

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

JOHN ALBERT BOLTZ,)

Plaintiff,)

vs.)

Case No. _____

(1) JUSTIN JONES, in his capacity as)

Director of the Oklahoma Department)

of Corrections; (2) MARTY SIRMONS,)

in his capacity as Warden, Oklahoma State)

Penitentiary; (3) ERNEST GODLOVE,)

(4) DAVID C. HENNEKE, (5) TED)

LOGAN, (6) W. MARK LUTTRULL,)

(7) ROBERT L. RAINEY, (8) ERNEST)

D. WARE, and (9) BEVERLY YOUNG,)

in their capacities as members of the)

Oklahoma Board of Corrections, and)

(10)-(60) DOES 1-50, UNKNOWN)

EXECUTIONERS, in their capacities as)

Employees and/or Agents of the Oklahoma)

Department of Corrections.)

Defendants.)

**PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING ORDER AND/OR PERMANENT
INJUNCTION AND BRIEF IN SUPPORT**

(Death Penalty with Execution Date of Thursday, June 1, 2006)

Plaintiff, John Albert Boltz, moves for a Temporary Restraining Order and/or a Permanent Injunction against the Defendants to prevent them from carrying out

his execution by lethal injection in an unconstitutional manner. This Motion is made pursuant to Rule 65, Federal Rules of Civil Procedure. In support of this Motion, the Court is shown the following:

PROCEDURAL BACKGROUND

1. Appellant, John Albert Boltz, is an Oklahoma death row inmate facing an execution date of Thursday, June 1, 2006.
2. The undersigned counsel was appointed on February 8, 1999, by the United States District Court for the Western District of Oklahoma to represent Boltz pursuant to 21 U.S.C. § 848(q), and has represented Boltz continuously since that time.
3. The Oklahoma Court of Criminal Appeals, upon application of the Oklahoma Attorney General, set Boltz's execution date for Thursday, June 1, 2006.
4. On April 17, 2006, Boltz filed a pleading in the United States District Court for the Western District of Oklahoma titled "PETITIONER'S APPLICATION FOR THE APPOINTMENT OF COUNSEL FOR STATE CLEMENCY AND OTHER PROCEEDINGS; AND FOR AUTHORIZATION FOR FUNDS FOR INVESTIGATIVE SUPPORT."
5. In this Application, Boltz sought specifically an order authorizing the expenditure of attorney's fees under § 848(q) for counsel to pursue federal

civil rights litigation attacking the constitutionality of Oklahoma's method of execution (lethal injection) as violating the Eighth Amendment.

6. This Court, through the Hon. Vicki Miles-LaGrange, granted most of the relief requested by Boltz in the Application but held that attorney's fees for civil rights litigation to attack the method of execution is not authorized by § 848(q); and the court therefore denied Boltz's request for funding to draft and file such litigation on his behalf. *See* attached Exhibit "1."
7. The undersigned counsel has subsequently drafted and filed, contemporaneously with this Motion, a Complaint challenging the constitutionality of the lethal injection protocol which will be used against Plaintiff the day after tomorrow.
8. The Complaint drafted by the undersigned counsel on behalf of Plaintiff raises the same legal claims as the Complaint of the Plaintiffs in *Anderson et al. v. Evans et al.*, No. CIV-05-0825-F, currently pending in this Court. Plaintiff incorporates the factual and legal claims raised in that Complaint as more fully set forth in attached Exhibit "2."
9. The Protocols used by the State are set forth on the Department of Corrections web site and is attached as Exhibit "3." According to the DOC's official web site, the "Execution Process" is as follows:

10. Drugs used: Sodium Thiopental causes unconsciousness. Vecuronium Bromide stops respiration. Potassium Chloride stops heart. “Two intravenous lines are inserted, one in each arm. The drugs are injected by hand held syringes sequentially into the intravenous lines, alternating between the two lines. The sequence is in the order that the drugs are listed above. Saline is also injected after each drug is injected. Three executioners are utilized, with each one injecting one of the drugs.” *Id.*
11. Boltz alleges that a significant risk of excessive pain and suffering awaits him under the current execution protocols. Such pain and suffering will violate Boltz’s constitutional rights to be free from cruel and unusual punishment under the Eighth and Fourteenth Amendments to the United States Constitution; therefore Boltz requests that this Court enjoin the Defendants from executing him until such time as proper and humane procedures are in place to do so.

BRIEF IN SUPPORT

This Court has the authority to grant a Temporary Restraining Order and/or a Permanent Injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure. Boltz will be harmed irreparably, and permanently, in the event that such an injunction is not granted.

Injunctive relief is appropriate in light of recent developments in this area of the law, the injury that Boltz will sustain in the absence of Court intervention, and the likelihood of success on the merits.

A. Supreme Court Action.

In *Nelson v. Campbell*, 541 U.S. 637 (2004), the Supreme Court held that a 42 U.S.C. § 1983 civil rights action was an appropriate legal vehicle to challenge the State's use of a "cut-down" procedure requiring an incision into the arm of the condemned prisoner (or leg) in order to access his severely compromised veins; and that a prisoner in such a situation could properly use section 1983 to seek a temporary stay and permanent injunctive relief. The Court did not decide the "difficult question" of how to categorize method-of-execution claims generally. *Id.* at 645.

On January 25, 2006, the Supreme Court granted *certiorari* in a case that presented the question left open in *Nelson* and involved a death row inmate who had instituted a section 1983 case to challenge the method of lethal injection. *Hill v. Crosby*, No. 05-8794 (U.S., *certiorari* granted January 25, 2006). The questions for which *certiorari* was granted are:

1. Whether a complaint brought under 42 U.S.C. § 1983 by a death-sentenced state prisoner, who seeks to stay his execution in order to pursue a challenge to the chemicals utilized for carrying out the

execution, is properly re-characterized as a habeas corpus petition under 28 U.S.C. § 2254?

2. Whether, under this Court's decision in *Nelson*, a challenge to a particular protocol the State plans to use during the execution process constitutes a cognizable claim under 42 U.S.C. § 1983?

The Supreme Court granted a stay of execution to Clarence E. Hill pending resolution of these questions. *Hill v. Crosby*, __ U.S. __, 126 S.Ct. 1189 (January 25, 2006). The *Hill* case was argued in the Supreme Court on April 26, 2006, and is submitted for decision.

B. Lower Court Action.

Lower federal courts have found merit in enjoining states from executing inmates who are actively challenging the lethal injection protocol via a section 1983 action. See *Taylor v. Crawford*, No. 06-1397 (8th Cir., April 27, 2006); *Jackson v. Taylor*, No. 06-300-SLR (Dist. Del., May 9, 2006); *Brown v. Beck*, No. 06-CT-3018-H (E.D. N.C., April 7, 2006); and *Cooley v. Hill*, No. 04-cv-1156 (S.D. Ohio, April 28, 2006). The Sixth Circuit considered this issue *en banc* and, in a 7-6 decision, denied the stay. *Alley v. Little*, No. 06-5650 (6th Cir., May 16, 2006). Particularly compelling is the statement below presented by the six dissenting judges in *Alley*:

The Supreme Court recently heard oral arguments in *Hill v. McDonough*, No. 05-894, and is expected to issue a decision before the

end of the current Term in June. The Court's decision will impact Alley's case either by allowing him or not allowing him to challenge the method of his execution pursuant to 42 U.S.C. § 1983. If Alley is executed on Wednesday and the Supreme Court decides *Hill* in his favor next month, this Court will effectively have locked the barn door after the horse has already escaped. If we uphold the stay entered by the district court, as I would, and the Supreme Court decides *Hill* against Alley's interests, Tennessee may proceed with the execution in June. To me, this balancing of interests weighs heavily in favor of upholding the stay entered by the district court.

Alley, supra, at 2 (Martin, J., dissenting). The same reasoning applies with equal force to Boltz and a stay is necessary.

