



This photo provided by the Texas Department of Criminal Justice shows death row inmate Carlton Turner Jr. who is scheduled for execution at the Texas prison in Huntsville, Texas, Thursday, Sept. 27, 2007. Turner was condemned for the Aug. 8, 1998 slayings of his parents in Irving, Texas, a Dallas suburb. (AP Photo/Texas Dept. of Criminal Justice)

Hiatus Possible on Texas Executions

By **MICHAEL GRACZYK** – 4 days ago

HOUSTON (AP) — The U.S. Supreme Court's decision to give a Texas death row inmate a reprieve shortly after it agreed to consider the legality of lethal injections could mean a hiatus for the nation's busiest death chamber.

The court spared Carlton Turner Jr. late Thursday after his lawyers raised arguments that mirrored a Kentucky case, in which two condemned inmates contended the lethal injection procedure was unconstitutionally cruel.

"I think we're headed toward a moratorium, at least until the Supreme Court resolves the Kentucky case," University of Texas law professor Jordan Steiker said Friday. "I think now the course seems relatively clear that we are likely to have moratorium on executions for at least nine months, probably a year, until the court issues an opinion and provides definitive guidance."

Krista Moody, a spokeswoman for Gov. Rick Perry, said Friday that the governor still viewed executions as acceptable under Texas law. But she referred legal questions about the reprieve's role on future executions to the Texas attorney general's office, which had no immediate comment.

"This is a case for the courts," Moody said. "It's not our role. It's in the courts now."

The Texas execution procedure is virtually the same as the one in Kentucky. Three drugs are used — a sedative, a muscle paralyzing drug and a drug that induces cardiac arrest. According to the appeal filed for Turner, if the first of the three drugs failed to knock him unconscious he would experience "excruciating pain and torture as the second and third drugs are administered."

Turner, 28, condemned for killing his parents, would have been the 27th prisoner executed this year and the 406th since the state resumed carrying out capital punishment in 1982. Both numbers far exceed those of any other state.

"I think it was an unfortunate day for Texas to have the government pressing forward with an execution method that is sufficiently problematic to cause the Supreme Court to intervene," said Steiker, co-director of the University of Texas Law School's Capital Punishment Center and a onetime clerk for former Justice Thurgood Marshall. "It conforms to people's views of Texas as just uninterested in civilized behavior."

David Dow, a University of Houston law professor on Turner's legal team, was less willing to agree that Texas is about to have a de facto moratorium.

"I think it's way too early to think that's what happened," he said.

Dow lost appeals this week to save Texas inmate Michael Richard from execution. The Supreme Court announcement's Tuesday that it would review the Kentucky case came the same day Richard was scheduled to die for killing and raping a woman 21 years ago. Time constraints didn't allow Dow to meet some procedural hurdles before Richard was given the lethal drugs.

At least four other Texas inmates are scheduled to die in upcoming months, including one next week. Heliberto Chi is set for injection Wednesday for a slaying during a robbery six years ago in Fort Worth.

"I really think the test will be the Chi case next week," Dow said. "I think the likely explanation of the Richard case was just the time element. But you have to reserve some very small amount of possibility for something else. And if it was something else, Chi will reveal it."

If Chi also gets a high court reprieve, he said, "then what I think that means is Texas needs to change its protocol right away, which it can, or stop executing people until the Supreme

Court decides the Kentucky case."

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