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Death-penalty debate shifts to Florida case

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Mississippi execution -- moments before the inmate was to die Tuesday -- has cast doubt on whether Florida will go ahead with its next lethal injection, just weeks away.

Still, Florida prison officials are gearing up for Mark Dean Schwab's execution Nov. 15. Already, he has been moved to a cell closer to the death chamber. In seven days, all of his belongings will be taken away.

The high court's ruling is a "strong signal that executions across the country should be stayed," said Schwab's lawyer, Mark Gruber.

Schwab's fate is in the hands of the Florida Supreme Court justices, who have remained mum on how they will rule.

"It would be unconscionable for this execution to go forward," said Elisabeth Semel, director of the death-penalty clinic at the University of California-Berkeley law school.

If the Florida Supreme Court rules against the 48-year-old Schwab, his attorneys can appeal to the federal courts. That route has proven successful in other states, including Alabama and Arkansas.

Tuesday's U.S. Supreme Court decision marks the third stay of execution by the justices since September, when they accepted a Kentucky case in order to review the constitutionality of lethal injection.

The question is what standard will be used to determine whether the three-drug cocktail used by 37 states constitutes cruel-and-unusual punishment.

"This is an unprecedented situation," said Deborah Denno, a law professor at Fordham University and death-penalty expert.

Executions in more than a dozen states have been delayed pending the outcome in the Kentucky case. Some say that amounts to a temporary moratorium on the death penalty.

But it has happened gradually, state by state. Florida -- which has the next scheduled execution -- is in the spotlight now.

"Nothing is certain until the [Florida] court rules," said Wayne Holmes, a Seminole-Brevard County state attorney chief of operations and prosecutor on the Schwab case.

Schwab was convicted and sentenced to death for the 1991 kidnap, rape and strangulation of 11-year-old Junny Rios-Martinez of Cocoa. For the past 15 years, Schwab has lived in a 6-by-9-foot cell at Florida State Prison in Starke.

Gov. Charlie Crist signed the killer's death warrant in July.

That marked the end of a seven-month halt of execution since a botched one in December. Problems arose when prison officials failed to properly insert intravenous needles into convicted killer Angel Nieves Diaz, who murdered a Miami club manager. It took 34 minutes for him to die and required a rare second dose of chemicals. Some witnesses reported Diaz appeared to grimace in pain as the execution dragged on.

The state responded by requiring more staff training and better monitoring of proceedings in the death chamber.

Even though the high court's ruling has resulted in a de facto moratorium on executions in many states, there's no indication it signals the end of capital punishment.

"I don't think it's going to end the death penalty or lethal injections," said Richard Dieter, executive director of the Death Penalty Information Center. "It may just change some standards, or it may not."

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