C. Pending Litigation in Oklahoma.

The Federal Public Defender's Office for the Western District of Oklahoma has filed a federal civil rights complaint on behalf of two Oklahoma death row inmates that challenges directly the state's lethal injection procedures. *Glenn D. Anderson and Charles F. Taylor v. Evans, et al.*, No. CIV-05-825-F (W.D. Okla.). This litigation is still pending in this Court and the Hon. Stephen P. Friot has denied the State's motion to dismiss, and entered a scheduling order on March 3, 2006, that sets deadlines for the amendment of pleadings, discovery, and other pre-trial litigation objectives.

There is a likelihood of success on the merits as evidenced by: 1) the various stays that have been entered in the lower federal district courts; 2) the sharp, 7 to

6, split on this question in the Sixth Circuit; 3) the fact that the Supreme Court in *Nelson* held that a section 1983 action was applicable to at least *some* challenges to the lethal injection method of execution; and 4) the fact that the Supreme Court issued a stay of execution in the *Hill* case pending resolution of the legal claims. There is no risk of injury to other parties to this litigation as Boltz is housed in Oklahoma's most secure prison facility and the public interest in resolution of this issue is profound.

In addition, the Oklahoma Court of Criminal Appeals recognized that the actual method of lethal injection as a means of execution, i.e., the exact drugs and distribution method, is not mandated by statute; rather, corrections officials simply conduct the execution as they see fit. *Murphy v. State*, 2005 OK CR 25, ¶57 n. 23, 124 P.3d 1198. The Court claimed to be "disconcerted" at the allegations of just how fallible the current execution protocol appears to be; yet, the Court gave short shrift to Murphy's complaint, stating "If Petitioner's allegations have merit, we have every reason to believe the necessary changes will be implemented." *Id.*

Boltz has every reason to believe that the necessary changes will *not* be implemented. The same three drugs are in use, as evidenced by the DOC web site outlining the execution process, and the same unqualified personnel are going to administer them.

CONCLUSION

There is a serious question whether Oklahoma's lethal injection method comports with the Eighth Amendment. Resolution of this issue in an orderly and measured fashion is desirable, and thus this Court must issue an injunction of the EXECUTION pending the natural course and resolution of this litigation.

DATED this 30th day of May, 2006.

Respectfully submitted,

/s/ James L. Hankins, Okla. Bar No. 15506

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CERTIFICATE OF SERVICE

I certify that on this 30th day of May, 2006, a true and correct copy of the above **PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR PERMANENT INJUNCTION AND BRIEF IN SUPPORT** was sent vial first-class mail, postage pre-paid thereon, as well as e-mailed in PDF format to:

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/s/ James L. Hankins

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JOHN ALBERT BOLTZ,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-99-156-M
)	
MARTY SIRMONS, Warden,)	
Oklahoma State Penitentiary,)	
)	
Respondent.)	

ORDER

Before the Court is Petitioner’s *Application for the Appointment of Counsel for State Clemency and Other Proceedings; and For Authorization for Funds for Investigative Support* (Dkt. No. 147), requesting reappointment of Petitioner’s counsel for clemency and other proceedings prior to execution and requesting funds for investigative services to assist with the preparation of the clemency hearing. Petitioner further requests from this Court authorization “to pursue a civil rights attack in the federal courts against Oklahoma’s implementation of lethal injection as a method of execution.”

Counsel was initially appointed to represent Petitioner in this habeas action pursuant to 21 U.S.C. § 848(q). Section 848(q)(4)(B) states:

In any post conviction proceeding *under section 2254 or 2255 of Title 28*, seeking to vacate or set aside a death sentence, any defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with paragraphs (5), (6), (7), (8), and (9). (emphasis added)

The statute further provides that “unless replaced by similarly qualified counsel . . . each attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings” 21 U.S.C. § 848(q)(8). The Tenth Circuit has held “that counsel

appointed under § 848(q)(4)(B) to represent state death row inmates in 28 U.S.C. § 2254 proceedings are authorized by the statute to represent these clients in state clemency proceedings and are entitled to compensation for clemency representation.” Hain v. Mullin, 436 F.3d 1168, 1170 (10th Cir. 2006). The Tenth Circuit’s decision, however, pertained only to the scope of the statute as it related to state clemency proceedings. Id. at 1173 n. 6.

In Nelson v. Campbell, 541 U.S. 637 (2004), the Supreme Court held that a petitioner’s request for a temporary stay of execution, later recharacterized as a request for preliminary injunction, did not transform his conditions of confinement claim under 42 U.S.C. § 1983 challenging the method of execution into a challenge to the validity of his death sentence under 28 U.S.C. § 2244(b)(2), and, therefore, did not warrant dismissal of his complaint as an unauthorized second or successive habeas petition. The Supreme Court’s determination in Nelson clearly distinguishes between a federal habeas action - an action in which present counsel has been appointed and funded to represent Petitioner in the present case - and an entirely separate § 1983 action challenging the method of a state’s execution. As expressed in Hain, the plain language of § 848(q) pertains to death row inmates seeking relief under § 2254, “a path exclusive to *state* prisoners”. Hain at 1171 (underlining added). ACCORDINGLY, the Court does hereby Order that Petitioner’s request for reappointment of attorney James L. Hankins as counsel for Petitioner is **DENIED** as moot, as his appointment continues from his previous appointment on February 8, 1999, and continues through “every subsequent stage of available judicial proceedings, including . . . proceedings for executive or other clemency as may be available to defendant.” 21 U.S.C. § 848 (q)(8). Counsel’s appointment on behalf of Petitioner shall continue within the purview of 28 U.S.C. § 848(q)(8).

It is further Ordered that Petitioner's request for "authorization to pursue a civil rights attack in the federal courts against Oklahoma's implementation of lethal injection as a method of execution" as it pertains to funding is **DENIED** as unauthorized by 28 U.S.C. §§ 848(q)(4)(B) and (q)(8). Petitioner's request for funds to acquire investigative assistance to prepare the clemency case on behalf of Petitioner is **GRANTED**, subject to the provisions of 28 U.S.C. §§ 848(q)(9) and (q)(10)(B), and the approval of the Tenth Circuit, if necessary.

The Court hereby Orders the matter referred to Magistrate Judge Gary Purcell for a litigation budget conference in reference to Petitioner's clemency proceeding and consistent with this Order, to be held on Wednesday, May 3, 2006 at 10:00 a.m.

IT IS SO ORDERED this 28th day of April, 2006.


VICKI MILES-LAGRANGE
UNITED STATES DISTRICT JUDGE

unable to experience pain. In reality, the policies and practices devised by the Defendants and the ODOC unnecessarily risk conscious suffering and pain during execution and deliberately ignore and are indifferent to the health and safety of condemned prisoners.

2. This action is brought pursuant to Title 42, section 1983, of the United States Code for violations and threatened violations of the rights of Plaintiffs to be free from cruel and unusual punishment under the Eighth and Fourteenth Amendments of the United States Constitution, to be free from arbitrary and capricious Department of Corrections procedures and protocols in violation of the Fifth and Fourteenth Amendments of the United States Constitution, and to be free from the deliberate indifference of the Defendants toward Plaintiffs' health and safety in violation of the Eighth and Fourteenth Amendments of the United States Constitution. Plaintiffs seek equitable and injunctive relief.
3. This lawsuit does not challenge the fact of Plaintiffs' sentences of death, nor does it challenge the constitutionality of Oklahoma's statute requiring execution by lethal injection.

II. PLAINTIFFS

4. Glenn Douglas Anderson is a United States citizen and resident of the State of Oklahoma. He is currently a prisoner under the supervision of the Oklahoma Department of Corrections, ODOC Number 256332, who is sentenced to death by lethal injection. Mr. Anderson is held at H-Unit of the Oklahoma State Penitentiary at P.O. Box 97, McAlester, Oklahoma, 74502-0097. Mr. Anderson does not have a scheduled execution date.
5. Charles F. Taylor is a United States citizen and resident of the State of Oklahoma. He is currently a prisoner under the supervision of the Oklahoma Department of Corrections, ODOC Number 211013, who is sentenced to death by lethal injection. Mr. Taylor is held at H-Unit of the Oklahoma State Penitentiary at P.O. Box 97, McAlester, Oklahoma, 74502-0097. Mr. Taylor does not have a scheduled execution date.

