p> <p>Excluded 4:2</p> <p>execution 4:1,6</p> <p>executions 2:7</p>	<p>exercises 4:23 5:2</p> <p>explanation 5:5</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>fair 4:14</p> <p>favoring 3:5,17 5:23</p> <p>final 2:14 5:6</p> <p>formulating 4:14</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>Gilbert 2:6,8,9,12,21,22,23 3:11,12,22,23</p> <p>god 2:20</p> <p>good 4:20</p> <p>government 2:18 3:10</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>highest 5:3</p> <p>House 2:7</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>imperative 4:24</p> <p>individuals 4:1</p> <p>issued 4:10</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>July 3:13</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>law 3:14</p> <p>level 5:3</p> <p>list 4:2,5</p> <p>local 2:18 3:10</p> <p>lottery 5:17</p>
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Exhibit 13

Wednesday

April 19
2000



▲80° ▼56°

Complete weather
forecast on 8B

MARKETS

Earnings buoy Wall Street

After last week's plunge,
Nasdaq makes record climb

BUSINESS, 1E

+254.41

BASKETBALL

Finch wants job at TSU

Ex-Memphis coach has edge
over other finalists

SPORTS, 1C



WORLD

131 fliers die in crash

Airliner hits
Philippines island

NEWS, 2A

NASHVILLE,
TENNESSEE

THE TENNESSEAN

A GANNETT
NEWSPAPER

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COE EXECUTED

Tennessee carries out first death penalty in 40 years as girl's killer dies by injection

By JAY HAMBURG,
KIRK LOGGINS
and JOHN SHIFFMAN
Staff Writers

Robert Glen Coe was pronounced dead at 1:37 a.m. today, shortly after he received a lethal injection at Riverbend Maximum Security Institution in west Nashville.



COE

Coe, the first prisoner executed in Tennessee since 1960, was put to death after a furious night of last-minute appeals, a judge's order to halt the execution and a midnight reversal by the state's highest court.



MEDLIN

Dressed in prison-issue garb and strapped to a gurney, Coe was given a chance to speak into a microphone hanging from the ceiling shortly before a lethal combination of chemical started flowing into his veins. He said:

"I love you all with all my heart and soul. I forgive the state of Tennessee for murdering me for something I didn't do. I'm not guilty of this crime, and that's the God's truth."

Then he said "God loves you" to the witnesses, an echo of his 8-year-old victim's last words to him just before she was murdered.

According to Charlotte Stout, the girl's mother, Coe also said he forgave Stout for "having the state kill him" and expressed no remorse.

Relatives of Cary Ann Medlin, the girl Coe was con-

victed of kidnapping, raping and murdering in 1979, watched his death on closed-circuit television from a room nearby.

Coe's brothers and sisters, lawyers representing Coe and the state, a prison chaplain and seven news media representatives witnessed the execution from a room next to the death chamber.

Afterward, Stout gave a statement outside the prison.

She recalled that Coe told authorities he killed Cary Ann after raping her, and after the girl told him Jesus loved him.

"She looked into his eyes — eyes that were filled with hate and anger," Stout said. "He did not want to hear that. He has given his life in return."

Later, she said, "Robert Coe chose to kidnap, rape and kill my daughter Cary. He chose his path."

Steven Hayes, a spokesman for the Correction Department, said shortly before 1 a.m. that the victim's family was present, in "good spirits, and obviously there was some relief expressed," that the execution was no longer blocked.

At 12:21 a.m., the Tennessee Supreme Court cleared the last roadblock in 18 years of appeals to keep Coe out of the death chamber.

The state's high court reversed a Davidson County judge hours after he halted Coe's execution late last night on relatively obscure administrative grounds.

Earlier, death penalty opponents who gathered at Riverbend were elated at the news of the order to stop the execution. "I hope it holds," said Siobhan Kennedy, originally from Liverpool, England, who has lived in Nashville for four years.

Lyn Newman of Murfrees-

TENNESSEAN.COM

Online updates on execution

See our Web site for the latest news about the planned Coe execution. The Web site has been updated with stories and photographs throughout the early morning.

www.tennessean.com

boro broke into tears as word of the injunction spread around the area where protesters gathered.

"Oh, my God! I can't believe it," she said, hugging another protester.

Newman said she is upset that Tennessee is killing someone in her name, something that she opposes. She said she had earlier taken pride that Tennessee did not perform executions.

"It's extremely troubling to me that we were going to join the states that are taking people's lives," she said.

About 150 pro-death penalty supporters outside the prison said they were disappointed by the injunction and saddened that the family of Cary Ann has had to wait 20 years for justice.

Deanna Hare of Nashville said she was not happy that the execution had been delayed again. "I'm very angry," she said. "I feel like this family (Medlin's) has been through too much torment. It's like this one man has control over their lives, and it's not fair."

Shirley Ashley said the le-

► Please see COE, 6A



Charlotte Stout, the mother of Cary Ann Medlin, the 8-year-old girl whom Robert Glen Coe was convicted of murdering, speaks during a memorial service that was held for her daughter yesterday at Centennial Park. One of her daughter's dresses hangs behind her.

ERIC PARSONS / STAFF



GEORGE WALKER IV / STAFF

Opponents of the death penalty raise their candles as they sing *This Little Light of Mine* last night outside Riverbend Maximum Security Institution.

Inside

Day of protests

Arrests outside the governor's mansion begin a day of protests.
On 4A

Legal wrangling

Coe's lawyers try till last minute to get court relief, including from Justice Stevens and U.S. Supreme Court.
On 5A

20-year-old crime

Cary Ann Medlin just wanted to ride her bike. She never came home.
On 5A

Editorial

Execution won't end debate.
On 14A



STEVENS

SOUTH

Rock City artist lauds new Web ad

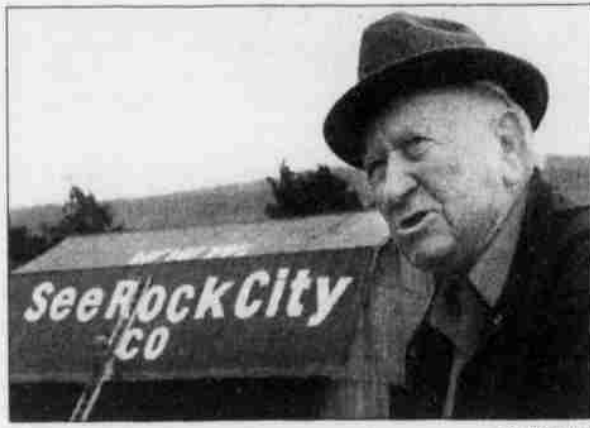
By LEON ALLIGOOD
Staff Writer

WILDWOOD, Ga. — Clark Byers, the barnyard Rembrandt, took a moment to take in the freshly painted barn and pronounced it good.

Actually, he called it "a fairly decent job," which, from him, is a genuine compliment.

Byers' legacy to the South is three words: See Rock City.

He's 85 now, weak in the knees, and he hasn't sketched letters on a roof in nearly two



MANDY LUNN

Clark Byers stands in the foreground as Jerry W. Cannon paints *www.SeeRockCity.com* on a barn in Wildwood, Ga.

decades, but his opinion still counts. That's why Rock City officials ushered him yesterday from his home in Sulphur Springs, Ala., to a Georgia

► Please see BARN, 2A

HEALTH

New antibiotic approved for use

Zyvox is effective against some infections impervious to drugs

WASHINGTON (AP) — The government yesterday approved a long-awaited drug described as the first entirely new type of antibiotic in 35 years, giving doctors an important weapon in the growing battle against drug-resistant infections.

Zyvox seems to cure some infections impervious to all other antibiotics, even that longtime drug of last resort called vancomycin. Consequently, Zyvox could help

prevent hundreds of thousands of life-threatening infections every year.

"It comes at a time when we were literally running out of antibiotics," said Dr. Robert C. Moellering Jr. of Boston's Beth Israel-Deaconess Hospital.

The Food and Drug Administration approved Zyvox, made by Pharmacia Corp., for use by adults with pneumonia and skin infections, including those caused

by a tough-to-treat form of staph bacteria, and with deadly infections caused by a super germ named *Enterococcus faecium*. This germ frequently invades surgical wounds and also causes serious abdominal, urinary tract and heart valve infections. Worse, enterococcal infections are increasingly growing resistant to antibiotics.

Zyvox is being made in oral and intravenous forms, so when hospitals discharge infected patients, they might go home with pills instead of a troublesome IV unit, said Dr. Dennis L. Stevens of the Veterans Affairs Medical

Center in Boise, Idaho.

"Zyvox is just a superb drug," said Stevens, who helped test it. But he stressed doctors should reserve it for only the worst infections, or bacteria will quickly evolve to make Zyvox useless.

Zyvox is a synthetic chemical designed from scratch to fight germs at an entirely different point in their life cycle than any other medicine. It is a medical surprise attack.

But it's not a magic bullet. Zyvox has been used experimentally in only a few thousand people; yet doctors already have counted 15 Zyvox-resistant infections. ■

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SHOPPING

Opry Mills raises IMAX screen

A crew raised the screen yesterday on the Regal IMAX theater at the Opry Mills mall. It is paper-thin and seven stories tall, and will show 3-D and 2-D movies. It opens May 11 along with the mall. On 1E.

ENTERTAINMENT

The Rock speaks out

Meet The Rock, an outspoken WWF wrestler and author, who says he's fundamentally a shy guy with a knack for entertainment. Dwayne Johnson talks about his place in pop culture. On 1D.



