

Tennessee lacks medical expertise for lethal injections

Chancellor to decide if warden qualified to judge consciousness

BY ERIN QUINN • THE TENNESSEAN • DECEMBER 6, 2010

Ricky Bell is prepared to take the back of Stephen West's head, brush his eyelashes and call out his name once a drug to knock out the rapist and murderer is shot into his veins.

If Bell sees no signs that West is still conscious, the warden of Nashville's Riverbend Maximum Security Institution will tell the executioner to pump the inmate with two more drugs to paralyze and kill him.

But if Bell thinks there's a chance the 48-year-old killer is awake, he'll order a second 5 grams of sodium thiopental, the drug designed to cause unconsciousness.

Because Davidson County Chancellor Claudia Bonnyman last month decided the current three-drug cocktail could cause a condemned inmate to suffer an extremely painful death, all executions in Tennessee are on hold. If they resume, West is next.

In the next three months, Bonnyman will hold a hearing with a new issue at the helm: Is a prison warden, who is not medically trained, qualified to tell whether a person is unconscious?

"I feel comfortable that I can do what the court has asked of me," Bell said. "Our staff just adjusts to what we're asked when it comes to the executions. It's something that we do. It's in our mission.

"It is what it is."

As a safeguard, Bonnyman ordered the warden to make sure an inmate is unconscious before shooting pancuronium bromide and potassium chloride in the veins of his arms.

The state responded by saying Bell would brush his eyelashes, shake him and call his name. A hearing will be set to determine whether the state's solution is acceptable to the court. The hearing has not yet been scheduled.

David Raybin, a Nashville defense lawyer and former prosecutor who helped write the Tennessee death penalty statute in 1976, predicts Bonnyman's safeguards will be upheld.

"To me, the government should come up with an unquestionably reasonable way of doing this," Raybin said. "I don't understand why it's that difficult."

Part of the problem has to do with the fact that medical professionals want nothing to do with killing people.

So, why can't the Department of Correction just choose to give all condemned inmates enough sodium thiopental to make sure they are unconscious?

"That would make sense, wouldn't it?," said Fordham Law School Professor Deborah W. Denno, who has studied the death penalty for the last 20 years. "I think a lot of it is sheer ignorance on the part of the DOC. Once you start changing your protocol, you're conceding you've had a problem.

"And who do you really ask about how you kill someone? It's not like there's really a group of doctors ready to do this."

35 states use injection

There are 35 states that have the death penalty. All use some form of lethal injection. Some states offer a choice. In New Hampshire, for instance, inmates can choose between lethal injection or hanging.

In her studies, Denno has found that firing squads are the most humane method of execution. There have been three such executions in the United States since 1976.

"It's the only method that is actually carried out by a trained professional," she said. "This is the irony of the death penalty in this country. People think a firing squad is too barbaric. They think it's too Wild West."

Contact Erin Quinn at 615-726-5986 or equinn@tennessean.com.