III. DEFENDANTS

6. Defendant Edward L. Evans is the Interim Director of the Oklahoma Department of Corrections, 3400 Martin Luther King Avenue, Oklahoma City, Oklahoma, 73111.
7. Defendant Mike Mullin is the Warden of Oklahoma State Penitentiary at P.O. Box 97, McAlester, Oklahoma, 74502-0097.
8. Defendants Robert L. Rainey, W. Mark Luttrull, Ernest Godlove, David C. Henneke, Ted Logan, Beverly Young, and Earnest D. Ware, are the members of the Oklahoma Board of Corrections, 3400 Martin Luther King Avenue, Oklahoma City, Oklahoma, 73111.
9. Defendants Unknown Executioners are the officers, agents, employees, and successors in office, along with those acting in concert with them, of the Oklahoma Department of Corrections who will assist in carrying out the executions of Plaintiffs. Plaintiffs do not yet know the identities of the Unknown Executioners.
10. Defendants are acting under color of State law in establishing and designing the ODOC execution policies and protocol and will act under color of State law in selecting and administering to Plaintiffs chemicals in amounts, in combinations, and by methods that will unnecessarily risk conscious suffering and pain in the execution of a sentence of death and/or which are deliberately indifferent to the health, welfare, and safety of Plaintiffs.

IV. JURISDICTION AND VENUE

11. This action arises under 42 U.S.C. § 1983 to redress the deprivation under color of state law of rights, privileges, and immunities secured by the Constitution of the United States. The rights sought to be redressed are guaranteed by the Eighth, Fifth, and Fourteenth Amendments to the United States Constitution. This Court has jurisdiction over this complaint pursuant to 28 U.S.C. § 1331 (federal question); § 1343 (civil rights violations); § 2201 (declaratory relief); and § 2202 (further relief).

12. Venue is proper in this Court under 28 U.S.C. § 1391 (b) because Edward L. Evans carries out the official business of the Department of Corrections from the Department's administrative headquarters located in Oklahoma City, Oklahoma, and a substantial portion of the events giving rise to this claim have occurred and will occur within this district as part of the official business of the Department of Corrections. All Defendants reside within the State of Oklahoma and Interim Director Edward L. Evans, and Oklahoma Board of Corrections members Ernest Godlove, David C. Henneke, and Earnest D. Ware reside in this district.

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. Plaintiffs have exhausted their administrative remedies as required under the Prison Litigation Reform Act, 42 U.S.C. § 1997e, by following the procedure set forth in the Oklahoma Department of Corrections Inmate/Offender Grievance Process. The Oklahoma Department of Corrections has denied all relief requested by Plaintiffs and Plaintiffs aver and assert that all conditions precedent for bringing this suit have been met. Copies of Plaintiffs' requests for and denials of administrative relief are appended hereto as Attachments A and B.

VI. FACTUAL ALLEGATIONS

14. Plaintiffs reallege and incorporate paragraphs 1 to 13 as if fully set out herein.
15. Lethal injection has been promoted as a peaceful way to induce death, like euthanizing a pet – a single injection, quick unconsciousness, no struggling or movement, and death within seconds. With frightening regularity, however, that is not what happens in Oklahoma.
16. Scott Carpenter was executed by the State of Oklahoma on Thursday, May 8, 1997. At 10 minutes after midnight, as lethal drugs entered his body, witnesses report that Mr. Carpenter “moaned loudly. He exhaled and then his body convulsed. As the drugs began to take

effect, [Mr.] Carpenter made loud rasping sounds and continued to convulse his muscles [and] visibly tensed as he struggled to breathe as the color drained from his face.”¹ Four minutes after the execution began, Mr. Carpenter “[t]urned a deep shade of blue.”² Mr. Carpenter “let out a guttural moan, gasped for breath and convulsed violently, stretching the belt that strapped his body to the table as his body arched upward,”³ his body “shuddered with 18 violent convulsions, followed by eight lesser ones.”⁴ Twelve minutes after the execution began, Mr. Carpenter was pronounced dead.

17. Robyn Parks was executed by the State of Oklahoma on Tuesday, March 10, 1992. At forty-two minutes after midnight, the execution began. Mr. Parks said “I’m still awake.”⁵ “Less than two minutes after Warden Dan Reynolds ordered the execution to begin, Parks’ body began bucking under straps that held him to a gurney. He spewed out all the air in his lungs, spraying a cloud of spit.”⁶ Witnesses said “[i]t was overwhelming, stunning, disturbing.”⁷ Eleven minutes after the execution began, Mr. Parks was pronounced dead.
18. Loyd LaFevers was executed by the State of Oklahoma on Tuesday, January 30, 2001. As the lethal drugs began to flow, Mr. LaFevers “laid his head back, and he began to go into convulsions, gasping for breath, his chest heaving.”⁸ He “started raising off the bed” and “[t]he rising of his chest and the burst of air happened together over and over, as if he were gasping.”⁹ “[H]is eyes stayed open.”¹⁰ “[H]e appeared to have a bruise and swelling in his

¹ Carlton M. Lane, *22-year-old executed for Eufala area murder*, MCALESTER NEWS-CAPITAL, May 8, 1997, at 1.

² *Id.*

³ Michael Smith, *Execution of Killer a Quiet One*, THE TULSA WORLD, May 9, 1997, at A15.

⁴ Anthony Thornton, *State Fulfills Killer’s Wish For Execution*, THE DAILY OKLAHOMAN, May 8, 1997, at 1.

⁵ Kandra Wells, *Parks Body Take To OKC After Execution*, MCALESTER NEWS-CAPITAL, Mar. 10, 1992, at 2.

⁶ Wayne Green, *11 Minutes That Took A Lifetime*, TULSA WORLD, Mar. 2, 1992, at A13.

⁷ *Id.*

⁸ Howard Pankratz, *Leadville Senator Witnesses Execution of Aunt’s Killer*, DENVER POST, Jan. 31, 2001, at B01.

⁹ Decl. Catherine M. Burton (Feb. 19, 2004).

¹⁰ Decl. Patrick J. Ehlers (Mar. 1, 2004).

left arm . . . where he had an IV tube.”¹¹ After 6 minutes of convulsions, Mr. LaFevers was dead.

19. Unless modified, the policies and practices followed by the ODOC, which are on information and belief substantially the same today as were used in the executions of Mr. Carpenter, Mr. Parks and Mr. LaFevers, will unnecessarily place Plaintiffs at risk of suffering the same excruciating torturous deaths as were experienced by Mr. Carpenter, Mr. Parks, and Mr. LaFevers.

A. Oklahoma’s Lethal Injection Legislation and How It Came into Being

20. After years of a court ordered moratorium on the death penalty, in 1976 the United States Supreme Court once again upheld capital sentencing procedures.
21. The problem with restarting executions in Oklahoma was that its electric chair, last used in 1966, had fallen into disrepair. The State looked for an alternative.
22. In what became the first proposal in the nation for execution by lethal injection, the Oklahoma Legislature enacted a statute prescribing that “[t]he punishment of death must be inflicted by continuous, intravenous administration of a lethal quantity of an *ultrashort-acting barbiturate* in combination with a *chemical paralytic agent* until death is pronounced by a licensed physician according to accepted standards of medical practice.” OKLA. STAT. tit. 22, § 1014 (A) (emphasis added).
23. The statute prescribes no specific drugs, dosages, drug combinations, manner of intravenous line access, or certifications, training, or licensure for those who participate in executions. All of the details for carrying out executions were left up to the Department of Corrections.