JOHNSON

COMING UP

Spring means more golf courses

Midstate golf courses have been sprouting up regularly each spring, and this year is no exception. The latest course is The President's Reserve at the popular Hermitage Golf Course. In tomorrow's *Tennessean*.

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FROM PAGE ONE: COE EXECUTION

Coe: Inmate executed after last-minute wrangling

FROM PAGE 1A

gal development was "just not fair." It was the third time in a month that a court had intervened to stop Coe's imminent execution.

The turn of events stemmed from Davidson County Circuit Judge Thomas Brothers' late-night ruling, which said the state failed to follow proper procedure when it put together the rules for using lethal injection.

Coe had come within hours of execution twice earlier this year.

As the high-profile state court battle waged, Coe's attorneys also sought relief in federal court late last night, alleging that prison guards were not allowing the condemned man's lawyers to meet with him.

At 9:45 p.m., U.S. District Judge Aleta A. Trauger issued an order that the prison allow Coe access to his lawyers "for any period of time

between now and his successful execution."

Coe was convicted on May 4, 1981, of the rape and murder of 8-year-old Cary Ann Medlin of Greenfield, Tenn. The girl was abducted Sept. 1, 1979, and her body was found in a field the next day.

Nearly 21 years later, her mother talked about the daughter she lost — a little girl who was riding her bicycle in a church parking lot when she was abducted.

"I hope that tonight my child will rest in peace," Stout said at a memorial ceremony held in Centennial Park about 5:30 p.m. yesterday.

Stout brought one of her daughter's little dresses and hung it from an arbor in the park.

"You can look at that dress and you can see reality, that she is in the grave, that there is evil in the world and evil has consequences," Stout said.

Cary Ann's stepfather, Mickey Stout, expressed relief that the process appeared to be near its conclusion.

"I just think it is time for it to be over — not only for us, for the town, for the county, for the state," he said.

"I want the justice system to work. It has. It's been slow and painful. But I think it's worked."

As two last-minute appeals and challenges were knocked down by

the U.S. Supreme Court, anti-death penalty protesters demonstrated at the governor's mansion yesterday morning and staged protests outside Riverbend.

The Tennessee Highway Patrol arrested 18 protesters outside the governor's residence when they blocked the entrance and refused to move. The were driven to court and issued misdemeanor citations.

Among them were several Vanderbilt Divinity School students and one juvenile. Charges against the juvenile were dropped.

"We will have crossed a threshold (after the execution), and it will be that much easier to kill again and human life will be cheapened," Harmon Wray said shortly after being released.

"Every human being is a child of God," said Wray, director of Restorative Justice Ministries of the United Methodist Church.

During the afternoon, three lone protesters sat on a grassy hill outside Riverbend, holding hand-painted signs up to passing motorists, mostly media and prison workers. All three were teen-age girls and friends.

"I don't believe anybody deserves to have their life taken from them, no matter what they did," said Natalie Socha, 15.

The final appeals focused not on Coe's guilt — he admitted to killing but later recanted — but whether he was mentally competent enough to understand the punishment.

He lured Cary Ann Medlin into his car by saying he needed directions to get to her house to talk to her father. He approached her after seeing the girl riding bicycles with her stepbrother.

He said he had intended only to rape her, but then "she told me that Jesus loves me, and that is when I got so upset and I decided to kill her," Coe told authorities in the confession he later recanted.

First, he tried to choke her. Then he grabbed his pocket knife.

"I stabbed her in the neck once and pushed her down on the ground. ... She started jerking and grabbing at her shirt at the neck. I stood there and watched the blood come out of her neck like turning on a water hose."

The 23-year-old part-time automobile mechanic was arrested three days later as he was about to board a bus for Georgia. The black shoe polish he had used to dye his hair was still dribbling down his face. He had told relatives he was leaving town because he had stabbed a state trooper.

By 10 p.m., the numbers of protesters began to swell at the watch site outside the prison. Many carried signs, including such slogans as: "He without sin, inject the needle, Sundquist" and "State killing creates more victims" and "The death penalty is dead wrong."

Jessie Ingram and his girlfriend, Teresa Harville, both of Nashville, were among them.

Ingram had a sign that read on one side, "Let's get this party started right now," and on other side read, "Do unto others as you would have them do unto you. Coe."

And in the bottom right and left corners, it said, "Rest in Hell."

Ingram said he had a little girl, age 12, and he was protesting for all the kids who have ever been abused. If anything ever happened to his daughter, Ingram said, he hoped people would be out at the prison supporting the death penalty like he was.

Coe's execution date was set last week by the Tennessee Supreme Court after federal judges stayed his execution twice within the past month, but it was Correction Commissioner Donal Campbell who picked the hour of 1 a.m.

A Correction Department spokesman said that is a time when the prison is as quiet as possible, and legal sources said that carrying out an execution early on the day set by the court holds down the possibility of more last-minute legal maneuvers by an inmate's lawyers.

Many of the protesters objected to the execution of a man they consider mentally ill, because Coe has had psychological problems since childhood.

Coe's case marked the first time the Tennessee courts have had to define competency for the purpose of execution, and also the first time the 6th Circuit U.S. Court of Appeals, which hears cases from Tennessee and three other states, has had to deal with that question.

Tennessee has had a legally valid death penalty statute on the books since 1977, and 16 men were sentenced to death before a jury in Memphis sentenced Coe to die in 1981.

But several of those inmates had their sentences voided by state and federal appeals courts, and one died of natural causes before he could be executed. There are now five men on Tennessee's death row who have been there longer than Coe.

Tennessee staff writers Time Tsouderos, Leon Tucker, Beth Warren and Shelia Williams and the Associated Press contributed to this report.

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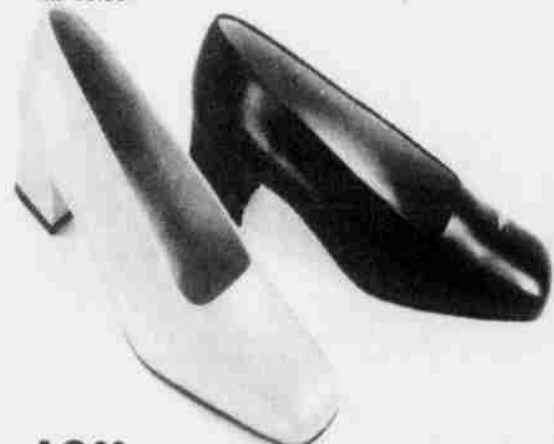
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Exhibit 14

5	10	20	30	40	50	60	70	80	90	100
Tennessee Broadsheet Master Template, Revised 11/01/00										
5	10	20	30	40	50	60	70	80	90	100

100	90	80	70	60	50	40	30	20	10	5
Tennessee Broadsheet Master Template, Revised 11/01/00										
100	90	80	70	60	50	40	30	20	10	5

Execution came after late-night judicial drama

By **BRAD SCHRADE** and **TRAVIS LOLLER**
Staff Writers
and **ROSE FRENCH**
Associated Press

For a routine it had carried out only once before in 46 years, the state prison system made quick and efficient work of executing convicted killer Sedley Alley early Wednesday morning.

Roughly an hour passed between the time a federal appeals court cleared the way for Alley to be put to death and the time his body was removed from the death chamber at a west Nashville prison.

Alley, 50, who was convicted of raping and murdering a young female Marine, Suzanne Collins, in 1985, was pronounced dead at 2:42 a.m. Wednesday, state prison system spokeswoman Dorinda Carter said.

The execution took place at Riverbend Maximum Security Institution, where most of the state's death row inmates are housed and where convicted child killer Robert Glen Coe was put to death in 2000.

Before the state administered the lethal injection to Alley, he was asked by the warden whether he had anything to say. "Yes, to my children," he said.

His daughter and son, April McIntyre and David Alley, were in the witness viewing room, separated by a window from their father in the death chamber.

"April, David, can you hear me?"

Alley asked, "I love you. Stay strong."

Alley then thanked the prison chaplain and said, "I love you, David. I love you, April. Be good and stay together. Stay strong."

"We will, Dad," McIntyre answered.

Both his children had their hands against the glass in the witness room and their arms around each other during the execution.

The drugs began flowing through catheters into Sedley Alley's arms at 2:02 a.m. Members of the media who witnessed the event said Alley, in his prison-issued white uniform and strapped to the gurney, exhaled twice and turned pale but had no other visible reaction.

At 2:10 a.m., he was examined by a doctor, and was pronounced dead two minutes later.

His execution, which had been slated for 1 a.m., followed several hours of frantic legal wrangling by his lawyers and attorneys for the state.

Alley's options started to run out at 7:55 p.m. Tuesday, when the U.S. Supreme Court denied all of his remaining appeals. His lawyers then said they would appeal to Gov. Phil Bredesen for clemency and that they would deliver papers requesting a stay to the Nashville home of federal appeals court judge Gilbert Merritt.

At about 10 p.m., death penalty opponents began their vigil in a fenced-in area on the prison grounds, illuminated by outdoor flood lights.



Protesters against the death penalty walk to their vehicles after receiving the news that Sedley Alley had been executed at Riverbend Maximum Security Institution in Nashville early Wednesday morning.

"Basically, just from a Christian or religious standpoint, killing is wrong," said Jerry Nail, a volunteer prison chaplain who attended the vigil. "The Old Testament says, 'Thou shalt not kill,' and the New Testament says, 'He who is without sin cast the first stone.'"

