On Campus

Legal Execution

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A team of lawyers staffed largely by Columbia alumni won a landmark lawsuit this summer challenging the constitutionality of lethal injection; the case was sealed by a CU medical school professor's expert testimony.

Headed by Don Verrilli '83LAW, the legal team convinced a Missouri district court in June that executioners in that state are careless in how they administer anesthesia to condemned inmates, who may suffer horribly when subsequently injected with deadly potassium chloride. A federal court in July upheld a decision to stay all executions in Missouri until corrections officials develop a more humane practice. The case is expected to trigger similar suits across the country; lethal injection is the most common form of execution in the US, and there are widespread concerns about whether the condemned are anesthetized properly.

In Missouri, the case hinged on testimony from Mark Heath, a Columbia assistant professor of anesthesiology and a lethal-injection expert. On the stand, Heath charged that the dosages of anesthesia used by Missouri executioners appeared to vary inexplicably, judging by their own records, and that the state invited mishap by not having a written protocol for administering anesthesia. For fear of harassment, the doctor who oversees executions in Missouri testified anonymously while hidden behind a screen. On July 29, weeks after the trial had concluded, The St. Louis Post-Dispatch identified him as Alan R. Doerhoff, a surgeon who has been sued for malpractice more than 20 times and is barred from practicing at two Missouri hospitals.

Heath testified that only a trained anesthesiologist could determine whether a convict suffers during lethal injection, because a paralytic drug is administered after the sedating agent. If not enough anesthesia were used, the convict nevertheless would "develop a relaxed look on his face, and his eyes would calmly close, and he would look like he was peacefully asleep, when in fact he would be wide awake, and unable to draw a breath, and was suffocating," Heath testified. "And when the

potassium was administered, normally that would make him scream and struggle, but he would be unable to do that.”

Verrilli’s legal team included Ginger Anders ’02LAW and Eric Berger ’03LAW; the three lawyers work for the Chicago-based firm Jenner & Block. In September, Anders will argue a similar lawsuit challenging California’s lethal-injection procedure.



Guide to school abbreviations

All categories >

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