



# BLOGS & STORIES

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## Alabama's Shameful Execution

by *Brendan Kirby*

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**He's poor, mentally disabled, and his newbie lawyer botched his sentencing. But at 6 p.m. EST today, this convicted killer was executed. Brendan Kirby on death row's special-needs inmate.**

This was never a whodunit.

Holly Wood, the incongruously named 50-year-old African-American man from backwoods Alabama, didn't deny what he had done. The evidence was too overwhelming, and his lawyers concluded early on that an acquittal was highly unlikely. Wood's 34-year-old former girlfriend, Ruby Lois Gosha, had been shot in the head on September 1, 1993. Her corpse was found in her bed at home. The 12-gauge shotgun, under a pile of leaves at the home of Wood's father. Wood was arrested and, a year later, convicted of murder.



Alabama's lethal injection chamber at Holman Correctional Facility in Atmore, Al. (AP Photo)

In Alabama, his execution might be not be all that shocking—except that Wood is mentally disabled.

At this moment, the time Wood has left on this earth can be measured in hours. On Tuesday, the Alabama Supreme Court turned down a request for more time to study his mental capacity. Which means that, barring an 11th-hour intervention by the U.S. Supreme Court or Alabama Governor Bob Riley—both of whom Wood has appealed to for mercy—he will die at 6 p.m. today by lethal injection at Holman Correctional Facility in Atmore.

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Wood has consistently tested below 70 on IQ tests, and has been labeled borderline mentally disabled. (Only 5 percent of people score below 70 on the test; those who do are generally considered to have a learning disability.)

And Wood's execution comes eight years after the U.S. Supreme Court banned the execution of the mentally disabled. "The lesser culpability of the mentally retarded offender surely does not merit that form of retribution," the court wrote.

But legally, defining mental disability has turned out to be trickier than it sounds, and Holly Wood finds himself in the unfortunate gray area where prosecutors can argue that he's essentially not intellectually disabled *enough*. Alabama and other states look also at how well a defendant is able to function in society. And the Alabama Legislature has never spelled out what that means precisely, leaving it to the courts to decide.

"He's always had a job. He's worked on cars. He's lived independently," says Clay Crenshaw, who heads up the capital litigation section for the Alabama Attorney General's Office. "That's not even an issue at this point."

But talk to people who know him, and a different picture of Wood begins to emerge. His own lawyer, Brady Mills, tells The Daily Beast, "It's very hard to have a conversation with him. I have to admit, I don't know him very well."

Court records, testimony, and Wood's own family members tell of a hard life from birth—from even before birth. Wood grew up poor in rural Crenshaw County, next door to Pike County, where he committed the murder. Crenshaw averages 10 people per square mile, and nearly a quarter of the population lives below the poverty line. Family members say Wood's unusual name was inspired by an uncle named Ollie, not the flashy moviemaking town 2,000 miles west of here.

Wood's mother drank while she was pregnant, according to a psychologist hired by the defense team, who said in a report after Wood's conviction that he suffers from fetal alcohol syndrome. According to a summary of the psychologist's findings, Wood grew up in "extreme poverty," suffered from physical, mental, and emotional abuse, and had traumatic exposure to death as a child.

Mills says Wood's brother died in a car accident, and that he also lost his mother when he was a child. From there, Mills said, Wood lived with a cousin for a while. Later, his father arranged for him to live with a sister, according to family members.

Despite scraping by, Wood's younger sister, Maeola Wood, tells The Daily Beast the children never worried about money growing up. She recalls happy summer days picking peas and raising hogs and cows on their father's farm. She said her brother particularly enjoyed baling hay.

"He was a very active boy," she says. "He liked to swim and ride a tire swing over the spring. He liked riding horses and motorcycles."

Maeola, who is from Birmingham, spent yesterday visiting her brother on death row.

Despite seeming like a normal kid in many respects, she says her brother struggled mightily in school, even after he was placed in special-education classes.

"He never really got it," she says. "He always had trouble learning. He had trouble paying attention."

Johnny Folmar, a 55-year-old second cousin of Wood's, with whom Wood lived for about two years growing up, sees much of himself in the younger man. Both struggled in school. The difference, Folmar says, is that his mother had the forethought to get him into job-training programs at a young age.

Folmar has his own long-running battles with the law. Beginning with an aggravated robbery conviction, he says he spent 30 years in and out of prison. He says he later was diagnosed with bipolar disorder and got psychiatric treatment.

He wonders how his cousin's life might have turned out differently if he had gotten help as an adolescent.

"He was an easygoing, happy-go-lucky, energetic person," Folmar says of Wood. "And I don't believe he understands the seriousness of his actions."

Maeola agrees. She doesn't think her brother comprehended the legal proceedings or even the entirety of the crime he committed. "I don't think he really understood," she says. "No way he could understand."

Wood's mental deficiencies were well-documented by the time he went on trial for Gosha's murder. His lawyers had an expert report detailing evidence of the defendant's disability, including the extremely low IQ scores. But they chose not to present any of that information to jurors during the penalty phase, something that has outraged Wood's supporters. The jury recommended the death penalty by a 10-2 vote. The two votes to spare Wood's life were cast by the jury's sole two black members.

Subsequent legal challenges have focused on a claim of ineffective assistance of counsel. An attorney fresh out of law school, with no capital murder cases under his belt, took on responsibility for the penalty phase at the request of two more experienced lawyers on the legal team. During that portion of the trial, defense lawyers are given broad latitude to present any information about a defendant's background that might persuade a jury to recommend a sentence of life in prison instead of execution.

But the inexperienced attorney's performance was apparently so inept, in fact, that Senior U.S. District Judge W. Harold Albritton ordered Alabama to vacate Wood's sentence: convert the punishment to life in prison without parole, or have a new sentencing hearing.

His ruling didn't last. The Atlanta-based 11th U.S. Circuit Court of Appeals overturned Albritton on a 2-1 decision, ruling that the failure to present evidence about Wood's disability was a defensible "strategic decision" by his original lawyers.

The case went all the way to the U.S. Supreme Court, where the justices ruled 7-2 against Wood in January of this year. In an unusual ideological split, center-right-leaning Anthony Kennedy joined liberal John Paul Stevens in dissent.

President Barack Obama's first nominee for the high court, Justice Sonia Sotomayor, wrote the opinion that doomed Wood.

To Crenshaw, the Alabama assistant attorney general, Wood is a vicious and dangerous person, not a hapless victim of stunted intellectual ability. He notes that Wood was convicted of attempted murder a decade before Gosha's death in an attack on another woman. And he says that the expert report that Wood's lawyers chose not to introduce also contained a great deal of damaging information.

"The problem with Holly Wood is if you delve too deep, you find a lot of things that are not favorable to him," Crenshaw says. "The more you talk about those things, the more you open the door for a prosecutor to bring things up."

By tonight, however, delving more deeply will become an academic pursuit for scholars and anti-death-penalty activists. Holly Wood will no longer be a part of the debate over his own life. He may not have fully understood it in the first place.

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