



## Leroy White's last few hours continued odd journey to his execution

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By Brian Lawson, The Huntsville Times



Leroy White, 52, was executed Thursday for the shotgun killing of Ruby White, a first-grade teacher at West Huntsville Elementary School.

HUNTSVILLE, AL -- Leroy White's last visitor left at 4:30 p.m. Thursday, an hour and a half before he was scheduled to be executed.

With no visitors allowed, White couldn't ask his lawyer what was happening. But shortly before the 6 p.m. execution, Supreme Court Justice Clarence Thomas issued a stay to consider a final motion in the former Huntsville resident and convicted murderer's case.

White sat in a cell near the gurney, waiting to learn his fate.

Nearly three hours later, shortly before 9 p.m., White was executed for the shotgun slaying of his estranged wife, Ruby White, at her Evans Drive home on Oct. 17, 1988.

The wait marked one final odd turn in White's case, which featured the victim's family asking that his life be spared, and

one of White's own lawyers admitting he allowed White to miss a critical deadline to appeal.

That request was rejected by Gov. Bob Riley.

The jury at his trial recommended that he be given a life sentence for shooting his estranged wife twice with a shotgun, the second time while he was holding the couple's 17-month-old daughter. But the judge in the

case didn't accept the jury's recommendation and instead gave him the death penalty. The couple's daughter also asked Riley to spare White.

White's lawyer, Brian Stevenson, director of the Montgomery-based Equal Justice Initiative, which opposes capital punishment, took up White's case last summer, after White was notified Alabama had asked the state Supreme Court to set an execution date.

White was surprised to learn an execution date was approaching, and assumed he was still in the appeals process, Stevenson said.

Over the past week Stevenson petitioned both the 11th Circuit Court of Appeals and the U.S. Supreme Court, asking that the execution be delayed because White's appeals process had been short-circuited by an inexperienced lawyer who withdrew without telling White.

That withdrawal resulted in White missing a crucial appeal deadline and started the clock for the scheduling of his execution.

Both courts rejected the missed deadline argument, despite an affidavit by former attorney G. James Benoit of Maryland, who admitted withdrawing for unrelated work reasons and failing to tell White about it.

Benoit, who took over White's case after another member of his law firm was suspended from practicing law, said he doesn't believe he communicated with White during the time an appeal could be filed. He said he was unaware of rules that required him to file an appeal.

"At all times I represented Mr. White pro bono," Benoit wrote. "I formerly practiced transactional tax and corporate law and no longer practice law. I have never tried a case and have never been in a courtroom in my career."

Benoit was White's lawyer in June 2009 when the U.S. District Court rejected his claims of ineffective assistance of counsel during his trial. White was offered a deal to plea to capital murder and spend life in prison, but he rejected it. Stevenson argued he was badly advised by his trial attorney.

Alabama Assistant Attorney General Clayton Crenshaw, who heads Alabama's Capital Litigation Division, said White had numerous reviews of his case and each of his arguments over the roughly 21-year appeals process was heard by the courts.

Crenshaw said the case file has filled 10 boxes.

He said the missed deadline is an issue that White's lawyers raised in the final days of his life, but they didn't have a persuasive argument on the key issue: given more time to appeal, could he win the appeal on the merits of his case?

Stevenson said about half of the roughly 200 prisoners on Alabama's death row were represented by a lawyer who is not allowed to spend more than \$1,000 on out-of-court time working on the case, unless given permission by the trial court under Alabama indigent defense rules. He said that inequity leads to problems with the quality of assistance defendants are getting.

"The death penalty is not just about do people deserve to die for the crimes they are accused of, the death penalty is also about do we deserve to kill," Stevenson said. "If we don't provide fair trials, fair review procedures, when we have executions that are unnecessarily cruel and distressing, or if we have a death penalty that is arbitrary or political or discriminatory, then we are all implicated."

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