Fewer than 20 minutes later, Bredesen announced through a spokeswoman that he would not give Alley clemency.

The clock continued to tick. The vigil attendees chatted quietly and sat in clumps on blankets and lawn chairs. The press gathered at the prison entrance.

A man from BellSouth was there, just in case anything went wrong with the phone lines.

At about 11 p.m., the message

came: A stay had been issued by Merritt. The state immediately appealed to the 6th U.S. Circuit Court of Appeals, on which Merritt sits.

Midnight passed. The appointed time, 1 a.m., arrived with no word.

Then it came: The stay had been vacated by two judges on the 6th Circuit. Carter announced to the press outside the prison that the execution process would begin. The time stamp on the fax from the court clerk's office was 1:18 a.m.

Some of the vigil attendees had gone home. Those there gathered in a circle for what they said was a remembrance of Alley and Collins.

Inside the prison, the witnesses were already in place in the viewing room: Members of the media picked

by lottery, various law enforcement and prison officials, and Alley's children.

Members of Collins' family did not attend but had a representative, local victims' rights advocate Verna Wyatt, present to read a statement on their behalf afterward.

"Rest in peace, Suzanne," Wyatt read. "The jury's sentence has now been carried out. Justice in your name has at last been realized."

The family sharply criticized the death penalty system in Tennessee, saying the system is "simply not working," in that murderers are allowed to spend years on death row while the victims' families suffer.

"The old saying rings true," Wyatt said. "Justice delayed is justice denied."

DNA: Defense weighs its options

FROM PAGE 1A

because of the way it was handled and preserved.

"If they got the evidence and they were allowed to test it, it's not going to prove his innocence. It might prove his guilt, but it's not going to prove his innocence."

Collins, who was about to graduate from aviation training at Millington Naval Air Station near Memphis, was abducted while jogging. She was raped repeatedly with a 31-inch-long tree limb, beaten and strangled.

She said the Collinses — parents Trudy and Jack and brother Stephen — on Wednesday felt that justice had finally been served in Suzanne Collins' brutal murder, and that a big burden had been lifted from them. Wyatt said the issue on the DNA testing should be dropped, but that she was not surprised Alley's advocates may continue to pursue the matter.

Prosecutors in Shelby County and the state attorney general's office have fought Alley's efforts to perform genetic tests on the 20-year-old evidence.

Alley initially led police to the tree where he said he removed the limb used in the attack, and waited years before professing innocence.

On Wednesday, in the hours after the execution, the state continued to say the testing was unnecessary. "I think it's moot at this point," said Sharon Curtis-Flair, a spokeswoman for Attorney General Paul Summers. "We don't have anything to say about that."

That battle could push the case into uncharted waters in Tennessee jurisprudence, said David Raybin, a local defense attorney and former prosecutor. He does not have any involvement in the Alley case.

He said there had been cases in other states where DNA evidence was sought for testing after an execution. There's also no law that directly addresses the issue, but Alley's children could sue to try to gain access to the evidence.

"There's no precedent in Tennessee for this," he said. "The criminal case is over. The only thing that remains would be some sort of civil case by his estate to exonerate his name."

If McIntyre and Alley's son, David, pursue the testing, it is likely they will seek the help of Barry Scheck, whose New York-based nonprofit The Innocence Project was involved in Alley's effort to get DNA testing.

Scheck on Wednesday said he would be exploring what options exist within the next week to get the DNA evidence tested.

"If they don't turn it over, we'll have to determine what remedies we have under state law."

Brad Schrade can be reached at 259-8086 or bschrade@tennessean.com.

POSTHUMOUS TESTING

Other cases in which DNA evidence was tested after an execution:

- The state of Virginia recently allowed for post-execution DNA testing in the case of convicted killer Roger Coleman, who was put to death in 1992. Gov. Mark Warner ordered the tests, which confirmed Coleman's guilt, according to Innocence Project co-founder Barry Scheck and accounts in The Washington Post.

- DNA testing was performed in 2000 in the case of Ellis W. Felker, who was electrocuted in Georgia four years earlier. The tests were inconclusive as to whether he had slain a 19-year-old waitress in 1981, according to press accounts.

- Frank L. Smith, a Florida inmate who died while on death row while awaiting execution, was exonerated by DNA tests in 2000, the Post reported.

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Exhibit 15

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Donnie Johnson Executed For 1984 Murder Of His Wife

By [Chas Sisk](#)

May 17, 2019



Lacy Atkins / Tennessean via pool

A U.S. Supreme Court ruling bars states from sentencing child rapists to death unless the crime involves a child's death.



LISTEN

A West Tennessee man was put death Thursday night at Riverbend Maximum Security Institution in Nashville.

Donnie Johnson received lethal injection for the 1984 slaying of his wife, Connie. Supporters had emphasized Johnson's religious awakening while behind bars, and his final moments reflected a spiritual theme.

Johnson sang hymns as he entered the execution chamber, and again for more than two minutes as the execution drugs began to take effect. His final statement also included a prayer asking forgiveness — for himself and his executioners — and an acknowledgement of his wrongdoings.

"He was tired, but at peace," said Kelley Henry, a federal public defender and Johnson's attorney. "The singing didn't surprise me. Don really enjoyed singing spiritual hymns, so to me, that was for him, comfort."

The family of Connie Johnson did not speak to the media afterward, but a spokeswoman for the Tennessee Department of Corrections read a statement from her sister Margaret Davis. It said that Johnson's execution was just, and it lamented that it took more than three decades for his sentence to be carried out:

"This is a great indication as to why our criminal justice system needs to be reevaluated. Connie's death was inhumane and indescribable. Connie's life was never given a 34-year extension. Instead, she was brutally murdered. Our family has endured this pain and has carried this burden for most of our lives."

Johnson has not contested that he killed his wife about two weeks before

Christmas in 1984. He

suffocated her with a 30-gallon garbage bag, stuffing it down her throat until she died.

Execution By Lethal Injection

Johnson is the only second person to be put to death by lethal injection since 2009. Tennessee's death penalty was put on hold for nearly a decade because the state couldn't get the drugs needed to carry out the sentence. It restarted in the fall, but two of the three men executed since then have opted instead for the electric chair.

Johnson received a three-drug cocktail of midazolam, vecuronium bromide and potassium chloride. It took about 20 minutes to complete, in line with the state's lethal injection protocols.

The execution began shortly before 7:18 p.m. Central Daylight Time. When the curtain rose on the execution chamber, Johnson was already heavily restrained, with an IV tube inserted into his arm in the hollow of the elbow.

Johnson was given the opportunity to make a final statement. He delivered a lengthy prayer that was at times difficult to understand — the effect of two strokes suffered while behind bars, his attorney said.

It included references to Jesus' prayer on the cross and a statement of repentance. Johnson gave thanks to God and indicating that he accepted his fate.

"I commend my life into your hands," he concluded. "Thy will be done. In Jesus' name I pray, Amen."

The warden then gave the signal for the first drug to be administered. Johnson asked permission to sing as the sedative took effect. He sang two verses of "They'll Know We Are Christians," followed by two verses and part of the third of "Soon and Very Soon," a hymn about death.

After a little more than two minutes, Johnson's voice trailed off and he began to

gurgled rhythmically. At 7:25, the warden performed a consciousness check. Then the second drug was administered. Johnson issued a sharp, bark-like noise twice then fell silent.

His color began to pale then turn purple. He did not appear make any motion with his extremities during the execution, but his lawyer says that because he was tightly bound and the view of his body partially obstructed by prison personnel, it would have been difficult to see any signs of suffering.

“That is a very significant issue for us,” Henry said, “in terms of the ability of the individuals administering the protocol to know whether or not the individual is in fact insensate.”

Johnson was pronounced dead at 7:37 p.m.

More Executions Scheduled

As a member of death row, Johnson was part of a class-action lawsuit filed last year contesting the secrecy around Tennessee’s lethal injection protocol. Attorneys for the inmates say it is unfair that the state will not tell them the source of the drugs — especially since pharmaceutical manufacturers began refusing to supply them for executions about a decade ago.

But earlier this week, the U.S. Supreme Court declined to hear their case, clearing the final legal hurdle to the execution.

Johnson himself did not file any last-minute legal appeals to try to delay or cancel his execution. Instead, his supporters relied on his apparent religious fate. Johnson adopted Seventh-Day Adventism and became an ordained elder — the only such person in the denomination to hold that title while in prison.

Gov. Bill Lee rejected that application for clemency, saying that “after a prayerful and deliberative consideration” he’d decided to uphold the sentence.

Three other men are scheduled to be executed this year, as well as three more in

early 2020.

Filed Under: [WPLN News](#)

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Chas Sisk, Senior Editor



Chas joined WPLN in 2015 and became an editor in 2018. Previously, he covered state politics for Nashville Public Radio and The Tennessean, and he's also reported on communities, politics and business for a variety of publications in Massachusetts, New York and Washington, D.C. Chas grew up in South Carolina and attended Columbia University, where he studied economics and journalism.

Exhibit 16

Man smiles, says 'Let's rock' before dying in electric chair



By KIMBERLEE KRUESI

NASHVILLE, Tenn. (AP) — A Tennessee inmate grimaced and waved goodbye before saying “let’s rock,” moments before he became the first man executed in the electric chair in that state since 2007, put to death Thursday for shooting two men and slitting their throats during a drug deal decades ago.

Edmund Zagorski, 63, was pronounced dead at 7:26 p.m. Thursday at a Nashville maximum-security prison, officials said.