B. How Executions Are Performed in Oklahoma

24. On information and belief, executions by lethal injection in Oklahoma are performed in

¹¹ Decl. Patrick J. Ehlers (Mar. 1, 2004).

the following way:

25. The condemned prisoner is strapped to a gurney.
26. Phlebotomists insert two intravenous (“IV”) lines to the condemned prisoner, one into each arm.
27. When the curtains rise on the execution chamber, the IV lines can be seen leaving the condemned prisoner, draped across the floor of the chamber and passing through a hole in the wall to the room where the executioners wait. Last statements are made, and then a prison official orders the execution to begin.
28. Three lay-executioners then begin plunging eleven hand-held syringes in a confusing and complicated sequence prescribed by the ODOC protocol. First one drug, then a saline flush, then the next drug, alternating the drugs between the left and right arms. It is not known who, if anyone, directs the sequence of drug administration for the executioners.
29. The drugs purportedly administered are: Thiopental (to cause unconsciousness);¹² Vecuronium Bromide (to cause paralysis and to stop all movement including respiration); and Potassium Chloride (to stop the heart).
30. The putative drugs dosages are:
 - 1200 milligrams [“mgs”] **Thiopental** in the left arm IV line;
 - Saline in the left arm IV line;
 - 20 mgs **Vecuronium Bromide** in the right arm IV line;
 - Saline in the right arm IV line;
 - 100 meqs (milliequivalents) **Potassium Chloride** in the left arm IV line; and
 - Saline in the left arm IV line.
31. The process is then repeated by injecting a second round of drugs:
 - 100 meqs **Potassium Chloride** in the right arm IV line;

¹²Thiopental is also known as Sodium Pentothal or Sodium Thiopental and will be referred to as Thiopental in this Complaint.

- Saline in the right arm IV line.
- 1200 mgs **Thiopental** in the left arm IV line;
- Saline in the left arm IV line
- 20 mgs **Vecuronium Bromide** in the right arm IV line; and
- Saline in the right arm IV line.¹³

32. The process is intended to deliver two doses of Thiopental through the left arm IV line, two doses of Potassium Chloride (one dose in each arm IV line), and two doses of Vecuronium Bromide in the right arm IV line.
33. When an electrocardiogram monitor signals the cessation of electrical activity in the heart, a physician manually checks the condemned prisoner and pronounces death.
34. This process recklessly subjects condemned prisoners to significant and utterly unnecessary risks that they will be tortured to death.

C. The Risks of ODOC's Lethal Injection Process

35. There are a number of risks associated with the ODOC's execution process which include, but are not limited to, the following:
- (a) First, in violation of medically approved procedures, the process fails to employ properly trained persons to carry out what is, in effect, the surgical induction of anesthesia.
- (b) Second, it arbitrarily and unnecessarily uses drugs and drug dosages that create significant risks that condemned prisoners will suffer completely unnecessary pain during execution.
- (c) Third, it mandates a sequence of drug administration that delays administration of a portion of the intended anesthetic until after the condemned prisoner is, or should be, dead.
- (d) Fourth, it delivers drugs through two alternating IV lines, impairing control over the timing and sequence of drug delivery and increasing the risk of drug administration

¹³ Affidavit of Warden Mike Mullin, Jan. 12, 2004.

failure.

a. Because the Drugs Used to Cause Death Are Painful, it Is Necessary That Qualified Persons Create and Maintain IV Access to Ensure Adequate Anesthesia

36. The drugs used to cause death in an execution by lethal injection are painful. When a concentrated dose of Potassium Chloride is injected peripherally into the vein of an arm it feels like a fire traveling through the vein to the heart. Death by Potassium Chloride poisoning is known to be so excruciating that the American Veterinary Medical Association (“AVMA”) prohibits use of Potassium Chloride as the sole agent of euthanasia and, if it is to be used at all, only used after the subject has reached a surgical plane of anesthesia.
37. When a neuromuscular blocking agent is administered, it paralyzes all voluntary muscles. Respiration is impossible. It locks the recipient in a chemical tomb, where he is conscious, but unable to signal distress and unable to breath, and eventually dies by asphyxiation. Death by asphyxiation involves intense, visceral pain and has, as a method of execution, been ruled unconstitutional as violative of the Eighth Amendment.
38. The risks of neuromuscular blocking agents are well known. The AVMA prohibits the use of neuromuscular blocking agents in combination with the barbiturate anesthetics. The State of Oklahoma prohibits the use of curariform neuromuscular blocking drugs in the euthanization of animals.
39. Lethal injection is only humane if an anesthetic is administered which induces unconsciousness *before* neuromuscular blockers stop respiration and Potassium Chloride stops the heart.
40. Administration of IV anesthesia requires proficiency at achieving and maintaining IV access. But the sources of error are many:
 - (a) IV catheters must be inserted into a vein and not through the vein into tissue. If a

catheter is incorrectly placed, the drugs flowing through the IV lines can infiltrate the tissue surrounding the catheter rather than correctly entering the vein.

- (b) In Oklahoma, because two alternating IV lines are used to administer drugs, two separate IV catheters must be inserted and both connections to the condemned prisoner's veins maintained throughout the execution process.
- (c) Once inserted, the catheters are connected with tubing to IV fluid bags. All mechanical components of the IV system must operate correctly for the drugs to be correctly delivered, but errors commonly occur: IV tubing sometimes leaks or becomes disconnected, or the drugs are introduced to the IV system in the wrong direction, preventing the drugs in the IV line from reaching the patient in the intended concentrations, or from reaching the patient at all.
- (d) Oklahoma employs unqualified persons to create IV access. The phlebotomists used by the ODOC to insert IV catheters in condemned prisoners are trained to collect blood; they are not competent to administer drugs intravenously and are not expert in the process of inserting and maintaining IV catheters, a fundamentally different and far more difficult task than drawing blood.
- (e) On information and belief, no one monitors the IV catheters throughout executions, leaving open the possibility that IV catheters can become disconnected throughout the process.
- (f) In the event that a phlebotomist cannot achieve venous access in a peripheral vein in a hand or arm the ODOC is prepared to create venous access through the invasive and painful processes of inserting a percutaneous central line (tunneling under the skin to reach the subclavian or central vein) or performing a surgical cut down (where a vein is exposed by incision or catheterized). Because these techniques of venous access require

much more skill and training and are far more invasive than peripheral vein access, they are normally performed in highly equipped emergency rooms or operating theatres.

(g) The ODOC has failed to specify who has performed these procedures in the past (and there has been at least one central line venous access performed) or who will perform them in the future, if necessary, and failed to guarantee that those performing such measures will have the requisite training to protect condemned inmates from the unnecessary pain caused by these procedures if they are not performed in the appropriate manner.

(h) On information and belief, Oklahoma uses three lay-executioners to plunge eleven hand held syringes in a confusing and complicated sequence to deliver the deadly drugs. The use of untrained persons to plunge syringes risks error in the sequence and rate of drug administration, IV line failures because the executioners cannot observe the IV site and monitor the condition of the IV catheter for things like infiltrations and blowouts and are not trained to interpret things like pressure feedback on the IV lines.

41. Training and experience are essential to the success of the execution as a humane process. The ODOC's personnel and executioners are not properly trained in the art of administering intravenous drugs.

b. The Chemical Cocktail Chosen by the ODOC Creates an Unnecessary Risk of Flawed Executions Involving Conscious Suffering

42. The ODOC has arbitrarily selected three drugs that unnecessarily risk conscious suffering in the dosages, combinations, and procedures which its executioners use.

43. The first drug, Thiopental, is an ultra-short acting barbiturate which acts to depress the central nervous system to produce unconsciousness and anesthesia. Thiopental derives its utility in surgical procedures from its rapid onset and rapid redistribution through the body at

low (surgical) doses. Typically, Thiopental is used in the induction phase of anesthesia to temporarily anesthetize patients for sufficient time to, for example, intubate the trachea. Thiopental is a drug which requires skill to administer and should only be administered by a person qualified in the use of intravenous anesthetics.

