

Terry Lenamon on the Death Penalty

Sidebar with a Board Certified Expert Criminal Trial Attorney



Terence M. Lenamon is a Florida Bar certified expert in the area of criminal trial law. With over 17 years experience he has built a reputation as one of Florida's most respected criminal defense lawyers. His defense has been sought by many high-profile clients and has led him through 20 first-degree murder trials and eight death penalty cases. That experience has brought him national recognition as a go-to commentator on death penalty issues. He is the force behind both deathpenaltyblog.com and Florida Capital Resource Center (floridacapitalresourcecenter.org), and can be reached at terry@lenamonlaw.com.

Growing Fight in Texas Against Pentobarbital in Executions: Cleve Foster Stay, ACLU Report

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As usual, Texas is in the spotlight regarding capital punishment, as a big victory was had at the United States Supreme Court this week in stopping the execution of **Cleve Foster**, who was scheduled to make history as the first person to die in Texas under their new lethal injection cocktail. Texas would be **substituting pentobarbital for sodium thiopental in its three drug cocktail in Foster's execution**, since Texas has also apparently lost its drug supplier.

Yesterday, with only around eight hours to go before the execution itself, the U.S. Supreme Court issued a stay of execution for Cleve Foster. **Read the Order Staying Cleve Foster's Execution here.**

To follow the Texas execution schedule, go **here**. Several men are scheduled to die in the next few months, including Humberto Leal, Foster's co-appellant in state proceedings challenging the new drug cocktail. Foster's case will not stay Texas' use of pentobarbital in these executions – the High Court isn't intervening today because of a concern over pentobarbital.

The Fight in Texas Against Pentobarbital – Read the New, Powerful Joint Report

A few weeks ago, counsel for the American Civil Liberties Union (ACLU) of Texas, the American Civil Liberties Union Foundation Capital Punishment Project and Human Rights Program, and the Center for International Human Rights, Northwestern University School of Law issued a bluntly titled report, “[Regulating Death in the Lone Star State: Texas Law Protects Lizards From Needless Suffering, But Not Human Beings.](#)”

It’s a powerful and important work, and you can [read it here](#). From the report:

“Texas’ lax attitude regarding the taking of human life contrasts sharply with its enactment of detailed regulations to ensure that animals suffer no pain when they are euthanized. Animal euthanasia laws provide strict certification requirements for euthanasia technicians and regulate acceptable methods of intravenous euthanasia down to the correct dosage per kilogram of an animal’s body weight. By contrast, the Texas legislature has failed to enact any legislation to ensure that the individuals responsible for extinguishing human life are properly trained and qualified, and that the drugs they administer are both effective and humane.”

Cleve Foster Stay by US Supreme Court NOT Based on Drug Cocktail Challenge

While Foster’s challenge to the use of pentobarbital is strong -- and perhaps, given the ACLU Report, the strongest so far on not executing people like vets euthanize pets -- the stay granted by the High Court was not based upon its need to consider arguments regarding execution methods.

No. The stay of Cleve Foster’s execution was based upon arguments that he received ineffective legal representation in both his trial and during his appellate process when his lawyers did not challenge the state’s blood-spatter evidence which prosecutors argued linked Foster to the rape and murder of Nyaneur Pal in Fort Worth, Texas, back in 2002. [Experts disagree on whether that blood-spatter evidence shows](#) the body had been moved (the state’s contention) or whether Pal had been killed where her body was discovered (Foster’s contention).

The State of Texas has thirty (30) days to respond to the arguments addressed in Foster’s petition for rehearing.