Asked by the prison warden if he had any last words in the death chamber, Zagorski said, "Let's rock," shortly before the execution was carried out.

A reporter who witnessed the scene said at a post-execution news briefing that Zagorski could be seen smiling while strapped down. A large sea sponge that had been doused in salt water was soon placed on his head. While guards wiped his face clear of water dripping down his face, Zagorski quietly said there was still water under his nose and asked for it to be removed before his face was shrouded with a large black cloth.

The witnesses said the inmate's fists then clenched when the electricity was applied and his body tensed and appeared to rise during the two times the current went through him. He did not move afterward.

Five media witnesses watched Zagorski's execution along with Zagorski's attorney, the prison's chaplain and a representative from the attorney general's office.

Another reporter said Zagorski's attorney Kelly Henry was nodding, smiling and tapping her heart just before the execution got underway. When asked about her actions, Henry said afterward: "I told him when I put my hand over my heart, that was me holding him in my heart."

She said Zagorski told her the last thing he wanted to see was her smiling face, and so she made an effort to smile at him before the shroud was put over his face. After it was done, Henry quietly wiped away tears.

Later, Henry said it appeared that Zagorski's pinkies had become dislocated. She said that can be common when the body undergoes such extreme blunt force trauma.

A phone hung on the wall in the witness room, allowing Henry to have access

to a telephone should anything have gone wrong. A federal judge had earlier this week ordered the state to have a phone accessible.

In opting for the electric chair over a lethal injection as Tennessee allowed him, Zagorski had argued it would be a quicker and less painful way to die. He became only the second person to die in the electric chair in Tennessee since 1960. Nationwide, only 14 other people have been put to death in the electric chair since 2000, including a Virginia inmate in 2013.

The execution was carried out minutes after the U.S. Supreme Court on Thursday evening denied the inmate's request for a stay. Zagorski's attorneys had argued it was unconstitutional to force him to choose between the electric chair and lethal injection.

The state came close to administering an injection to Zagorski three weeks ago, a plan halted by Tennessee's governor when Zagorski exercised his right to request the electric chair.

The Supreme Court's statement said Justice Sonia Sotomayor was the dissenting voice on Thursday, noting Zagorski's difficult decision to opt for the electric chair. In Tennessee, condemned inmates whose crimes occurred before 1999 can choose the electric chair — one of a handful of states that allow such a choice.

"He did so not because he thought that it was a humane way to die, but because he thought that the three-drug cocktail that Tennessee had planned to use was even worse," Sotomayor said in the statement. "Given what most people think of the electric chair, it's hard to imagine a more striking testament — from a person with more at stake — to the legitimate fears raised by the lethal-injection drugs that Tennessee uses."

Zagorski was convicted of an April 1983 double slaying. Prosecutors said

Zagorski shot John Dotson and Jimmy Porter and then slit their throats after robbing the two men after they came to him to buy marijuana.

The U.S. Supreme Court has never ruled on whether use of the electric chair violates the 8th Amendment ban on cruel and unusual punishment, but it came close about 20 years ago after a series of botched electrocutions in Florida. During two executions in the 1990s, smoke and flames shot from the condemned inmates' heads. In 1999, blood spilled from under an inmate's mask. Shortly afterward, the Supreme Court agreed to hear a challenge to the electric chair. But the case was dropped when Florida made lethal injection its primary execution method.

Republican Gov. Bill Haslam declined to intervene in Zagorski's case despite receiving pleas from correctional officers, Zagorski's priest and former jurors who convicted the inmate.

At the time of Zagorski's conviction, Tennessee juries were not given the option of considering life without parole.

Protesters held vigils Thursday in Knoxville and Memphis, and outside the prison where Zagorski was executed. There some raised a banner with the words: "A Free Tennessee is Execution-Free."

Associated Press writer Travis Loller contributed to this report in Nashville.

Exhibit 17

'We stood there silently looking at his lifeless body': A reporter's assignment to watch someone die

Editor's note: NewsChannel 5's Matthew Torres was one of seven official media representatives to witness the execution of Nicholas Sutton.

"Time of death ... 7:26."

It was a short and simple sentence that put a stop to a seemingly endless waiting game to watch someone die. The media representatives picked to witness the seventh execution in Tennessee since 2018 waited less than two hours. I was one of them.

[Nicholas Sutton chose to die by an electric chair](#), an archaic method given as an option to inmates who were convicted before 1999. Watching Sutton react to electricity pulsing throughout every inch of his body was surprisingly not as graphic as I feared. There was no steam or any of that nature [unlike the previous electric chair execution](#). It felt methodical or even procedural, which likely reflected the quarterly simulations the execution team would conduct to assure everything went according to plan.

Sutton's direct and piercing eye contact paired with his statement honoring God, his family and friends struck me the most.

"I want to uplift the name of Jesus Christ, my Lord of Lords and King of Kings," he uttered just before he took his final breath.

The buildup to 7:26 was slow and unnerving and at times, upsetting. "Why

am I here?" was a question that eventually crossed my mind.

It all began before 5:30 p.m. when the seven media witnesses, three of whom have already witnessed executions before, were escorted into the facility and through security. On the other end of the pat down was a wall with three pictures ready to greet you, which included Warden Tony Mays and Governor Bill Lee, who just one day earlier chose not to help stop Sutton's death sentence.

We were sequestered in a room with turquoise walls surrounding us. The state only equipped us with a large Ziploc bag containing a legal pad and two sharpened pencils to record our experience. Nothing else allowed. No phones. No cameras. No laptops. Except for the coffee provided by staff because after all, this is a room full of journalists.

By that time, Sutton had already eaten his final meal of mashed potatoes, fried pork chop and a peach pie with vanilla ice cream. Sutton also took a communion with his spiritual adviser and the prison chaplain about 30 minutes earlier.

The 58-year-old didn't want any of his family members there including his wife who he met through pen pal more than 20 years ago.

His attorney, Steve Ferrell, an assistant federal defender who is currently representing nine other death row inmates across the country, was there though. We introduced ourselves in the room after he had just finished a conversation with Sutton. We launched several questions but he never revealed what exactly they talked about.

Close to an hour later, the group was taken to a different building by walking through a passageway covered with barbed wire and chain-linked fences. I felt slightly numb and strange. It's as if we were walking to a funeral but this

funeral is for a person who doesn't want to die.

We entered a series of well-secured doors and rooms, including the parole board room where we sat for a few more minutes, before we finally landed in the witness room.

"Y'all ready to go?" asked one female correctional officer.

This was it. This was the moment we lay eyes on the man who killed four people including his own grandmother decades ago.

Sutton had already been in prison for three murders but it wasn't until 1986 when he was sentenced to death for killing a fellow prisoner a year earlier.

[Up until his death watch, several correctional officers have supported granting Sutton clemency.](#)

The room we stepped into was about 10 feet by 15 feet with a large door and window in front of you. A peculiar feeling struck as you carefully determined which of the red cushion seats in the three rows you should claim. You're practically trying to answer which seat would give you the best vantage point of the execution chamber.

The room eventually went dark. You saw the blue glow from the telephone attached to the wall and the sliver of light peeking underneath the door and side of the window where a dark curtain covered our view. Like my colleagues [Jason Lamb](#) and [Chris Conte](#) reported before, it was hard to take notes, so, the sound of pencils scribbling away was evident. So were the indistinct chatter and sound of doors closing from the other side of the window.

It was 6:56. I wrote on my notepad, "IDK if I'm ready." Even in the dark, I found myself ferociously drawing the door and window and the three

witnesses who have already seen executions sitting in front of me. It's as if I was back in art class when you had to draw a portrait without ever looking down on your paper.

About 15 to 20 minutes passed by when we heard doors closing loudly twice. The chaplain walked in. So did an attorney general representative. Almost a dozen people were now in the room when we heard through the speaker above our heads, "sound check."

"Loud and clear," the officer in the room responded through her radio.

Sutton's attorney walked in before clanking echoed from the speakers and filled the room. Even though we couldn't see anything, you could paint a picture in your head as you heard the crisp sound of chains unraveling or dropping.

7:12, the curtain went up.

Sutton's eyes were the first thing you noticed. Those eyes. You can never forget that look. Under harsh lights, he looked directly at us and showed no emotion. Travis Dorman of *Knoxville News Sentinel* described him as having a frown. To me he looked sad and solemn.

Sutton clearly looked different from his mug shot and the pictures of him smiling in prison. He gained weight and was bald and clean shaven, as indicated would happen in the 99-page TDOC manual. In his off-white prison uniform with a blue stripe running along the leg, Sutton was buckled down to the electric chair. Six black straps restrained him and his ankles were strapped and wrapped with sea sponges. He was barefoot.

"Mr. Sutton, any last words?" the warden asked him.

Compared to other death row inmates who came before him, Sutton gave

more than just a few final words. He gave an unexpectedly lengthy declaration that none of the witnesses were able to write down everything he said verbatim. But here was my best attempt.

"I want to thank my wife for being such a good witness to the Lord. I want to thank my family and friends for the love and support as they tried so hard to save my life," he said as all of us wrote feverishly on our notepad.

"Don't ever give up in the power of Jesus Christ to take impossible situations and correct them," Sutton continued in his soft voice. "I'm looking forward to being in his presence."

The same two officers who stood on each side of him would douse a large yellow sponge in a salt-water mixture in a tall, clear bucket. They squeezed the sponge underneath a leather head cap and encased it in by buckling the chin strap. Sutton finally broke away from his gaze as the liquid dribbled along his eyes and face and drenched the top of his outfit. The officers took two bottles with the same mixture and pressed them into the sponges around his ankles.

