



DAVE YOST

OHIO ATTORNEY GENERAL

Administration
Office 614-728-5458
Fax 614-466-5087

May 20, 2024

In 1977, a man named Gerald “Bob” Hand got into financial difficulty. To solve this problem, he killed his wife, Donna, for her life insurance. And he got away with it.

In 1979, again strapped for cash, Bob Hand killed his second wife, Lori, right here in Columbus and collected her life insurance. He had found “til death do us part” to be his favorite provision in the wedding vows.

Fortunately, his third wife divorced him before she, too, became a victim of matrimonial murder. But Bob Hand wasn’t ready to quit.

In 2002, he conspired with a friend of his named Lonnie Welch to kill his fourth wife, Jill. He then killed Welch to make sure that nobody could testify against him.

Four murders over 25 years. For nothing more than money.

In 2003, I prosecuted Bob Hand.

I stood in front of the jury in the Delaware County Court of Common Pleas and I asked the jurors to listen to the evidence, weigh the mitigating factors, then return with a sentence of death. This is not an easy thing. This is not a casual thing. It’s not political grandstanding. Asking my fellow citizens to return a verdict that would result in the death of another human being was the hardest thing I have ever done. Probably it was the hardest thing that anyone had ever asked those jurors to do, too.

But they did their duty, considered the evidence, and they returned a capital verdict.

But Bob Hand was not executed. For years he worked appeals through the state system, through the federal system, all the way to the U.S. Supreme Court. While his victims laid in their graves for year after year, and their families waited for justice and closure, he wrung out every delay he could from the legal system. At this point, only God knows the total resources in time, money, and legal expertise that he burned through.

Finally, in 2018, he had exhausted all of his appeals. Since 2018, he's had nothing left to argue about, yet he still sits on Death Row, 21 years after his conviction. What is worse, his case is not an outlier, it’s the norm for our broken capital punishment system. The average time on death row for an inmate now is nearly 21 years. In case after case, brutal killers who are the worst of the worst are evading justice.

And the ostensible reason why Bob Hand and similar Death Row inmates have not paid for their crimes is that pharmaceutical companies will not sell Ohio the drugs needed to carry out capital sentences.

May 20, 2024

HB 392

Page 2

Let's consider that for a moment: Capital punishment is a lawfully enacted statute. It is the will of the people of Ohio, through their elected representatives, that some crimes should be punished with death. Just like every statute, it is part of the sovereign power of Ohio.

Are we going to allow the people's will and the sovereignty of Ohio to be overruled at the whim of a private-sector CEO or a corporate board at a pharmaceutical company?

That's preposterous, and should be rejected out of hand.

This bill puts an end to this stalemate and restores Ohio's sovereign power to act.

It does this by authorizing the state to use an alternative means of execution – nitrogen hypoxia – in which the Death Row inmate breathes nitrogen gas until lapsing into unconsciousness and then death as a result of oxygen deprivation.

Nitrogen is easily obtained and administered, and authorizing its use would deprive pharmaceutical companies of the power to throw up roadblocks to capital punishment.

This method was successfully used by the State of Alabama on January 25.

Naturally, death-penalty foes will try to paint this form of execution as cruel, unusual or painful, the same claims that have been made repeatedly about Ohio's existing executions using lethal injection. In permitting Ohio to resume executions via lethal injection in 2017, the United States Court of Appeals for the Sixth Circuit stated that, some risk of pain "is inherent in any method of execution—no matter how humane" and "the Constitution does not guarantee a pain-free execution."¹ While many opponents to the death penalty continue to base their opposition on some idealized alternative that provides an antiseptic death that is free from pain, details on such a method are never forthcoming, and more importantly, this is not the legal standard.

House Bill 392 also provides important confidentiality protections for those who assist and participate in Ohio's lawful executions. This is to shield them from harassment, threats and other forms of intimidation. It also shields them from censure or discipline by official licensing organizations.

I am aware of the moral weight of the debate about capital punishment. I recognize that there are people with deeply held beliefs who don't think we should have capital punishment. I respectfully disagree with that, having been a prosecutor who oversaw one of these cases.

But if we wish to break the promises that we made to the families of all these victims over all these years, if we wish to break faith with the jurors that we asked to take on this heavy weight of judgment, then we should say so openly, and make the necessary changes to our laws.

¹ <https://deathpenaltyinfo.org/news/federal-appeals-court-upholds-ohio-lethal-injection-process-vacates-execution-stays>

May 20, 2024

HB 392

Page 3

To dodge that debate is to prolong the dishonesty and hypocrisy – not to mention prolonging the stunning costs in time and money of a capital-punishment system that spends millions of dollars per case -- not to produce justice – but to delay it.

I welcome that debate, and I will vigorously defend the use of capital punishment for the worst of the worst.

But the fact is, the death penalty could be abolished today, *this very moment*, if a majority of the people of Ohio wanted it. In fact, death-penalty foes will point to opinion surveys in which a modest majority of Ohioans already say they favor the abolition of the death penalty.

But that survey question is asked in the abstract, without providing the details of an actual brutal murder. Let's look at what happens in reality:

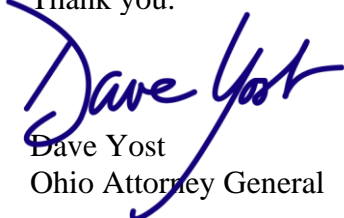
Remember that Ohioans get to vote on the death penalty *every time they sit on a jury in a capital case*. And remember too, that under Ohio law, the jury's vote for execution has to be unanimous. If even one juror opposes the death penalty, capital punishment is off the table for that convict. And what prosecutors find is that Ohio jurors *DO* vote for the death penalty. Because in an actual murder case, jurors learn about specific innocent victims who were subjected to appalling horrors by specific heartless killers. And in the most heinous of these cases, jurors know that the death penalty is the appropriate punishment and they vote for it.

If and when Ohioans decide that the death penalty is no longer acceptable, it will be obvious: They will stop voting for the death penalty in capital cases.

Until that time arrives, the Ohio Legislature should make sure that Ohio's capital-punishment system faithfully enacts the will of Ohio's jurors.

Passing this bill will do that.

Thank you.



Dave Yost
Ohio Attorney General