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LDF Condemns Alabama’s First-Ever Death Penalty Execution by Nitrogen Gas

Tonight, unless the United States Supreme Court intervenes, the state of Alabama will execute Kenneth Eugene Smith using nitrogen gas, the first ever execution of its kind. Alabama officials will strap Mr. Smith to a gurney, affix a respirator mask to his face, and pump nitrogen gas into the mask until Mr. Smith dies due to lack of oxygen.

Mr. Smith asked the Supreme Court for a stay of execution, but the Court rejected his request on Wednesday. Today, Mr. Smith filed an additional application for a stay of execution to the Supreme Court and is awaiting the Court's decision.

This series of events follows a failed first attempt at executing Mr. Smith in 2022 when the State was unable to administer lethal injection because authorities couldn't connect an IV line.

In response to tonight's planned execution, the [Legal Defense Fund's](#) (LDF) President and Director-Counsel Janai S. Nelson issued the following statement:

“Alabama’s pursuit of an untested method of execution is a terrifying, inhumane pursuit of violence. Novel execution methods of this kind are, by their very nature, experimentation on humans. There is no such thing as humane capital punishment, and innovating new ways to kill human beings will not change or alter the egregious act of execution.

“Advocates, including Mr. Smith’s own legal team, have raised myriad concerns about the ways in which this new execution method could prolong Mr. Smith’s death and cause a torturous end to his life.

“Over 50 years ago, we showed that the death penalty as then administered constituted cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments and secured the first and only moratorium on the death penalty in *Furman v. Georgia*. Today, we urge the Supreme Court to swiftly act and halt this execution, as it is the very definition of cruel and unusual punishment.”

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