

Fla. marks 30 years since death penalty's return

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Associated Press

Editor's note: An information box about death row inmates May 26 incorrectly associated Paul A. Brown with the murder of Howard Wetherell. Wetherell's murderer was Richard England. Brown was sentenced to die for the Nov. 4, 1992 slaying of a Tampa concrete contractor found stabbed to death on the floor of his Ormond Beach motel room.

JACKSONVILLE -- Three decades have passed since Florida resumed executions when John Spenkelink was strapped into Old Sparky and electrocuted, the nation's first involuntary execution after a Supreme Court ban was lifted.

Since then, the state has executed another 64 men and two women. Florida has changed its execution method from the electric chair to lethal injection, and the conflict over the death penalty remains as heated as it was 30 years ago. There have been several botched executions and former Gov. Jeb Bush once imposed a moratorium to review the state's procedures and make sure they passed constitutional muster.

"I don't know how you put someone to death and it not be somewhat controversial," said Richard Dugger, who was assistant warden at Florida State Prison when Spenkelink was executed and later head of the Department of Corrections.

Spenkelink, 30, was executed May 25, 1979, for the slaying of traveling companion Joseph Syzmankiewicz in a Tallahassee motel -- Dugger became somewhat notorious for giving him a couple shots of Jack Daniels whiskey just before his death.

In his trial, Spenkelink had claimed he had been raped and the death was self-defense. The jury did not buy it.

Spenkelink, until moments before he died, fought his execution. His case made five trips to the U.S Supreme Court.

His lawyer, David Kendall, now a Washington, D.C., attorney, watched him die and still believes his client shouldn't have been executed.

"The question was this the kind of murder that merited the death penalty?" Kendall said.

"Absolutely not. This case lacks the kind of aggravating circumstance that are the hallmark of the death penalty."

Utah had executed Gary Gillmore two years earlier for two slayings, but he did not challenge his death sentence and died by firing squad after telling prison officials, "Let's do it."

Spenkelink had rejected a prosecution offer to plead guilty to a charge of second-degree murder and receive a long prison sentence.

Dugger recalls the time as being one of uncertainty. Florida didn't have an executioner. It had not used the electric chair for 15 years and had no written procedures on how to conduct an execution.

"The biggest thing about Spenklink was that it was a new experience for everybody involved," Dugger said. "There was so much attention to it, we couldn't make a mistake."

Former state Attorney General Jim Smith received death threats against him and his family, mainly from those who opposed to the death penalty.

"We had a job to do, as grim as it was," Smith said.

Smith continues to believe in the death penalty, although he said efforts need to be made to ensure that no mistakes are made and innocent people aren't executed.

"It is a deterrent. It would be more of a deterrent if it took place closer to the murder than 15 to 20 years later," Smith said, adding that there is no way to determine its effectiveness. "We can't measure the number of murders that did not take place."

Smith favored the change to lethal injection in 2000.

"I felt like Old Sparky had become a negative symbol. Lethal injection was more in keeping where we were in time."

Florida has had its share of problems while performing executions. Twice there were fires in the electric chair headpieces: Pedro Medina in 1997 and Jesse Tafero in 1990. In both cases, someone on the execution crew had replaced natural sea sponges with artificial sponges, causing flames and sparking when power was turned on in the chair.

On another occasion, Dugger recalls seeing blue electricity danced across the floor during an execution. A prisoner mopping up the floor had left a pool of water under a rubber mat in the execution chamber. Dugger said it is lucky the entire staff was not electrocuted.

The switch to lethal injection did not solve the problems. In December 2006, it took Miami killer Angel Diaz about 36 minutes to die. An autopsy showed the needles used to send lethal drugs racing through his veins had poked through into his muscles.

Bush ordered an investigation into the failure, causing a yearlong delay in executions and a change in procedures. Now, midway through the execution, the warden shakes the inmate to ensure that he is unconscious after the first chemical is administered. If inmate does not respond, the final two chemicals are injected.

In Florida, serial killers Ted Bundy and Gerald Stano, and black-widow killer Judy Buenoano were among the 44 inmates strapped into the electric chair, a three-legged oaken chair built by inmates. Another 23 inmates, including female serial killer Aileen Wuornos and Gainesville

student slayer Danny Rolling, have died from lethal injection. Both Stano and Wuornos were living in Volusia County when arrested.

Today, Florida has 392 death row inmates, compared to 134 in 1979. Two, John Marek and David Johnston, recently had their executions stopped by the state Supreme Court.

Marek was convicted of the 1983 kidnapping and murder of a woman who had car trouble on Florida's Turnpike. He has received an indefinite stay claiming new evidence shows he is not the killer.

Johnston was convicted of the November 1983 slaying of 84-year-old Mary Hammond of Orlando. His execution was stopped so DNA evidence can be tested.

Some other states have ended their use of capital punishment to save money, including New Mexico. A similar measure failed by one vote in the Colorado Senate. In Florida, Gov. Charlie Crist and Attorney General Bill McCollum remain committed to the death penalty.

"Gov. Crist supports the death penalty. The heinous nature of the crimes committed by the inmates scheduled for execution . . . speak for themselves," spokeswoman Erin Isaac said.

D. Todd Doss, a defense attorney who has represented several death row inmates in their final appeals, including Johnston, sees several changes over the last 30 years, but still doesn't think it's administered fairly.

"We still have an unrepresentative mix of people on death row," he said. "Your race, gender, ethnicity, socio-economic class and geography -- and those of the victim -- have more to do with whether you end up on death row than the facts surrounding the conviction, not to mention the quality of the lawyer and the resources available to that lawyer.

"It is time for abolition of the death penalty or at a minimum a moratorium," said Doss, who lives in Lake City.

An American Bar Association study of Florida's death penalty system concluded that the state needed to make drastic changes in an attempt to make it fairer and reduce the chance that an innocent person could be executed. Its recommendations have gone unheeded.

Mark Elliott, executive director of Floridians for Alternatives to the Death Penalty, said the state should consider the cost of the death penalty.

"Florida spends over \$50 million every year on the death penalty. That's an awful lot of money spent to kill a couple of prisoners destined to die in prison anyway. Since Spinkley, Florida has spent over \$1 billion on the death penalty and amassed over 10,000 unsolved homicides," Elliott said.

Ron McAndrew, a former warden at Florida State Prison and now a prison consultant and anti-death penalty crusader, supervised three executions.

He points to 132 exonerated cases nationwide, including Juan Melendez of Florida, freed in 2002 for a 1983 slaying that he did not commit, as a reason to end the death penalty.

"I could have actually walked this innocent man into the death chamber, strapped him into the electric chair and literally cooked him to death!"