44. If it is necessary to maintain a patient in a surgical plane of anesthesia for longer than just a few minutes, drugs other than Thiopental are typically used. If Thiopental is going to be used not only to induce, but also to maintain, a surgical plane of anesthesia, a qualified person must be present to assure that the Thiopental has been correctly administered and is maintaining the patient in a state of unconsciousness.
45. On information and belief, the ODOC protocol does not require any person to monitor the plane of anesthesia during execution.
46. The ODOC has arbitrarily and needlessly selected a dose of Thiopental that is lower than reliably guarantees a surgical plane of anesthesia for the duration of executions. The probability of inducing unconsciousness with Thiopental is dose dependent. Dosage is, in turn, weight dependent. For example, a 1200 mg dose to a 100-pound man is like a 600 mg dose to a 200-pound man. Other jurisdictions in the United States typically employ larger doses of Thiopental than are used in Oklahoma. For example, California administers 5000 mg of Thiopental. Pharmacokinetic studies which model the uptake, distribution, and elimination of a 1200 mg dose of Thiopental on a range of body weights reveal that a 1200 mg dose of Thiopental is low enough to risk consciousness in some condemned prisoners during the course of the execution, even if the drug is fully and effectively delivered.
47. The second drug, Vecuronium Bromide, is a neuromuscular blocking agent and a curariform drug. Neuromuscular blocking agents are used clinically to induce skeletal muscle relaxation to facilitate tracheal intubation or to suppress spontaneous respiration.

48. Neuromuscular blocking agents must be administered with great care because they have no effect on consciousness or the ability to sense and perceive pain. Unless consciousness is assessed before the administration of the neuromuscular blocker, the paralysis induced in the patient will prevent anyone, even a person with advanced medical training, from ascertaining whether a patient is awake and capable of experiencing pain.
49. Neuromuscular blocking agents are typically accompanied by product warnings that require the drugs to be administered by experienced clinicians who are familiar with the drug's actions and the possible complications of its use and cautioning that the drugs have no known effect on consciousness, pain threshold, or cerebration. Therefore, administration must be accompanied by adequate anesthesia or sedation.
50. The effect of neuromuscular blocking agents in immobilizing patients and masking external indications of their pain is well known. Patients who have been administered neuromuscular blocking agents with inadequate anesthesia have been conscious during surgery and have reported terrifying and torturous experiences where they were alert, experiencing pain, yet utterly immobilized and unable to signal their distress.
51. The consequences of erroneous administration of neuromuscular blocking agents is so profound that at least eighteen states, including Oklahoma, have banned by statute the use of such drugs in the euthanization of animals. The AVMA never permits the use of neuromuscular blocking agents in combination with barbiturate anesthetics. The ODOC has thus settled on a protocol and procedure to kill the State's condemned prisoners that is considered too risky and dangerous for the euthanization of pets. There is no need to risk the conscious suffocation of these prisoners as a result of the administration of neuromuscular blocking agents. Other drugs are available to satisfy Oklahoma's statutory requirement for a "paralytic agent" that do not affect respiration. Using these alternate drugs would eliminate

the risk that a condemned prisoner will consciously asphyxiate.

52. The third drug, Potassium Chloride, contains essential blood ions and is typically administered in trace amounts as a necessary electrolyte. While a certain potassium level is important for normal cardiac electrical activity, a rapid increase in blood concentration of potassium causes cardiac arrest. Injection of concentrated potassium activates sensory nerve fibers, causing severe pain as the drug travels through the venous system. There is universal medical agreement that, without anesthesia, an injection of a Potassium Chloride overdose causes excruciating pain.
53. The American Veterinary Medical Association is so confident that death by Potassium Chloride will cause unnecessary suffering that it prohibits its use as a euthanasia agent unless the practitioner administering the Potassium Chloride has the skill and training to assure that the subject to be euthanized has reached a surgical plane of anesthesia.
54. The Oklahoma statute does not require the administration of Potassium Chloride and the ODOC has arbitrarily and needlessly added Potassium Chloride (which is universally acknowledged to be painful) to the protocol when alternative drugs would serve the statutory function of a paralytic agent.

c. The Order of Drug Administration Reveals the ODOC's Flawed Understanding of the Execution Process

55. The ODOC protocol delays administration of a second dose of anesthetic agent to condemned prisoners until after the prisoner has been paralyzed by a neuromuscular blocker and twice administered massive overdoses of Potassium Chloride that should already have killed within seconds of reaching the prisoner's heart. It should be self-evident that anesthetics should be administered before the other drugs in the execution sequence because it is unnecessary to administer them after death. However, the ODOC does not appear to

know that the second dose of anesthetic in its process comes too late to alleviate the pain and suffering of the condemned prisoner. The order of drug administration in Oklahoma is arbitrary and capricious, without justification, and unnecessarily risks conscious suffering.

d. The Two-Line IV Method Creates an Unnecessary Risk of Flawed Executions That Result in Conscious Suffering

56. Untrained personnel, the drugs selected, and the order of drug administration, each add to the risk of flawed executions in which prisoners consciously suffer pain. When these factors are combined with the two-line IV method of drug delivery employed by the ODOC, the risks rise exponentially. By using this two-line method of drug delivery, not used by any other state in the nation, the ODOC doubles the risks of IV line failures. Such failures can include, but are not limited to: IV line blockages; infiltrations in which the intravenous injection will diffuse into the surrounding tissue rather than be delivered into the vein; and other similar eventualities that result in an ineffective delivery of one or more of the drugs.
57. There is a grave risk in the ODOC protocol that the right IV line will remain open (effectively delivering the neuromuscular blocker and Potassium Chloride) while the left line is blocked or drug delivery is impeded. These circumstances would create a scenario in which the drug intended to achieve unconsciousness is not effectively delivered and the prisoner will be conscious when he is suffocated by having his respiration stopped and killed by having his heart stopped. There is reason to believe that just such eventualities have occurred during Oklahoma executions.

D. Oklahoma Executions Have Gone Wrong

a. Observed IV Line Access Problems

58. The ODOC has failed to achieve successful IV access to condemned prisoners. In 2001, witnesses noticed swelling and bruising on Mr. LaFevers's left (Thiopental) arm consistent

with an IV infiltration which prevented effective delivery of the anesthetic intended to alleviate the inevitable pain accompanying the administration of a neuromuscular blocking agent and Potassium Chloride.

59. Autopsy reports show that, on at least seven occasions, executed prisoners have had multiple acute puncture marks in addition to the IV catheter sites, reflecting that the ODOC has required multiple attempts to achieve venous access. In at least one execution it was impossible to achieve peripheral venous access and a central line was required.
60. IV access irregularities support the conclusions that personnel carrying out executions are inadequately trained and qualified.

b. Failure to Administer All Drugs

61. Autopsy reports reveal at least two cases in which full (unused) syringes of the anesthetic Thiopental have accompanied bodies to the medical examiner's office. On information and belief, these data indicate that the ODOC has, on several occasions, arbitrarily and unnecessarily failed to administer all of the required and intended dose of Thiopental risking inadequate anesthesia and conscious suffering.

c. Witnesses Reports of Condemned Prisoner Reactions Suggest Inadequate Anesthesia

62. There are many reports of prisoner reaction to the execution process that are inconsistent with the rapid and complete onset and maintenance of anesthesia. As previously discussed, the Carpenter, LaFavers, and Parks executions were accompanied by witness observations of prisoner response to the execution protocol that is inconsistent with effective administration of the execution protocol.
63. Witnesses to other executions also report prisoner comments like "I can taste it" and shaking and convulsions that are also inconsistent with the rapid and complete onset and

maintenance of anesthesia.

d. Analytical Data Suggests Inadequate Anesthesia

64. Postmortem Thiopental blood concentrations, in some cases, cannot be reconciled with consistent administration of Thiopental and, in some cases, are inconsistent with antemortem unconsciousness.

