

Media Advisory for April 29, 2015

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<http://glossipvgross.com/> <http://www.deathpenaltyinfo.org/>

U.S. Supreme Court to Hold Oral Argument on Lethal Injection Challenge on Wednesday

Death Penalty Information Center's Robert Dunham Available for Comment on Rare Instance Where Court Will Examine a State's Execution Procedure

(Washington, D.C.) The U.S. Supreme Court will hear oral argument in *Glossip v. Gross* on Wednesday at 10:00 a.m., a case in which death row prisoners challenge the use of the drug midazolam in lethal injection executions. Midazolam has been implicated in [several executions](#) that did not go as planned.

The Court has never struck down a method of execution, but the use of midazolam last year resulted in deep concern from the President and many national leaders. Arizona, Florida, Ohio and Oklahoma have used midazolam in lethal injections. A number of other states have expressed interest in midazolam and may be awaiting the outcome of this case.

“States are experimenting with different lethal injection drugs, sometimes with drugs secretly obtained from unknown sources and sometimes without advice from people trained in science or medicine. The Court should provide guidance to ensure that executions are competently administered, free from severe, unnecessary pain, and comply with the Constitution,” said Robert Dunham, Executive Director of the Death Penalty Information Center (DPIC).

In 2008, the Court upheld a three-drug protocol for lethal injections in *Baze v. Rees*. In *Baze*, the Court stated that the first drug, a barbiturate, caused a “deep, comalike unconsciousness” which ensured that the prisoner did not experience pain from the second drug, which paralyzed him, and the third drug, which induced cardiac arrest. The Court acknowledged that administering the second and third drugs to someone who was not deeply anesthetized would inflict an unconstitutional degree of pain and suffering. The three-drug formula the Court approved in *Baze* is no longer used and no longer available.

Petitioners in *Glossip* argue that [midazolam](#), which has been used as a substitute for sodium thiopental, the drug approved in *Baze*, is not capable of reliably producing the necessary “deep, comalike unconsciousness.” Midazolam is commonly used as an anti-anxiety drug and light sedative in pre-operative settings, not as a stand-alone anesthetic during surgery.

Four states have substituted midazolam as the first drug in lethal injections. Three of the states that used midazolam have had executions that did not go as planned, triggering state investigations. In each of the [botched executions](#), the prisoners initially appeared to lose consciousness, but then some started writhing, struggling, and gasping, according to media witnesses, with one taking as long as two hours to die.

Some states, including Oklahoma, have recently adopted backup execution methods, such as the firing squad and nitrous gas, in case they can no longer use lethal injection.

Resources about *Glossip v. Gross* can be viewed at <http://glossipvgross.com/>. To reach the petitioners' attorneys, please contact Laura Burstein at laura.burstein@squirepb.com or 202-626-6868. To reach Robert Dunham, DPIC's Executive Director, regarding national perspectives on the death penalty, please call 202-289-2275 or email [rdunham\(at\)deathpenaltyinfo\(dot\)org](mailto:rdunham@deathpenaltyinfo.org).

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The Death Penalty Information Center <http://www.deathpenaltyinfo.org/> is a non-profit organization serving the media and the public with analysis and information on issues concerning capital punishment. DPIC was founded in 1990 and prepares in-depth reports, issues press releases, conducts briefings for the media, and serves as a resource to those working on this issue.