

# U.S. Supreme Court Blocks Execution of Texan Using New Drug Mix

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HUNTSVILLE, Texas - The U.S. Supreme Court blocked the first scheduled execution of a Texas death row inmate using pentobarbital on Tuesday.

Cleve Foster was to have been executed Tuesday evening for the 2002 slaying of a Sudanese woman in Fort Worth -- the first Texas execution since the state switched to pentobarbital in its lethal three-drug mixture.

On Tuesday morning, the high court agreed to reconsider its January order denying Foster's appeal that raised claims of innocence and poor legal help during his trial and early stages of his appeals.

Foster's lawyers also have argued that Texas prison officials violated administrative procedures last month when they announced the switch to pentobarbital from sodium thiopental, which is in short supply nationwide.

Foster's lawyers contend that the rules change in Texas required more time for public comment and review. Lower courts have rejected their appeals and attorneys had planned to take their case to the Texas Supreme Court.

At the same time, defense lawyers sought a rehearing before the U.S. Supreme Court on the high court's rejection of an appeal in January.

The court had stopped Foster's then-scheduled execution at the last moment, then rejected his claims a week later, clearing the way for Tarrant County authorities to schedule the execution for Tuesday.

In its brief ruling, the court gave prosecutors 30 days to respond to the defense petition, after which the Supreme Court will decide if the appeal has merit.

The execution drug issue was not before the U.S. Supreme Court and the order Tuesday did not mention it.

The drug swap is the most significant change in the execution procedure in Texas since the state switched from the electric chair to lethal injection when it reinstated capital punishment in 1982.

Pentobarbital is a sedative used in surgery and to euthanize animals, and has already been used for executions in Oklahoma and Ohio.

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