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Facing legal realities

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Federal courts aren't going to OK lethal injections - yet

Daniel Lee Siebert is a bad man who did horrible things. He's on Alabama's death row at Holman Prison near Atmore for strangling a 24-year-old Talladega woman and her two preschool-age children. He was supposed to be executed Thursday for his heinous acts.

But he wasn't. A three-judge panel of the 11th U.S. Circuit Court of Appeals ruled Wednesday that Siebert's claims that lethal injection would violate his Eighth Amendment rights under the U.S. Constitution had merit. So his execution has been stayed.

Siebert suffers from pancreatic cancer. He has, at most, a few months to live. He's being treated for his disease. And an oncologist says mixing the three-drug cocktail that would take Siebert's life with his cancer medication could cause pain that might violate the constitutional protection against cruel and unusual punishment.

The federal judicial panel had another reason, beyond Siebert's claims, to stay the execution. Those judges, and federal judges across the nation, are awaiting a ruling by the U.S. Supreme Court on a case filed by a Kentucky inmate who also faces execution. He has challenged lethal injection as an inhumane method of capital punishment.

And he has some science on his side. Evidence shows that some lethal injections aren't the blissful slipping into unconsciousness followed by heart stoppage that its proponents claim for it.

So the federal panel, in granting the stay, said it will wait until the highest court of the land, possibly next year, addresses the issue.

To no one's surprise, the court's decision doesn't sit well with state Attorney General Troy King or Gov. Bob Riley. A state prosecutor will appeal the decision. If he doesn't, the chances of the state being able to execute anyone else - despite a change in its lethal injection procedure to address previous court challenges - would be nil until the Supreme Court's definitive ruling.

So why not let Siebert, who is on death's door, die naturally? His end is coming soon. The state could save the cost of an execution.

Riley's response is that Siebert's crimes were so heinous that they demand the state inflict its ultimate

punishment. The family of Sherii Weathers and her two boys deserve no less.

Those who favor capital punishment, believing it deters crime and provides just retribution, will agree with Riley. Those who think the mere act is inhumane and puts the state in the role of the person it is killing will disagree.

But what's going on here puts the issue in a different light. Federal judges know the Supreme Court eventually will decide whether lethal injection as capital punishment is constitutional. Because of that, the state's chances are slim of getting the 11th Circuit to overturn its panel's decision.

That means it's fiscally imprudent for Alabama to keep fighting this issue. Like it or not, Alabama is out of the capital-punishment business until the Supreme Court says lethal injection is legal and under what circumstances it can be administered.

Daniel Lee Siebert is going to be long gone before that happens. Other executions will have to be put on hold. Alabama's leaders must acknowledge that and not waste state money beating their heads against a temporary brick wall.

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