

Idaho's death penalty is so unusual it's cruel

Marty Trillhaase /Lewiston Tribune

For every death row inmate Idaho executes, it has freed another on new evidence while an equal number died of illness - to say nothing of all the condemned people serving out life sentences thanks to successful appeals.

What would you call that?

Dysfunctional?

Random?

Since the death penalty was reinstated in the late 1970s, Idaho has condemned 41 people, according to the Death Penalty Information Center.

Three have been executed: Keith Eugene Welles in 1994, Paul Ezra Rhoades in 2011 and Richard Leavitt the following year.

New evidence exonerated Donald Paradis, who emerged from prison 21 years after he was sentenced to death.

Thomas Henry Gibson, Paradis' co-defendant, was released and paroled after an appeals court overturned his conviction.

Charles Irwin Fain spent 18 years on death row before DNA evidence exonerated him.

Meanwhile, earlier this month, Michael Allen Jauhola became the third death row inmate to die in custody after an extended illness. He got the death penalty for the 1998 murder of a fellow prison inmate.

Earlier cases include Mark Emilio Aragon, who died of illness after he was convicted of killing his Ketchum girlfriend's baby in 1982, and James Edward Wood, who spent a decade under sentence of death for molesting, murdering and dismembering an 11-year-old Pocatello girl before he died in 2004.

And Gerald Pizzuto Jr. seems on the brink of becoming the latest of more than 20 condemned prisoners to have his sentence reversed. He has been sitting on death row for almost 28 years for the murders of Berta Herndon and her nephew Del Dean Herndon near McCall.

At the time, Pizzuto tested marginal for mental acuity - an IQ of 72 - two points above the threshold that would render him too disabled for the state to execute him.

Pizzuto's attorneys want the federal courts to block the execution on the grounds that a five-point margin of error - recognized by the U.S. Supreme Court - means Pizzuto's IQ could be as low as 67.

Nothing's for sure, but at minimum the issue buys Pizzuto more time in the appellate courts.

Consider the context: Idaho's system is slowing to a crawl. The state has imposed the death sentence only three times in 10 years and no defendant has been ordered executed since 2010.

Nothing about capital punishment - in Idaho or the United States - is predictable except its sheer randomness.

Think of it as a huge funnel.

At the top are the 14,000 people who commit murder each year.

About 2,500 of them are eligible for the death penalty.

Last year, juries imposed the death sentence 79 times.

Thirty-nine executions were carried out.

What explains it?

Certainly not logic. Many of the worst of the worst are serving life. Among them are Gary Leon Ridgway, the Green River killer; Theodore Kaczynski, the Unabomber; Eric Rudolph, the Olympic Park bomber; and Jared Lee Loughner, who killed six people including a federal judge and a 9-year-old girl at a Tucson, Ariz., shopping mall and critically wounded Congresswoman Gabrielle Giffords.

It boils down to geography, timing and circumstances.

In other words - luck.

Eighteen states have abolished capital punishment. Six of them have made that choice in the last six years. Governors in another three - including Washington's Jay Inslee - have declared a moratorium for the duration of their tenure in office.

Only six states have carried out executions this year - Florida, Georgia, Missouri, Texas, Ohio and Oklahoma.

Ever since the U.S. Supreme Court required juries rather than judges to decide who dies in the execution chamber, more prosecutors have been reluctant to risk the money and time required to seek the death penalty.

Because of problems with chemicals used in lethal injections, Ohio and Oklahoma are taking a timeout.

The Eighth Amendment prohibits cruel and unusual punishment.

Idaho's death penalty has become a punishment most unusual. Doesn't that make it cruel as well?
- M.T.