E. The Defendants and the ODOC Knew, Or Should Have Known, of Executions Involving the Risk of Conscious Suffering Yet Have Failed to Correct the Execution Process to Minimize That Risk

65. The Defendants and the ODOC knew, or should have known, that their execution process is flawed in ways that entail risks of conscious suffering, but have deliberately ignored those risks and failed to make practicable modifications in the process. The ODOC policy statement number OP-090901, dated April 12, 1978 (date issued) and May 1, 1978 (effective date) indicates that the Defendants and the ODOC have been aware since 1978 that adequate IV access is essential to a humane execution, but nevertheless have employed persons unqualified to achieve IV access as part of the execution process and has failed to employ qualified persons to monitor IV access and the plane of anesthesia throughout the execution process.
66. The Defendants and the ODOC knew, or should have known, since 1978 that drugs other than neuromuscular blocking agents or curariform derivatives can serve the statutory requirement of paralytic agents, but have nevertheless continued to employ drugs known to risk conscious suffering.
67. The Defendants and the ODOC knew, or should have known, of botched executions involving risks of conscious suffering, for example, the Carpenter execution, but have nevertheless continued to employ drugs, dosages, chemical combinations, and procedures that risk the needless infliction of conscious suffering. Ron Ward, who was Warden of the

Oklahoma State Penitentiary during the Scott Carpenter execution, said that “There was probably more body action with this one than I’ve seen”¹⁴ and acknowledged that the Carpenter execution took longer than normal.

F. The Defendants and the ODOC Have Arbitrarily and Capriciously Modified the Execution Processes Subjecting Condemned Prisoners to Risks of Conscious Suffering

68. The Defendants and the ODOC have, since 1990, arbitrarily and capriciously modified the execution processes to change, for example, the drugs used, the drug amounts, number of IV lines used to deliver drugs, and personnel involved, exposing condemned prisoners to risks of conscious suffering.
69. The sum of the available execution data (witness reports, postmortem Thiopental levels, execution duration, weight, and other data) indicate that the ODOC protocol has caused a high frequency of failure to effectively anesthetize condemned prisoners for the duration of executions.
70. Botched executions that risk conscious suffering are the direct and inevitable result of a protocol cobbled together in secret by people who are not qualified to conduct what is essentially the induction of anesthesia. The ODOC protocol is flawed at nearly every turn in that it: (1) orders executioners to take the bizarre step of anesthetizing those who are, or should be, already dead; (2) uses unqualified personnel like phlebotomists to insert IV catheters; (3) uses dangerous and unnecessary drugs (like neuromuscular blockers) in a reckless manner; (4) fails to take the simple step of assuring that a surgical plane of anesthesia and an actual state of unconsciousness have been achieved and will continue for the duration of the execution before administering painful drugs; (5) administers a dose of

¹⁴ Anthony Thornton, *After Apologizing, Killer Dies With Calm Dignity*, THE DAILY OKLAHOMAN, May 9, 1997, at 9.

Thiopental that is unnecessarily dangerously low; and (6) introduces drugs through two IV lines unnecessarily complicating the execution process and unnecessarily risking harm.

71. The consequence of the ODOC protocol is that people are suffering when they are executed in Oklahoma. They are suffering for more than the transitory period necessarily attendant to any death. People are suffering for prolonged periods as result of completely avoidable problems in protocol and procedure. It is possible to conduct execution by lethal injection in a manner that both complies with Oklahoma's statute and is humane, but the Defendants and the ODOC have arbitrarily, capriciously, and unnecessarily devised a protocol for carrying out executions by lethal injection that does not do so.

VII. CLAIMS

72. Plaintiffs reallege and incorporate paragraphs 1 to 71 as if fully set out herein.
73. By subjecting Plaintiffs to an arbitrary, capricious and irrational method of execution that creates an unnecessary and significant risk of inflicting agonizing and prolonged pain, and by designing and administering a process under which they will inject Plaintiffs with chemicals in amounts, combinations, and by a protocol or protocols that unnecessarily risk conscious suffering and pain in the execution of a sentence of death, Defendants deprive Plaintiffs of their rights under the Fifth, Eighth and Fourteenth Amendments of the United States Constitution to be free from cruel and unusual punishment and to be free from arbitrary and capricious processes.
74. By subjecting Plaintiffs to an arbitrary, capricious, and irrational method of execution that creates an unnecessary and significant risk of inflicting agonizing and prolonged pain, Defendants with deliberate indifference to Plaintiffs' serious medical needs violate Plaintiffs' rights to be free from cruel and unusual punishment and the unnecessary and wanton infliction of pain in violation of the Fifth, Eighth and Fourteenth Amendments of the United

States Constitution.

VIII. PRAYER FOR RELIEF

75. Plaintiffs reallege and incorporate paragraphs 1 to 74 as if fully set out herein.
76. Wherefore, Plaintiffs pray as follows:
77. That this Honorable Court issue a judgment declaring that the Defendants protocols, policies, practices, and acts and omissions as described herein violate Plaintiffs' rights as guaranteed by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States;
78. That this Honorable Court permanently enjoin Defendants, their officers, agents, employees, and successor in office, along with those acting in concert with them, from engaging in the unlawful practices described herein;
79. That this Honorable Court retain jurisdiction over this cause until the Court's order is carried out; and
80. Any and all other such relief as this Court deems just, proper, and equitable under the circumstances.

Respectfully submitted this 20th day of July, 2005, by and through,

s/ Lisa S. McCalmont
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VERIFICATION

I, Lisa S. McCalmont, hereby declare:

1. I am a member of the State Bars of Oklahoma and Texas and am admitted to practice before the all of the Federal District Courts of Oklahoma, the United States Court of Appeals for the Tenth Circuit, the United States Supreme Court.
2. I have reviewed the foregoing complaint. I have personal knowledge of the matters set forth in the complaint, except as otherwise indicated, and could and would competently testify to them if called upon to do so. I verify that all of the alleged facts that are not otherwise supported by citations to the records or declarations attached to the complaint are true and correct to my own knowledge, except as to any matters stated in it on information and belief, which I am informed and believe are true and correct.

I declare under penalty of perjury under the laws of the State of Oklahoma and the United States of America that the foregoing is true and correct.

Executed on July 13, 2005, in Oklahoma City, Oklahoma.

s/ Lisa S. McCalmont
Lisa S. McCalmont
Oklahoma Bar No. 17096
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Capital Punishment

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[Monthly Death Row Population](#)

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[Execution Statistics \(Excel Spreadsheet\)](#)

Scheduled Executions as of 04/20/06:

John Albert Boltz : June 1, 2006

Death Penalty Information

The current death penalty law was enacted in 1977 by the Oklahoma Legislature. The method to carry out the execution is by lethal injection. The original death penalty law in Oklahoma called for executions to be carried out by electrocution. In 1972 the U.S. Supreme Court ruled unconstitutional the death penalty as it was then administered.

Oklahoma has executed a total of 160 men and 3 women between 1915 and 2006 at the Oklahoma State Penitentiary. Eighty-two were executed by electrocution, one by hanging (a federal prisoner) and 80 by lethal injection. The last execution by electrocution took place in 1966. The first execution by lethal injection in Oklahoma occurred on September 10, 1990, when Charles Troy Coleman, convicted in 1979 of Murder 1st Degree in Muskogee County was executed.

Execution Process

Method of Execution: Lethal Injection.

Drugs used:

Sodium Thiopental causes unconsciousness.

Vecuronium Bromide stops respiration.

Potassium Chloride stops heart.

Two intravenous lines are inserted, one in each arm. The drugs are injected by hand held syringes sequentially into the intravenous lines, alternating between the two lines. The sequence is in the order that the drugs are listed above. Saline is also injected after each drug is injected. Three executioners are utilized, with each one injecting one of the drugs.

Oklahoma Executions

Last Updated on 04/20/06.