There were also two men standing on both ends of the room dressed in a suit and tie as they carefully watched each move. One of them took a cable snaked over an orange mat and connected it to a box attached to the leg of the electric chair. They covered Sutton's face with a black cloak and buttoned it around his head.

7:18, the exhaust fan turned on.

I couldn't see the warden's signal to turn on the electricity from my viewpoint but you immediately knew when the current swarmed Sutton's body. His chest turned up as his body ever so slightly lifted from the chair for 20 seconds. Sutton's fingers tensed up as they began curling toward him as if

he was clenching. The current stopped for 15 seconds which allowed his body to rest back on the chair. Then 15 more seconds of pulsing electricity. His hands stayed curled but the tension was no longer there.

7:19, it's over.

Sutton's attorney stared at him as we all waited for several minutes. With his face still covered, we stood there silently looking at his lifeless body. I started noticing minute details during that moment like how his pants only went down to his knee, or the pink tie one of the execution team members was wearing, or how the digital clock behind him also showed the date, which so happened to be 02/20/20.

After the warden appeared in our view to close the curtain, the witnesses tried to compare notes but stopped when we heard yet another simple sentence from the speaker.

"Please exit at this time." Such simple words that would close the chapter to the arduous journey by Sutton's attorneys to save his life.

I told Natalie Allison of *The Tennessean* how glad I was that nothing violent happened even though numerous accounts from other executions already painted a well-planned system. I suppose that's what watching "The Green Mile" can do to you.

I've had people throughout the week ask me why I would sign up for this. In fact, I still felt indifferent up until I walked through the doors of the facility. It was a rare opportunity into a world so few people will ever get to experience, not solely to see someone's death. With controversies surrounding both execution methods and Tennessee leading the way, assuring the state conducts the proper protocol is another way journalists can hold institutions accountable.

Aside from his attorney, the chaplain and correctional officers, Sutton looked at complete strangers before he took his last breath. No loved ones. Not even the victims' family. All he had was his faith.

There's no denying what the witnesses watched was an unforgettable and unusual assignment.

Sutton is dead. And I'm here writing about it.

Exhibit 18

Tennessee man is executed for killing his wife and her 2 sons, 3 years after last-minute reprieve



NASHVILLE, Tenn. (AP) — Tennessee inmate Oscar Smith was executed by lethal injection on Thursday morning for the 1989 murders of his estranged wife, Judith Smith, and her teenage sons, Jason and Chad Burnett.

Smith was pronounced dead at 10:47 a.m. after a lethal injection of the barbiturate [pentobarbital](#). The 75-year-old had maintained his innocence. In a lengthy final statement, he railed against the justice system, saying it “doesn’t work,” echoing sentiments expressed in a [recent interview](#) with The Associated Press.

Speaking of Tennessee Gov. Bill Lee, Smith said, "He has the last word and is the last person who can give justice where justice is needed." There are more men waiting to die at the prison, he said. "I'm not the first, and I'm not going to be the last."

Smith was strapped to a gurney and had an IV in his right arm. It was attached to a long tube that ran into a different room where the lethal injection was administered. Witnesses saw no obvious sign that the injection had begun after his final statement, but Smith's speech became labored as he spoke with his spiritual adviser. Witnesses heard him say, "I didn't kill her." He appeared calm and did not appear to struggle as visible signs of respiration stopped.

Thursday marked the first time Tennessee officials allowed a spiritual adviser into the execution chamber with the inmate. She prayed over Smith and comforted him, at one point singing, "I'll Fly Away."

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The crime

Smith was convicted of fatally stabbing and shooting Judith Smith, 13-year-old Jason Burnett and 16-year-old Chad Burnett at their Nashville, Tennessee, home on Oct. 1, 1989. He was sentenced to death by a Davidson County jury in July 1990 for the murders.

In 2022, a Davidson County Criminal Court judge [denied requests to reopen his case](#) despite some new evidence that the DNA of an unknown person was on one of the murder weapons. The judge wrote that the [evidence of Smith's guilt](#) was overwhelming and the DNA evidence did not tip the scales in his favor.

Two of Smith's co-workers testified at trial that he had solicited them to kill Judith Smith, and he had a history of threats and violence against her and the boys. Smith had also taken out insurance policies on all three victims. And one of the child victims could be heard yelling what prosecutors said was, "Frank, no!" in the background of a 911 call on the night of the murder. Frank is Smith's middle name and the one that he used regularly.

EDITOR'S NOTE: This story includes discussion of domestic violence. If you or someone you know needs help, please call the National Domestic Violence Hotline at 1-800-799-7233.

Judith Smith's siblings speak

Judith Smith's sister, Terri Osborne, and brother, Mike Robirds, witnessed the execution and spoke to reporters afterwards, standing in front of large portraits of their sister and nephews.

"The pain of losing Judy, Chad, and Jason is something we will continue to carry," Osborne said. "Not a moment goes by that we don't miss them. We miss the sound of Judy's voice on the other end of the phone. We miss the excitement of planning Chad's driving lessons. And we miss the pure joy of hearing Jason's laughter."

The tragic deaths are a reminder of the devastating consequences of domestic violence, Osborne said.

"We know it is an incredibly hard thing to do to leave a spouse who is abusing, but pray that this case becomes a call to action, encouraging those

in danger to seek help before it's too late," Osborne said.

The murders were brutal, Robirds said.

"No one should have to live in fear like our sister did," he said. "And no family should have to endure a loss like ours."

Protesters gather

Christina Isbell was among the death penalty opponents who protested outside the prison. Her downtown Nashville church, Christ Church Cathedral, includes a death row ministry.

"For me, it's just all about what God teaches," Isbell said. "And that is, even though somebody else may commit a horrible crime, you don't go do that to them as well."

William Burgess was the lone person standing in a fenced off area for death penalty supporters outside the prison. He said he owned a car lot across the street from the home where Smith murdered his family members. Burgess said he was one of the first one to see the bodies.

"He lived too long," Burgess said of Smith. "Waste of taxpayers' money."

A surprise reprieve and a lawsuit

Smith's attorney, assistant federal public defender Amy Harwell, told reporters afterward he will be remembered for his "cantankerous, curmudgeonly brand of kindness" and leatherwork skill. She said Smith will not have an autopsy due to his religious beliefs. But she said other autopsies have shown this execution method causes "excruciating pain and suffering."

Tennessee executions have been on hold for five years, first because of

COVID-19 and then because of [missteps](#) by the Tennessee Department of Correction.

Smith came within minutes of execution in 2022 before [a surprise reprieve](#) from Republican Gov. Bill Lee. It later turned out the lethal drugs for that planned execution had not been properly tested. A [yearlong investigation](#) revealed numerous other problems with Tennessee executions.

The correction department issued [new guidelines](#) for executions in December that are the subject of an ongoing lawsuit.

Nineteen men have died by [court-ordered execution](#) so far [this year in the U.S.](#), and nine other people are scheduled to be put to death in seven states during the remainder of 2025.

Associated Press journalists Jonathan Mattise and Kristin M. Hall contributed.

Exhibit 19

Tennessee prepares to execute Oscar Smith, 3 years after last-minute reprieve



NASHVILLE, Tenn. (AP) — Just over three years ago, Oscar Smith came within minutes of being executed before Tennessee Gov. Bill Lee issued a [surprise reprieve](#) that revealed [problems with the lethal injection drugs](#). On Thursday, the state is [prepared to try again](#).

Asked in a recent phone interview about coming so close to death in 2022, Smith declined to reflect very deeply on it but instead expressed a wish that Lee had not intervened, saying the past three years on death row have been “more than hell.” Without going into specifics, he said conditions at the Riverbend Maximum Security Institution in Nashville, Tennessee, have

deteriorated, and he accused its officials of not following policies.

Smith, 75, said he asked his family to stay away on Thursday and not witness his execution because "they don't need to see anything like that."

Smith was convicted of fatally stabbing and shooting his estranged wife, Judith Smith, and her sons, Jason and Chad, 13 and 16, at their Nashville home on Oct. 1, 1989. A Davidson County jury sentenced him to death the following year.

Some relatives of Smith's victims do plan to attend the execution, Tennessee Department of Correction spokesperson Dorinda Carter said in an email. The Associated Press requested to interview relatives through the Tennessee Attorney General's victim services office, but no one agreed to be interviewed.

Related Stories

"My own personal minister will be with me in the execution chamber with her hand on my shoulder praying," Smith said. He is grateful for that, but also worried about her.

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"I'm having a real hard time adjusting to the idea of having a young lady in the execution chamber," he said. "She doesn't need any bad experiences."

Smith will be the first Tennessee inmate to be executed under a [new lethal injection process](#) released in late December that uses a single dose of the barbiturate [pentobarbital](#). While the method is new to Tennessee, it has been used by other states and the federal government.

A review of the drug under President Joe Biden's administration led then-Attorney General Merrick Garland to halt its use in federal executions, finding it had the potential to cause " [unnecessary pain and suffering](#)." New Attorney General Pam Bondi has ordered the Justice Department to reconsider that decision.

Smith is [suing Tennessee](#) over the update to the execution protocols, arguing TDOC failed to follow the recommendations of a yearlong [independent investigation](#) called for by Lee in 2022. However, that trial is not until next January — too late to change anything for Smith. Only Lee has the power to [stop the execution](#). He said on Tuesday that he plans to let it go forward.

