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Executed man takes 34 minutes to die

Early edition

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STARKE — A death row inmate who had argued that Florida's execution procedures were cruel hung on for much longer than usual after his lethal injection Wednesday evening, once again calling into question the way the state kills condemned prisoners.

Angel Diaz winced, his body shuddered and he remained alive for 34 minutes, nearly three times as long as the last two executions.

Department of Corrections officials said they had to take the rare step of giving Diaz a second dose of drugs to kill him.

A second dose is part of their protocol and was anticipated in this case because Diaz had liver disease, which they said can slow the time it takes the drugs to metabolize, they said.

But capital defense lawyers said Diaz's execution was so unusual that it could once again upend executions in Florida.

"Obviously there was something very wrong here," said Neal Dupree, supervisor of the capital collateral regional counsel office for South Florida, which represented Diaz in his appeals.

Dupree, who sat in the front row while Diaz was executed, said the procedure appeared botched, particularly when Diaz squinted his eyes and tightened his jaw as if in pain.

Twenty-six minutes into the procedure, Diaz's body suddenly jolted.

"It looked like Mr. Diaz was in a lot of pain," Dupree said. "He was gasping for air for 11 minutes. This is a big deal. This is a problem."

Corrections officials acknowledged that 34 minutes was an unusually long time but said no records are kept that would tell if it's the longest ever in state history.

They were not sure how many other times a second dose was needed.

Gretl Plessinger, a DOC spokeswoman, said it's unknown at what times the first and second doses were given because those records are not kept.

Diaz began snoring after the first dose was given and never regained consciousness, she said.

The execution team called for the second dose after noticing on heart monitors that Diaz was not dying, she said.

Diaz's cousin Maria Otero said the family had no knowledge of any liver disease. She said the execution was political.

"Who came down to earth and gave you the right to kill somebody?" Otero said, referring to Gov. Jeb Bush. "Why a stupid second dose?"

Florida voluntarily began using lethal injection in 2000 after a number of gruesome executions in the electric chair put electrocutions at risk of being declared unconstitutionally cruel and unusual punishment.

But capital defense lawyers have said lethal injection, which in Florida and most states is given with a three-drug cocktail, has its own cruelty

problems. They cite a recent study that shows a painkiller administered first wears off before the third and fatal drug kills the person. That third drug can cause excruciating pain, the study said, but no one would know because the second drug in the cocktail paralyzes the person.

Martin McClain, an attorney who has represented more than 100 death row inmates, said authorities should conduct a complete investigation to get to the bottom of what went wrong with Diaz's execution.

McClain said the state should have disclosed any liver problems in advance and explained its plans for dealing with them. This scenario makes McClain wonder if Diaz was given the pain-inducing drug potassium chloride before the anesthetic started working.

He said he's concerned that this could have caused the kind of pain in Diaz that constitutes "cruel and unusual punishment," outlawed by the U.S. Constitution.

Lethal injection had been a subject of legal challenges, including one to the U.S. Supreme Court, which put executions in Florida on hold for much of this year. But once those legal maneuvers failed, Gov. Jeb Bush began signing death warrants.

Diaz, 55, was the fourth person to be executed this year, the most the state has put to death since six were executed in 2000.

Diaz was condemned for the 1979 shooting death of Joseph Nagy, a topless bar manager in Miami. Nagy was killed during a robbery by three men. The case was unsolved for four years before a girlfriend of Diaz's called police to say he was involved.

Diaz had been sentenced to life in prison in Puerto Rico for another murder but escaped and came to the United States. He also escaped from a prison in Connecticut and tried to arrange an escape from jail in Miami.

Though no one witnessed Diaz pull the trigger, a jury convicted him of Nagy's murder and sentenced him to death by an 8-4 vote.

His defense lawyers vigorously challenged his conviction and death sentence, especially after the jailhouse snitch recanted his testimony. But courts let the death sentence stand.

Diaz clung to his innocence in his final statement.

"The state of Florida is killing an innocent person," Diaz said in Spanish. "The state of Florida is committing a crime because I am innocent. The death penalty is a form of vengeance but also a cowardly act by humans. I am sorry for what is happening to me and my family who have been put through this."

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