

Governor Brian Sandoval
State Capitol Building
101 N. Carson Street
Carson City, NV 89701

Re: Petition to stop the execution of Scott Dozier using an experimental drug combination

November 13, 2017

Dear Governor Sandoval,

We write today to urge you to stop the execution of Scott Dozier, which has been placed on hold pending further legal arguments. We at the ACLU of Nevada believe that the government should not have the authority to execute its people. The death penalty denies equal protection under the law, is cruel and unusual punishment, and removes guarantees of due process. Capital punishment is inconsistent with the underlying values of our democratic system—the pursuit of life, liberty and happiness.

The United States is the only advanced Western democracy today that does not view capital punishment as a profound human rights violation and a frightening abuse of government power.

We have repeatedly requested the state's execution manual and information about the drug cocktail proposed for his execution. To date, we have not received the requested information. Instead, we were left to learn about the experimental drug protocol from court proceedings and media inquiries. Why would the State seek to keep this information from the public? There are still very serious questions about the experimental drug cocktail and the procedure for putting Mr. Dozier to death. If the state is going to proceed in executing Mr. Dozier, then it must keep the public informed about the process. This is especially important where, as here, the proposed protocol and drug cocktail may result in a botched execution.

On October 26, we launched a petition asking Nevadans to join with us in urging you to stop the execution of Scott Dozier (see enclosed). Our concerns about this specific case and the proposed protocol and procedure have been borne out in the weeks since. The district judge amended the NDOC protocol to remove the paralytic because its use would likely serve to mask the pain and suffering Mr. Dozier would experience from the effects of the other two drugs, or kill him by suffocation should the first two drugs fail their intended purposes. Death by suffocation is cruel and unusual punishment in violation of the Eighth Amendment to the U.S. Constitution.



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Further, use of the paralytic (Cisatracurium) to mask the real effects of the first two drugs (Diazepam and Fentanyl) violates the First Amendment rights of the public and the press, as it unconstitutionally restricts their right to witness the execution.

Nevada has enjoyed a de facto moratorium from the death penalty since 2006, because drug manufacturers do not want their products being used to kill. A decision by the state to execute Mr. Dozier carries serious implications for the other inmates on death row whom do not want to be put to death. And to acquiesce to Mr. Dozier's request for a state-assisted death will lift the moratorium on the death penalty for all Nevada death row prisoners. We must not let this happen.

Pope Francis said the death penalty "heavily wounds human dignity" and is an "inhuman measure." Governor Sandoval, you have the authority to stop this case from proceeding and preserve the lives of every prisoner on death row—if not with a commutation, then by ordering the Department of Corrections not to proceed with this risky lethal injection scheme. There is no doubt that crimes were committed, lives forever changed, and punishments warranted, but to violate human rights and snuff out human life with the sentence of death is too great an authority for the state to bear.

Sincerely,



Tod Story
Executive Director
ACLU of Nevada

Enclosed you will find the original petition language and the names and zip codes of more than 600 Nevadans whom signed this petition online at http://action.aclu.org/secure/NV_Execution/

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STOP NEVADA'S EXPERIMENTAL EXECUTION

On November 14, Nevada is planning to carry out the execution of death row inmate Scott Dozier using an experimental lethal drug combination. The state has released few details about its plans, but we know the state plans to paralyze Mr. Dozier to death. Without more details about the state's plan, it is not clear if the execution will be humane or violate the Constitution. We need your help to get Governor Sandoval to stop this execution while so many questions remain about it.

Dear Governor Sandoval,

I am a Nevada resident and taxpayer writing to urge you to stop Nevada's first execution in eleven years. The scheduled execution presents significant concerns about the unacceptable state secrecy that surrounds the state's plans for lethal injection, the possibility that state or federal laws may be broken, the risks involved in using the experimental drug protocol – including a botched execution, the potential risk of harm to public health and safety, and the trauma to corrections officials and their families.

The public has little information about how the state plans to carry out the execution of Scott Dozier. This is unacceptable. Execution is the most extreme, solemn, and irreversible act a government can commit against an individual. To undertake such an action without full transparency and accountability is unthinkable. Yet Nevada state officials have announced an experimental, never-before-used lethal injection drug combination and will not disclose important information about the amount of drugs to be used, the training of medical professionals who may or may not be present during an execution, or other key details. This state secrecy is deeply at odds with Nevadans' values about good government.

The state's decision to use fentanyl, an opioid often needed to treat cancer patients, is also concerning. This powerful painkiller has been linked to far too many overdose deaths, and government officials should not be using it in a way it was not intended to be used. Lawyers with the Nevada Attorney General's office confirmed in open court the Department of Corrections intends to use a paralysis drug to kill Mr. Dozier. Should the fentanyl fail to render Mr. Dozier unconscious, he will be awake, completely frozen, and unable to breathe. The potential for a torturous and inhumane death is very real, and that is why Nevada law bars the use of paralytics to euthanize animals in Nevada.

Even more troubling, because of the extreme secrecy surrounding the Department of Correction's plans for lethal injection and its untested drug

combination, it is impossible to verify the execution would be in compliance with all relevant state and federal laws. The state cannot simply ask us to take its word that the execution will be lawful; we need information so the courts and the public can verify the legality ourselves. Secretive and experimental executions are at greater risk for botches and mistakes.

Nevada should not resume executions out of respect for our corrections professionals who would be asked to carry them out. Corrections officers dedicate their lives both to keeping the public safe from prisoners and to ensuring that prisoners' lives within incarceration are safe and orderly. Many former corrections officers who have been involved in executions have spoken out about the immense emotional and psychological toll executions take on prison staff, even when all goes as planned. A botched execution would be a horrific burden on these professionals as well as their families and the larger community.

Based on grave concerns about the secrecy involved in this protocol and the very real possibility of a botched execution or an unconstitutionally torturous one, I respectfully request that you urge the director of the Department of Corrections to refrain from using the experimental drug combination on Mr. Dozier.