While lethal injection is the state's preferred method of execution, some Tennessee inmates in recent years have exercised the option of [death in the electric chair](#), expressing the opinion that it would be quicker and less painful. Smith, too, had the option to choose the electric chair, but declined to make a choice.

"Because of my religious beliefs, I wouldn't participate or sign anything," he said. "I was taught that taking your own life, or having anything to do with it, is a sin."

Smith has continued to claim that he is innocent. In a phone interview on May 7 — shortly before he was to begin a 14-day period of relative isolation that is part of the new Tennessee execution protocol — Smith mostly wanted to discuss his case and the various ways he feels his trial was unfair.

In 2022, a Davidson County Criminal Court judge [denied requests to reopen his case](#) after a new type of DNA analysis found the DNA of an unknown person on one of the murder weapons.

"Now that I could rebut everything they used against me, the courts don't want to hear it," is the way Smith sees it. He says he wants a new trial and "to be found truly innocent by a jury of my peers."

However, the judge who declined to reopen his case found the evidence of Smith's guilt extensive, citing prior threats and a life insurance policy taken out by Smith for the three victims.

Speaking about the execution, Smith said, "It sounds like we're going back to medieval times, to the gladiators. People want to see blood sports.

"Why anyone wants to see anyone being killed, I don't understand it. We're supposed to be a civilized country."

Exhibit 20

Tenn governor calls off execution, citing oversight in plan



NASHVILLE, Tenn. (AP) — Tennessee's governor on Thursday called off what would have been the state's first execution since the pandemic began, granting a temporary reprieve to the oldest inmate on death row for what was called an "oversight" in preparations for the lethal injection.

Republican Gov. Bill Lee didn't elaborate on what exactly forced the surprise 11th-hour stop to the [planned execution of 72-year-old Oscar Smith](#). But Amy Harwell, an attorney with the federal public defender's office representing Smith, said her office received a notice that the issue dealt with "mishandling" of the drugs — though no further specifics were provided to her office.

The inmate had been scheduled to receive a three-drug injection only a short while later at a Nashville maximum security prison.

"Due to an oversight in preparation for lethal injection, the scheduled execution of Oscar Smith will not move forward tonight. I am granting a temporary reprieve while we address Tennessee Department of Correction protocol," Lee said in a statement promising further details once available.

Kelley Henry, another attorney with the federal public defender's office, called for an independent entity to investigate, saying no execution should happen until questions are answered.

Henry said the governor did the "right thing" by stopping the execution which would "certainly have been torturous to Mr. Smith."

Smith was convicted of the 1989 killings of his estranged wife and her two teenage sons. Shortly before the governor intervened, the U.S. Supreme Court had denied a last-hour bid by Smith's attorneys for a stay.

His [reprieve](#) is in effect until the beginning of June.

Dorinda Carter, a Department of Correction spokesperson, said the state Supreme Court would need to reschedule the execution. She said Smith would be removed from death watch and returned to his death row cell.

State officials declined to provide further information.

Just before learning of his reprieve, Smith had received communion from his spiritual adviser, who was going to be allowed in the execution chamber.

Hours earlier, Smith had been served what was supposed to be his last meal, including a double bacon cheeseburger and apple pie.

Tennessee had planned for five executions this year, including Smith's. It has been seeking to resume its quick, pre-pandemic pace of putting inmates to death. Heading into Thursday, the five pending death warrants tied Tennessee with Texas for the most nationally this year, according to the Washington-based nonprofit Death Penalty Information Center.

[Texas, however, executed its oldest death row inmate on Thursday evening.](#)

Carl Wayne Buntion, 78, was put to death for the June 1990 fatal shooting of a Houston police officer, James Irby, during a traffic stop.

Smith had initially been scheduled for a June 2020 execution, one of several dates delayed because of the pandemic.

Smith was convicted of fatally stabbing and shooting Judith Smith and her sons Jason and Chad Burnett, 13 and 16, at their Nashville home on Oct. 1, 1989.

Smith has maintained he is innocent. In a clemency filing, [rejected](#) Tuesday by Lee, Smith's legal team claimed problems with the jury in his 1990 trial. His attorneys were earlier [denied requests to reopen his case](#) after a new type of DNA analysis found the DNA of an unknown person on one of the murder weapons.

Tennessee has not conducted any executions since February 2020, when [Nicholas Sutton died in the electric chair](#) for the killing of a fellow inmate in an east Tennessee prison. Of the seven inmates Tennessee has put to death since 2018 — when Tennessee ended an execution pause stretching back to 2009 — only two died by lethal injection.

Smith had earlier declined to choose between the chair and lethal injection, so lethal injection became the default method.

Tennessee uses a three-drug series to put inmates to death: midazolam, a sedative to render the inmate unconscious; vecuronium bromide, to paralyze the inmate; and potassium chloride, to stop the heart.

Officials have said midazolam renders an inmate unconscious and unable to feel pain. Expert witnesses for inmates, however, say the drugs would cause sensations of drowning, suffocation and chemical burning while leaving inmates unable to move or call out. The assessment has led to more inmates selecting the electric chair over lethal injection.

Tennessee's moves to continue with lethal injections come amid shortages of execution drugs in other states. For one, South Carolina has cited its struggles to obtain lethal injection drugs in recent years -- a problem in many states because pharmacies and manufacturers have refused to supply their medications for executions -- as it forges ahead with [plans for a rare U.S. firing squad execution. That execution has been delayed as well.](#)

Lawmakers in South Carolina have failed to pass the kind of law to keep its execution drug suppliers confidential that Tennessee has in place.

In Oklahoma last October, an inmate executed using the same three-drug lethal injection [convulsed and vomited](#) after receiving midazolam. Oklahoma has carried out three lethal injections since, without similar reactions reported.

Exhibit 21



Selection of Official Media Witnesses

Tuesday, May 06, 2025 | 09:18am

NASHVILLE – In accordance with state law, representatives from the following news media agencies have been selected to witness the execution of inmate Oscar Franklin Smith #136424. The witnesses were selected from eight applications received from recognized Tennessee news organizations to serve as statutorily required witnesses.

The witnesses are:

1. Travis Loller - Associated Press
 2. Kirsten Fiscus Bodenbach - The Tennessean
 3. Steve Cavendish - Nashville Banner
 4. Robert Alan Walters - Six Rivers Media
 5. Madeleine Nolan - Fox 17
 6. Steve Mehling - WSMV
 7. Catherine Sweeney - WPLN
- *Alternate-Victoria Howland - WKRN

The selection was conducted in accordance with the Rules of the Tennessee Department of Correction Adult Services Division, Chapter 0420-3-4, under the authority of TCA 40-23-116.

*Please send media inquiries to Dorinda Carter at Dorinda.L.Carter@tn.gov.

Exhibit 22

Prayers, song and prolonged silence: The soundtrack to Oscar Franklin Smith's last moments

[Kirsten Fiscus](#)

Sometimes I wonder what the soundtrack to my death will sound like.

Today, I witnessed someone else's.

[Oscar Franklin Smith, 75, slipped from the world in quiet](#), punctuated by prayers from Rev. Monica Coakley as she rested her hand upon his shoulder and read from her Bible.

It was her voice I heard first as I, and six other witnesses from various news outlets, entered a small cinderblock room on May 22 to watch Smith, who'd spent decades on Tennessee's death row, die. Much of my life, in my memory, is punctuated by music and sound. So when my vision was obscured, either by darkness or walls, I relied on my ears to understand this grim process.

Though unseen, Coakley's voice carried at mentions of the Lord, and softened in between. She stood beyond a heavy door, thick walls and four windows covered by a blind.

More: [Oscar Franklin Smith execution set for May 22: What to know about case, new protocol](#)

Getting to that witness room was the last step in a long morning of movement to watch Smith die by lethal injection for the triple murder of his estranged wife, Judy Robirds Smith, and her two teenage sons, Chad

Burnett, 16, and 13-year-old Jason Burnett.

The courts found reason to believe Smith brutally stabbed and shot all three victims, leaving behind a host of evidence that pointed in his direction. Smith maintained his innocence.

In the witness room, prison staff left the back of three rows empty for Smith's attorneys. Davidson County Sheriff Daron Hall took up the last seat, furthest from the door and the events that would happen beyond our windows.

Everyone sat in silence. The chairs groaned as I and several others leaned forward, straining to hear Coakley. The microphones had not yet been turned on.

More: [Protesters in Nashville react as Tennessee executes Oscar Franklin Smith for triple murder](#)

"Be strong," Coakley said to Smith. "The lord is good."

The lights went out.

Coakley began singing.

*When the shadows of this life have gone I'll fly away
Like a bird from these prison walls, I'll fly I'll fly away I'll fly away, fly away, oh glory I'll fly away, in the morning
When I die, Hallelujah by and by I'll fly away*

The blinds opened. The microphone was turned on. Bright white, fluorescent light flooded into the dark room.

It was clinical.

The room beyond looked to be in grayscale. White walls, gray floors, white

sheet pulled up to Smith's stomach and a black gurney. Coakley wore a knee-length black dress with the standard collar worn by Episcopal priests.

The only color in the room came from the stole and crochet cardigan she wore over her shoulders, and Smith's pale-yellow prison clothes.

Smith was already strapped down, though his face was initially obscured by Coakley's body as she stood between him and the witness windows.

The state's new lethal injection protocol allows for spiritual advisors to be in the execution room with the condemned. There were some logistical kinks to work out.