Name	Received by DOC	Date Executed	Age	Race	Crime	County
BOOKMAN, Henry	06-01-15	12-10-15	28	B	Murder	McIntosh
TOWERY, Cecil	09-05-16	11-06-16	22	B	Murder	McIntosh
WILLIAMS, Willie	03-16-16	04-13-17	34	B	Murder	Muskogee
YOUNG, Charley	01-25-17	04-13-17	26	B	Murder	Tillman
TAYLOR, Chester	02-16-17	04-13-17	44	B	Murder	Creek

PRATHER, John	07-21-17	05-03-18	25	B	Murder	Pittsburg
BROWN, James	08-07-17	11-08-18	33	B	Murder	Muskogee
BRAUGHT, T.R.	10-05-17	05-23-19	27	W	Murder	Creek
BETTERTON, Monroe	11-01-19	07-11-20	42	W	Murder	Craig
BLAKELY, Robert W.	11-30-20	02-25-21	39	W	Murder	Muskogee
LEDBETTER, John A.	12-03-20	02-25-21	31	I	Murder	Muskogee
THOMAS, Eli	09-13-20	07-15-21	21	B	Murder	LeFlore
SABA, Steve	02-16-22	03-17-22	50	W	Murder	Coal
WATKINS, Sam	02-14-22	05-05-22	39	W	Murder	Atoka
HARVEY, Aaron	05-10-23	01-13-24	21	W	Murder	McCurtain
POPE, Jack	05-10-23	01-13-24	45	W	Murder	McCurtain
BIRKES, Richard A.	11-18-23	09-05-24	25	W	Murder	Craig
SCOTT, LeRoy	01-13-24	05-29-25	21	B	Murder	Pittsburg
WASHINGTON, Johnnie	12-14-24	12-04-25	28	B	Murder	Jackson
O'NEAL, Willie	01-24-26	06-29-28	25	B	Murder	Oklahoma
WIGGER, Walter	01-12-27	06-29-28	30	W	Murder	Ottawa
BUSTER, Theodore	05-01-27	06-29-28	20	B	Murder	Muskogee
GUEST, Tom	12-14-27	07-17-30	45	W	Murder	Pottawatomie
FORREST, James Edward	10-12-28	07-17-30	21	B	Rape 1	Stephens
HEMBREE, E.S.	07-02-30	4-17-31	31	I	Rape 1	Stephens
COLE, Paul D.	07-22-30	07-10-31	32	W	Murder	Seminole
NICHOLS, Bennie	05-17-30	08-21-31	36	B	Murder	Pontotoc
LOVETT, Henry	02-10-31	09-25-31	39	W	Murder	Canadian
HARRIS, A.M.	03-03-31	06-17-32	48	W	Murder	Oklahoma
KENNEY, Martin A.	03-03-31	03-11-32	48	W	Murder	Oklahoma
DAVIS, Charles Fillmore	09-26-31	08-09-32	41	B	Murder	Blaine
ALDER, L.J.	10-04-31	08-19-32	49	W	Murder	Blaine
COVINGTON, Ivory	05-15-32	01-27-33	24	B	Murder	Choctaw
RIGHTSELL, Nathan	04-28-32	02-24-33	26	W	Murder	Choctaw
LATTIMER, Charles (Jack)	06-17-32	03-24-33	28	W	Murder	Comanche
McDONALD, Proctor	03-28-32	05-05-33	23	W	Murder	Creek
MARTIN, Joe L.	08-25-32	05-05-33	53	W	Murder	Noble

ELLIS, Albert	10-04-32	05-05-33	25	W	Robbery w/Firearm	Carter
NICHOLS, Luke	08-09-32	05-19-33	43	W	Murder	Alfalfa
OLIVER, George	12-16-32	08-25-33	18	W	Murder	Murray
OLIVER, Claude	12-16-32	08-25-33	28	W	Murder	Murray
DUMAS, Charley	09-27-32	10-20-33	28	B	Rape 1	Coal
PATTON, Ted	09-29-32	10-20-33	25	W	Murder	Sequoyah
JOHNSON, William	05-11-33	11-10-33	28	B	Murder	Muskogee
QUINN, Earl	03-25-33	11-24-33	29	W	Murder	Garfield
MORRIS, Tom	04-01-33	11-24-33	39	B	Murder	Pittsburg
CLARK, Frank	03-05-34	10-19-34	59	B	Murder	McCurtain
OGLESBY, Ernest	01-18-34	01-04-35	26	W	Murder	Oklahoma
CARGO, Robert	07-04-34	05-24-35	20	W	Murder	Oklahoma
BARRETT, Chester	09-22-34	09-20-35	36	W	Murder	Creek
RILEY, Bun	10-10-34	09-20-35	28	W	Murder	Pittsburg
ROWAN, Alfred	12-20-34	09-20-35	29	B	Murder	Jackson
GUYTON, Roy	01-24-35	03-20-36	24	B	Murder	Oklahoma
HARGUS, James R.	12-08-34	04-24-36	24	W	Murder	Tulsa
GOOCH, Arthur	08-07-35	06-19-36	26	W	Kidnapping	(Federal)
SANDS, Charlie	09-29-35	06-11-37	19	I	Murder	Comanche
SILER, Leon	09-29-35	06-11-37	20	W	Murder	Comanche
MANNON, Ray	02-13-39	03-01-40	37	W	Murder	Wagoner
CUNNINGHAM, Roger	11-15-39	11-15-40	34	W	Murder	Oklahoma
ABBY, Warren	12-27-39	08-29-41	57	W	Murder	Custer
TUGGLE, J.D.	06-15-40	02-09-42	21	W	Murder	Garvin
PORTER, Finley	07-03-41	04-16-43	38	B	Murder	Pittsburg
PRATHER, Hiram	10-14-41	07-14-43	33	W	Murder	Pittsburg
JOHNSON, Amon	04-26-44	03-23-45	29	B	Murder	Lincoln
NORMAN, Cliff T.	04-12-44	11-09-45	29	B	Rape 1	Murray
BINGHAM, Alfred C.	10-21-43	05-31-46	38	W	Murder	Tulsa
JOHNSON, Mose	07-03-45	11-01-46	32	I	Murder	Pittsburg
BROYLES, Hardin	05-26-45	01-30-47	30	W	Murder	Seminole

GRAYSON, Lewis	12-13-45	05-25-48	28	B	Rape 1	Muskogee
GOULD, Ben	03-15-48	09-27-48	40	B	Murder	Atoka
KLETTKE, Max E.	12-15-48	01-04-51	23	W	Murder	Oklahoma
HATHCOX, Jearrell	03-30-50	07-27-51	37	W	Murder	Oklahoma
MOTT, Melburn J.	05-12-49	09-21-51	33	W	Murder	Tulsa
DeWOLF, Carl Austin	10-05-49	11-17-53	33	W	Murder	Tulsa
FAIRRS, Hurbie F.	10-29-54	01-18-56	20	W	Murder	Oklahoma
LOEL, Otto A.	11-02-55	01-11-57	45	W	Murder	Oklahoma
HENDRICKS, Robert	02-03-55	02-05-57	64	W	Murder	Craig
WILLIAMS, Edward	02-01-57	07-28-60	27	W	Kidnapping	Tulsa
SPENCE, James	09-24-59	08-31-60	31	W	Murder	Cotton
YOUNG, Ray Allen	04-25-59	12-15-60	33	W	Murder	Jackson
DOGGETT, Shelby	06-10-61	10-01-62	23	W	Murder	Comanche
DARE, Richard	06-15-61	06-01-63	28	W	Murder	Oklahoma
FRENCH, James	02-21-65	08-10-66	29	W	Murder	Pittsburg
FOLLOWING EXECUTIONS BY LETHAL INJECTION						
COLEMAN, Charles Troy	10-15-79	09-10-90	32	W	Murder 1st	Muskogee
PARKS, Robyn Leroy	10-25-78	03-10-92	43	B	Murder 1st	Oklahoma
ROBISON, Olan Randle	05-08-81	03-13-92	46	W	Murder 1st	Stephens
GRASSO, Thomas J.	10-07-92	03-20-95	32	W	Murder 1st	Tulsa
STAFFORD, Roger Dale	10-24-79	07-01-95	43	W	Murder 1st	McClain
BRECHEEN, Robert A.	10-12-83	08-11-95	40	W	Murder 1st	Carter
BREWER, Benjamin	10-28-83	04-26-96	38	W	Murder 1st	Tulsa
HATCH, Steven Keith	04-30-80	08-09-96	42	W	Murder 1st	Canadian
CARPENTER, Scott D.	01-03-95	05-08-97	22	W	Murder 1st	McIntosh
LONG, Michael Edward.	10-16-87	02-20-98	35	W	Murder 1st	Muskogee
WOOD, Stephen Edward	07-06-95	08-05-98	38	W	Murder 1st	Greer
NGUYEN, Tuan	11-21-86	12-10-98	39	A	Murder 1st	Tulsa
DUVALL, John	05-22-87	12-17-98	48	W	Murder 1st	Stephens
CASTRO, John W.	06-12-84	01-07-99	38	H	Murder 1st	Kay
SELLERS, Sean	10-16-86	02-04-99	29	W	Murder 1st	Oklahoma
MOORE, Scotty Lee	11-13-84	06-03-99	43	W	Murder 1st	Oklahoma

