

# After Supreme Court Ruling, Will Tennessee Commence Executions?

By BLAKE FARMER @ nashvillepublicradio.org



*Bottles of the sedative midazolam at a hospital pharmacy in Oklahoma City.*

Tennessee does not use the execution drug authorized by the U.S. Supreme Court this week. So it's unclear whether the high court's 5-4 ruling clears the way for the state's scheduled executions to proceed.

The case was about midazolam, which is a common drug in a three-step process used to kill inmates. While Tennessee uses a one-drug protocol—and perhaps a backup that hasn't been disclosed—death penalty attorney David Raybin says he reads the Supreme Court ruling as broadly allowing drugs of all kinds.

“Absent some specific proof that some specific drug will cause actual pain or some lasting or lingering death, I think this will signal that executions will proceed in Tennessee,” Raybin said Monday.

However, there's another hurdle to cross.

A group of inmates has challenged the death penalty based on secrecy around acquiring the drugs and how they're administered. Evidence will be presented in court for that case next week, so public defender Kelley Henry says the U.S. Supreme Court ruling "may be a moot point."

"The Tennessee Supreme Court has ordered that a full hearing on the Tennessee protocol needs to occur," Henry said in an email. "No court has heard evidence about the use of a compounded poison for use in lethal injections which is what the Tennessee protocol now requires."

After effectively staying all executions in the state while the Tennessee case plays out, two inmates are now on the schedule to die later this year—one in October, one in November. But Henry, who represents death row inmates challenging the lethal injection protocol, says she believes the scheduled executions are only a technicality and that death sentences will not be carried out for the foreseeable future.

Tennessee's death row currently has 67 people awaiting execution, including one woman.