Smith's attorney asked that Coakley be moved to the other side, so we could watch his face.

His beard, scraggly, fell away from his chin to his chest while his white hair hung off the top of the gurney. He wasn't wearing his glasses. His right arm jutted out from his body, resting on an armrest. His hand was wrapped to the table. He didn't so much as wiggle a finger, though it is unclear if he was even able. A leather wrist restraint further tied him to the table.

A tube led away from the needle bandaged on his right arm to the wall on his left. A small hole no bigger than one made by a mouse was the only connection between where the executioner remained veiled from public view and Smith.

A seatbelt-like strap crossed Smith's chest.

"Do you have any last words," a disembodied voice asked over the intercom.

"Yes, I do," Smith said. He then paused and sighed.

The next three minutes provided the only insight into Smith's mind that we would see before his death. His body showed no emotion, but his words were full of resentment.

Smith was [critical of Gov. Bill Lee](#). Lee opted [not to intervene in the execution](#) this time, years after he issued a temporary reprieve in Smith's 2022 execution date.

"The justice system doesn't work," Smith said. "Too many of us are being killed for someone else's deeds. ... I'm not the first, and I won't be the last. Thank you."

Smith looked to Coakley and said he'd see her again. She returned the sentiment.

"I didn't kill her. I didn't kill her," Smith said softly. He said nothing, that I could hear, about the two boys.

It was the last sound he made.

I don't know exactly when the anonymous executioner pushed the two 50 ml doses of pentobarbital through the tubing. Nothing was said, and I could see no hand motions to signal the start.

At 10:38 a.m., Smith closed his eyes.

Two minutes later, a gloved hand opened a small cubby door in the wall and placed a rock down.

I've been told that means that all the syringes, the two lethal doses and two doses of saline, were injected into the IV line and a five-minute clock would begin. Prison officials offered no explanation of what the rock symbolized.

Coakley recited the Lord's Prayer.

Our Father who art in heaven, Hallowed be thy name. Thy kingdom come, Thy will be done, on earth as it is in heaven. Give us this day our daily bread, and forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil.

She closed her Bible, leaned back against the wall, closed her eyes and briefly bowed her head.

Smith's skin took on a new color, one more pallid with a blue, purple undertone.

At 10:45 a.m., the blinds snapped closed. We sat in darkness once more.

"Can anyone undo the straps so I can use my stethoscope," a man's voice asked from beyond the wall.

A few clicks later, and another quiet pause, the voice began again.

"There is no pulse. The time is 10:47," he said, noting the official time of death.

Another voice carried through the intercom.

"The sentence has been carried out," it said.

We sat for 10 minutes. My colleagues intently scratched and scrawled across lined paper provided to us by prison staff as we prepared to recount the last 31 minutes to a host of media waiting outside prison walls.

No one said a word as we made the trek back to the parking lot. I wondered if others were trying to sort through their thoughts, or simply at a loss for words. I think I was a little of both.

Exhibit 23


Tennessee Carries out First Execution Since 2020, Killing Oscar Smith by Lethal Injection

Smith, who was convicted of the 1989 murders of his estranged wife and her two teenage sons, was put to death by lethal injection Thursday morning, marking the return of the state's death penalty

by [Steven Hale](#), [Steve Cavendish](#) and [Shauna Reynolds](#) May 22, 2025



Mike Robirds and Terri Osborne speak on behalf of the victims' family following the execution of Oscar Franklin Smith. Credit: Steven Hale / Nashville Banner

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Oscar Franklin Smith was executed by the state Thursday morning, nearly 35 years after a Nashville jury convicted him for the 1989 murders of his estranged wife, Judy Smith, and her two teenage sons, Chad and Jason Burnett. His execution by lethal injection marks the return of Tennessee's death penalty after more than five years.

It was also the first to be carried out with pentobarbital under the state's new single-drug lethal injection protocol. Media witnesses described Smith's face turning a bluish purple but said he otherwise did not show outward signs of distress. In a long final statement, he said the criminal justice system is broken and criticized Gov. Bill Lee for allowing executions to proceed anyway, noting that "he has the last word."

"He's a damned fool if he doesn't realize we've got [innocent] men at Riverbend waiting to die," Smith said. "I'm not the first and I won't be the last."

An agreement with state officials allowed Smith's spiritual adviser, Rev. Monica Coakley, to be present in the execution chamber with him. She performed a final liturgy, reading from scripture and singing songs, including "I'll Fly Away." With some of his final words, Smith maintained his innocence as he has for decades, saying faintly, "I didn't kill her."

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Tennessee Department of Correction Commissioner Frank Strada exited the Riverbend Maximum Security Institution just before 11 a.m. and announced that the execution was finished. He said Smith had been pronounced dead at 10:47 a.m.

Smith's execution was the first carried out in the state since 2020, when the COVID-19 pandemic halted a historic spree of them in less than two years. Tennessee joins 15 other states and the federal government in having used pentobarbital for an execution.

Attorneys representing death row inmates challenged the protocol in court, raising questions about how the state obtained the drug and the effect it would have on Smith and others executed with it. Their lawsuit, [filed in Davidson County Chancery Court in March](#), argued the state was likely using pentobarbital purchased on the gray market because while the drug itself is legal, major manufacturers have banned its use in executions. That only increases the chances, they argued, of torturous effects coming from a lethal dose of the drug. The suit pointed to multiple studies showing people executed with pentobarbital experienced pulmonary edema.

"It can create a sense of suffocating or drowning that has been likened by experts to the sensation intentionally induced by the practice of waterboarding — an unambiguous form of outright torture," the suit read.

Prison scene

Thursday morning, Smith laid upon a stainless steel gurney in the prison's execution chamber, with straps across his chest and wrist, right arm extended for the IV. Within moments after the pentobarbital was administered through a tube from another room, Smith closed his eyes and lay motionless. His breathing stopped, and the color in his face turned red

and then blue. It took seven minutes from the time he received the dose until he was pronounced dead.

In attendance at the execution were some of the victims' family. At a lectern under a white canopy tent in the prison parking lot, standing in front of large photographs of Judy Smith and her sons, Mike Robirds and Terri Osborne gave a statement after witnessing the death of the man convicted of killing their sister and nephews. They thanked law enforcement and officials in the justice system for seeking justice for their family. Smith's death sentence, they said, "was not ours to determine, but we stand by the legal system that made the decision."

Osborne said the family will continue to miss the sound of her sister's voice and cherish memories with her nephews. But with her statement, she also sought to address the more broadly applicable context of their murders.

"This tragedy is not only a personal loss — it is part of a much larger issue that affects countless families across our society," she said. "Domestic violence destroys lives. We hope that sharing our story helps others recognize the warning signs and dangers involved, especially for children. For those who may be living in fear or in the grip of abuse, please know that you are not alone."

In a small field adjacent to the prison, a group of around 50 people had gathered to protest the death penalty and hold a vigil for Smith. Several of the demonstrators commented on the odd dissonance of beautiful weather on the morning of an execution. Only two people showed up in a separate field to show their support for the death penalty.

After the execution, one of Smith's attorneys, assistant federal public defender Amy Harwell, eulogized her client and reiterated questions about the effects of pentobarbital.

"Oscar Smith was a beloved child of God. He will be remembered for his cantankerous, curmudgeonly brand of kindness, as well as his skill with leather crafts," she said. "Because an autopsy would violate Oscar's deeply held religious beliefs, we will never know for sure whether he experienced the torture of pulmonary edema while Tennessee took his life. We do know, however, from the dozens of autopsies that have been performed on those executed by pentobarbital, that this execution method causes excruciating pain and suffering. Our State should stop poisoning people to death in this cruel manner."

Case review

The murders Smith was accused of were said to have occurred shortly before midnight on Oct. 1, 1989. Judy Smith and her sons were found dead in their Woodbine home the day after police received a troubling 911 call from that address. Responding officers reported finding nothing unusual. But the following afternoon, a 13-year-old neighbor discovered the bodies amid a brutal murder scene after walking through the home's open back door. All three had stab wounds and slashed throats. Judy and Chad had also been shot.

Smith maintained his innocence despite damning, but largely circumstantial evidence. The couple had been going through a contentious divorce and fighting over custody of the young twins they'd had together just a few years earlier. When the murders occurred, Smith was facing domestic violence charges for allegedly assaulting his wife. Family members and coworkers who worked with her at an East Nashville Waffle House would later testify that he'd threatened to kill her and her sons. At trial, a fingerprint examiner testified that a bloody handprint found at the scene matched Oscar's left hand, even including his two missing fingers. Police and prosecutors also heavily relied on the recording of the 911 call, in which they said Chad

Burnett could be heard screaming Smith's name and begging him to stop.

But Smith denied it all, including the murders and the allegations of domestic violence and death threats. He said the four of them had spent the day together. Later that night, he said, he left Judy's house with their young twins, dropped the children off at his mother's and left for a job in Kentucky. At his sentencing hearing, as his attorneys made the case against a death sentence, a clinical psychologist who had evaluated him diagnosed him as suffering from a paranoid personality disorder, chronic depressive neurosis and a paranoid delusional disorder. They also noted that his father was a diagnosed paranoid schizophrenic. The clinical psychologist who had evaluated Oscar to determine if he was competent to stand trial, however, said he showed no signs of mental illness.