NEWSTED, Norman	08-03-84	07-08-99	45	W	Murder 1st	Osage
COOKS, Cornel	04-01-83	12-02-99	43	B	Murder 1st	Comanche
ROSS, Bobby	11-03-83	12-09-99	41	B	Murder 1st	Roger Mills
JOHNSON, Malcolm	04-07-82	01-06-00	42	B	Murder 1st	Oklahoma
WALKER, Gary Alan	12-05-84	01-13-00	46	W	Murder 1st	Tulsa
ROBERTS, Michael	07-18-88	02-10-00	42	B	Murder 1st	Oklahoma
ROGERS, Kelly Lamont	01-21-92	03-23-00	32	B	Murder 1st	Payne
BOYD, Ronald Keith	09-29-86	04-27-00	43	B	Murder 1st	Oklahoma
FOSTER, Charles Adrian	12-12-83	05-25-00	51	B	Murder 1st	Muskogee
ROBEDEAUX, James	07-08-86	06-01-00	52	I	Murder 1st	Oklahoma
BERGET, Roger J.	03-18-87	06-08-00	39	W	Murder 1st	Oklahoma
BRYSON JR., William	04-03-89	06-15-00	30	B	Murder 1st	Oklahoma
BRAUN, Gregg	08-25-93	07-20-00	39	W	Murder 1st	Carter
WALLACE, George Kent	04-12-91	08-10-00	59	W	Murder 1st	LeFlore
TRICE, Eddie Leroy	06-25-87	01-09-01	49	B	Murder 1st	Oklahoma
ALLEN, Wanda Jean	04-27-89	01-11-01	42	B	Murder 1st	Oklahoma
MEDLOCK, Floyd	03-28-91	01-16-01	30	W	Murder 1st	Canadian
SMALLWOOD, Dion	06-03-93	01-18-01	32	H	Murder 1st	Oklahoma
FOWLER, Mark Andrew	06-24-86	01-23-01	36	W	Murder 1st	Oklahoma
FOX, Billy Ray	06-24-86	01-25-01	35	W	Murder 1st	Oklahoma
LAFEVERS, Loyd W.	03-31-93	01-30-01	36	W	Murder 1st	Oklahoma
JONES, D.L.	06-13-80	02-01-01	61	W	Murder 1st	Comanche
CLAYTON, Robert	03-12-86	03-01-01	40	W	Murder 1st	Tulsa
FLUKE, Ronald	11-02-98	03-27-01	52	W	Murder 1st	Tulsa
PLANTZ, Marilyn	04-30-89	05-01-01	31	W	Murder 1st	Oklahoma
JAMES, Terrance	10-04-85	05-22-01	41	W	Murder 1st	Muskogee
JOHNSON, Vincent Allen	09-24-91	05-29-01	43	B	Murder 1st	Pittsburg
HARJO, Jerald Wayne	10-11-88	07-17-01	40	I	Murder 1st	Seminole
WALKER, Jack Dale	05-30-89	08-28-01	35	W	Murder 1st	Tulsa
HALE, JR., Alvie James	10-26-84	10-18-01	53	W	Murder 1st	Pottowatomie
SMITH, Lois Nadean	12-29-82	12-04-01	61	W	Murder 1st	Sequoyah

AL-MASAWI, Sahib	04-26-94	12-06-01	54	O	Murder 1st	Oklahoma
ROMANO, John Joseph	06-15-87	01-29-02	42	W	Murder 1st	Oklahoma
WOODRUFF, David Wayne	06-15-87	01-31-02	41	W	Murder 1st	Oklahoma
CANNON, Randall Eugene	04-22-86	07-23-02	42	W	Murder 1st	Oklahoma
FREDERICK, SR., Earl Alexander	03-30-98	07-30-02	51	W	Murder 1st	Oklahoma
McCRACKEN, Jerry Lynn	10-22-91	12-10-02	35	W	Murder 1st	Tulsa
NEILL, Jay Wesley	10-02-92	12-12-02	37	W	Murder 1st	Comanche
CARTER, JR., Ernest Marvin	02-25-91	12-17-02	36	B	Murder 1st	Oklahoma
REVILLA, Daniel Juan	12-04-87	01-16-03	34	W	Murder 1st	Jackson
FIELDS, Bobby Joe	04-12-94	02-13-03	39	B	Murder 1st	Oklahoma
ROBINSON, Walanzo Deon	06-19-90	03-18-03	32	B	Murder 1st	Oklahoma
HOOKER, John Michael	11-09-88	03-25-03	49	B	Murder 1st	Oklahoma
HAIN, Scott Allen	06-14-88	04-03-03	33	W	Murder 1st	Creek
HAWKINS, JR., Don Wilson	06-24-86	04-08-03	44	W	Murder 1st	Oklahoma
JACKSON, Larry Kenneth	01-08-96	04-17-03	40	B	Murder 1st	Oklahoma
KNIGHTON, Robert Wesley	12-07-90	05-27-03	62	W	Murder 1st	Noble
CHARM, Kenneth Chad	10-17-94	06-05-03	37	B	Murder 1st	Comanche
GILBERT, Lewis Eugene II	01-22-96	07-01-03	31	W	Murder 1st	Cleveland
DUCKETT, Robert Don	07-07-89	07-08-03	39	W	Murder 1st	Oklahoma
TOLES, Bryan Anthony	10-31-94	07-22-03	31	B	Murder 1st	Comanche
WILLINGHAM, Jackie Lee	09-25-95	07-24-03	33	W	Murder 1st	Comanche
McELMURRY, Harold Loyd	06-26-00	07-29-03	33	W	Murder 1st	McIntosh
DARKS, Tyrone	12-04-95	01-13-04	39	B	Murder 1st	Cleveland
CLEARY, Norman Richard	03-02-93	02-17-04	38	W	Murder 1st	Tulsa
BROWN, David Jay	01-03-89	03-09-04	49	W	Murder 1st	Grady
LE, Hung Thanh	12-04-95	03-23-04	36	O	Murder 1st	Oklahoma
BRYAN, Robert Leroy	02-02-95	06-08-04	62	W	Murder 1st	Beckham
WORKMAN, Windel Ray	06-03-87	08-26-04	46	W	Murder 1st	Oklahoma
SLAUGHTER, Jimmie Ray	12-12-94	03-15-05	57	W	Murder 1st	Oklahoma
MILLER JR., George James	01-27-97	05-12-05	39	B	Murder 1st	Oklahoma
						Comanche

PENNINGTON, Michael L.	09-21-93	07-19-05	37	B	Murder 1st	
TURRENTINE, Kenneth Eugene	10-16-95	08-11-05	52	W	Murder 1st	Tulsa
THORNBURG, Richard Allen	05-19-97	04-18-06	40	W	Murder 1st	Grady

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