

URGENT ACTION

COURT BLOCKS EXECUTION AFTER COMPANY SUES

A judge blocked the State of Nevada from carrying out its first execution in 12 years a few hours before it was due on 11 July. She temporarily suspended the execution – of a prisoner who had given up his appeals – following a legal challenge brought by the manufacturer of one of the drugs the state was going to use in the lethal injection.

An execution set for 11 July would have been the first in the USA using the three-drug combination of midazolam (a sedative), fentanyl (an opioid) and cisatracurium (a paralytic). The Nevada Department of Corrections (NDOC) presented a revised execution protocol to the current Chief Medical Officer including midazolam – a drug implicated in a number of “botched” executions in the USA – as a replacement to diazepam, the state’s batch of which had recently expired. According to the NDOC Director, the Chief Medical Officer had said that the midazolam, fentanyl and cisatracurium were “appropriate and effective for the use intended.”

After this intended use of midazolam became known, the drug’s manufacturer, Alvogen, brought a lawsuit in court in Las Vegas, claiming that the Nevada authorities purchased a quantity of the drug “by subterfuge with the undisclosed and improper intent to use it for the upcoming execution”. Midazolam, the lawsuit stated, “is not approved for use in such an application. Past attempts by other states to use the medicine in lethal injections have been extremely controversial”.

About nine hours before the execution was due -, the Eighth Judicial District Court, where the lawsuit had been filed, issued a temporary restraining order preventing the state from carrying out the execution, pending further hearings. The judge ruled that the order was necessary to “preserve the status quo and prevent irreparable harm” that would occur if the state authorities were to “misuse Alvogen’s product midazolam in the execution”. Alvogen, she said, would suffer “irreparable harm to its reputation as a company that produces life-enhancing and life-saving drugs” if the state authorities were “allowed to misuse its product midazolam”. She prohibited the state from using Alvogen’s midazolam “in capital punishment until further order of this Court”. She set a hearing for 10 September 2018.

Although the death warrant remained active until the end of the week, the authorities did not appeal the order.

Nevada has carried out 12 executions since the US Supreme Court upheld new capital laws in 1976 and Nevada passed its current capital law in 1977. Eleven of these 12 executions were of so-called “volunteers”, prisoners who waived their appeals. The prisoner scheduled to be executed on 11 July has likewise given up his appeals.

Twenty-two countries have abolished the death penalty for all or ordinary crimes since Nevada last conducted an execution. Today 142 countries are abolitionist in law or practice. Since Nevada’s last execution, six states in the USA have abolished the death penalty (New Jersey, New Mexico, Illinois, Connecticut, Maryland and Delaware). Governors in Oregon, Pennsylvania and Washington State have imposed moratoriums on executions.

There have been 12 executions in the USA in 2018, bringing to 1,477 the number of executions since 1976. Amnesty International opposes the death penalty unconditionally.

No further action is requested at present. Many thanks to all who sent appeals.

This is the third update of UA 250/17. Further information: www.amnesty.org/en/documents/amr51/7452/2017/en

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