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Exhibit 24

https://www.timesnews.net/news/crime/convicted-murderer-executed-in-tennessee/article_425d1b9c-867f-41d2-9589-abf8c33f263c.html

FEATURED

Convicted murderer executed in Tennessee

By ROB WALTERS rwalters@sixriversmedia.com
May 22, 2025



Oscar Franklin Smith
Tennessee Department of Correction

Six Rivers Media Content Director Rob Walters was one of seven media witnesses to Thursday's execution of Oscar Franklin Smith.

NASHVILLE — Condemned triple murderer Oscar Franklin Smith was declared dead at 10:47 a.m. CST Thursday, a spiritual advisor at his side during the execution.

Smith, 75, died inside a cinder-block execution room at Riverbend Maximum Security Institute in Nashville from a lethal dose of pentobarbital.

Smith's execution was Tennessee's first in five years.

The Rev. Monica Coakley prayed over Smith before and during the execution. In his final minutes, she sang "I Will Fly Away."

Seven media witnesses, three correction officers, a Tennessee Department of Correction spokeswoman, a representative from the Attorney General's Office and one of Smith's attorneys, Amy D. Harwell, watched the execution.

Witnesses were led into the witness room at 10:16 a.m. CST. The small, cinder-block room held about 20 chairs.

The blinds were closed across four windows looking into the execution room.

Coakley could be heard praying for several minutes. Her words were muffed through the concrete barrier; the mics to the execution room had not yet been turned on.

A correctional officer turned off the lights, sending the witness room into darkness.

The blinds lifted at 10:32 a.m., delivering witnesses a side view of Smith strapped to a gurney. His hands were taped up. Two IV lines ran into his right arm.

Coakley, whose hand rested on Smith's right shoulder, blocked witnesses' view of the condemned man's face.

A man in a dark suit asked Coakley to move to the other side of the gurney to provide witnesses a look of Smith's face.

A man then asked Smith if he had any last words. "Yes, I do," Smith said in a raspy voice.

He paused. The man asked Smith to "Proceed."

Smith spoke for three minutes, at times hard to understand, but his message was directed toward the justice system and Tennessee Gov. Bill Lee — at one point calling him a “damn fool.”

“The justice system is broken,” he said. “He (Gov. Lee) has the power to stop this.”

After his official last words, Smith spoke with Coakley. They made eye contact.

In faint voice, he said, “I didn’t kill her.”

Coakley asked Smith to “save a seat for me” at the “banquet table.”

Smith’s eyes closed.

A digital clock clung to the wall above Smith’s gurney. Below the clock was a mirrored window. Adjacent to the window was a small door.

At 10:40 a.m., a hand emerged from the small door and placed a rock on a ledge. Witnesses were not told what this signaled.

At 10:41 a.m., Coakley recited the Lord’s Prayer and then read a passage from a red Bible. She leaned her back against the wall, closed her eyes and tilted her head forward.

Smith, dressed in a yellow prison jumpsuit, had a sheet pulled up to the middle of his round belly.

His breathing slowed. The color of his face, beneath a shaggy white beard, changed to what appeared to be a light blue.

Smith did not appear to struggle — no noises, no tremors, no heaving of his chest.

He appeared to go to sleep.

At 10:45 a.m., a man in a dark suit pulled the blinds shut.

A man’s voice could be heard saying “get the straps off.” He then asked for a stethoscope.

The man could be heard saying he did not detect a pulse or other signs of life.

A man’s voice came across the speaker in the witness room. “The sentence of the State of Tennessee has been carried out.”

Smith, the oldest inmate on Tennessee’s Death Row, was convicted in 1990 for the Oct. 1, 1989 murders of his estranged wife, Judith Robirds Smith, and her two teenage sons, Jason Burnett, 13, and Chad Burnett, 16.

Judith Smith’s brother, Mike Robirds, and her sister, Terri Osborne (uncle and aunt of the teenage boys), watched from a separate witness room. They addressed the media following the execution:

“Oscar Franklin Smith was tried and sentenced to the death penalty by the State of Tennessee, after a jury’s careful deliberation, based upon the brutality of three murders that include two children,” Robirds said.

“As the family of the victims, we believe in the importance of accountability and the role the justice system plays in maintaining the safety and order of our society. The sentence was not ours to determine, but we stand by the legal system that made the decision.”

Osborne said, in part: “Through our heartbreak, we are reminded of the devastating consequences of domestic violence. This tragedy is not only a personal loss — it is part of a much larger issue that affects countless families across society. Domestic violence destroys lives.”

Harwell, Smith’s attorney, said this following the execution:

“Oscar Smith was a beloved child of God. He will be remembered for his cantankerous, curmudgeonly brand of kindness, as well as his skill with leather crafts.”

Harwell said an autopsy would violate Oscar’s deeply held religious beliefs. “We will never know for sure whether he experienced the torture of pulmonary edema while Tennessee took his life.”

She said from the dozens of autopsies that have been performed on those executed by pentobarbital that the execution method caused pain and suffering.

“Our State should stop poisoning people to death in this cruel manner,” she said.

Rob Walters

Exhibit 25

Tennessee executes Oscar Smith, ending pause on lethal injections

Filed Under: [Criminal Justice](#), [WPLN News](#) Tagged With: [death penalty](#), [lethal injection](#), [Oscar Smith](#)



*Tasha A.F. Lemley*WPLN News

An anti-death penalty protester kneels outside Riverbend Maximum Security Institution on Thursday, May 22, 2025, ahead of Oscar Smith's execution.

The state of Tennessee executed Oscar Franklin Smith Thursday morning. It

was the [first lethal injection since 2019](#), and comes on the heels of a [third-party investigation](#) into the state's protocol that found failures in testing the drugs used during executions.

Smith was convicted of killing his wife Judith Smith and her two sons, Jason and Chad Burnett, in 1989. Over the years, he's had multiple execution dates that were rescheduled because of COVID-19 and moratoriums to review the state's lethal injection process.

At a news conference after the execution, Tennessee Department of Correction Commissioner Frank Strada confirmed Smith was pronounced dead at 10:47 a.m.

Judith Smith's brother and sister then delivered remarks ([full statement here](#)).

"The pain of losing Judy, Chad, and Jason is something that we will continue to carry," her sister said. "It's not a moment that goes by that we don't miss them. I miss the sound of Judy's voice — I know my brother does as well — on the other end of the phone. We miss the excitement of planning Chad's driving lessons, and we miss the pure joy of hearing Jason's laughter. These are memories and wounds that will never fully heal."



Mark Humphrey AP Photo

Terri Osborne, center, speaks as her brother, Mike Robirds, right, listens outside Riverbend Maximum Security Institution after the execution of Oscar Smith on Thursday. Osborne and Robirds are siblings of Judy Robirds, shown in the photograph at right, who was murdered, along with her sons, in 1989.

Multiple media witnesses, who also gave statements at the news conference, said they did not know exactly when the lethal injection drug was administered to Oscar Smith. According to the nonprofit [Death Penalty Information Center](#), there have been at least nine botched lethal injections across the United States since 2020, which have resulted in failed attempts and prolonged deaths.

Lawyers for death row inmates asked Gov. Bill Lee for a reprieve while a legal challenge to the state's lethal injection protocol makes its way through the courts. However, Lee denied that request Tuesday, closing the door on

Smith's final appeal.

More: [*This Is Nashville interviews Casey Smith, son of executed man*](#)

On Thursday morning, protesters gathered on the grass outside Riverbend Maximum Security Institution in West Nashville. They were divided into two camps at a security checkpoint— dozens against the death penalty, and one in favor of it.

"Everything about the death penalty is against the sanctity of life," protester Alex Sager said. "It's not pro-life, whatever that word means, whatever that phrase means. So especially in the South where that phrase is used a lot ... why isn't this also an issue? Is this pro-life?"

Sager, who said her background going to church has helped shape her views, said executions contradict Christianity's teachings.

Another anti-death penalty protester, John Lozier, also mentioned his faith. He called on the governor to take action.

"My sign says, 'Bill Lee could stop this unholy murder,'" Lozier said. "I'd like to see the governor act on my understanding of Christian faith."

Mark Humphrey AP Photo

John Lozier, an anti-death penalty protester, holds a sign making reference to Gov. Bill Lee as he stands outside Riverbend Maximum Security Institution.

In his final moments, Smith also criticized Lee. He maintained his innocence, and said the governor was allowing TDOC to put innocent people to death.

"I'm not the first, and I won't be the last," he said.

After his last words and a brief conversation with his minister, Smith received a lethal dose of pentobarbital. During the last week of the Biden Administration, the [Department of Justice issued a report](#) criticizing the use of pentobarbital in lethal injections, saying it comes with too high a risk for unnecessary pain and suffering.

Autopsy reports have revealed that a majority of lethal injections —

regardless of the drug used — [cause pulmonary edemas](#). That is a form of lung damage, where fluid buildup creates a drowning sensation.

It's difficult to assess in real time whether that damage has happened. One of Smith's attorneys, Amy Harwell, said that will remain a mystery.

"Because an autopsy would violate Oscar's deeply held religious beliefs, we will never know for sure whether he experienced the pulmonary edema," she said.

This was the first time Tennessee's execution team used a single-drug process and administered a lethal dose of pentobarbital. Until then, the department relied on a three-drug cocktail — a sedative, a paralytic and a drug to stop the heart.

That change happened after Lee halted all executions in April 2022. He learned on one of Smith's prior execution dates that the [drugs intended to kill him hadn't been properly tested](#). Lee then ordered an independent investigation of TDOC's lethal injection process, which revealed widespread mismanagement. He said the state wouldn't execute anyone until the department wrote a new protocol. It was released in January.

