

Friday's impossiblity became Tuesday's fact

Marty Trillhaase, Lewiston Tribune

Richard Albert Leavitt was executed by lethal injection Tuesday, 28 years after the murder of Danette Elg of Blackfoot.

As reported by the four journalists who witnessed the procedure - from the time Leavitt was escorted into the execution chamber until his death was pronounced at 9:25 a.m. Pacific Daylight Time - the process was solemn, dignified and almost militarily precise.

"Six correctional officers, wearing surgical masks and stationed three to a side like pallbearers, lifted the inmate off the gurney and strapped him to the execution table inside the Idaho state prison on Tuesday," wrote The Associated Press' Rebecca Boone. "They attached intravenous lines to Richard Leavitt's arms and electrodes to the convicted killer's chest and stomach to measure his breathing and heart rate."

Later, Idaho Department of Correction Director Brent Reinke said: "I am grateful that we have four media witnesses here to tell you what they saw. Our goal was to make this as professional as possible with dignity and respect, and I believe we met that mark,"

What a stunning reversal.

Only a week ago, lawyers representing Reinke's agency were telling the federal courts they could not open up the full execution to witnesses. Pressed on a legal challenge from this newspaper and other Idaho media groups, they wanted to conceal from viewing the first half of the execution - the condemned man's entrance into the execution chamber, his being strapped down to the gurney and the attachment of the IV lines - in spite of a decade-old 9th Circuit U.S. Court of Appeals' ruling to the contrary.

Reinke's lawyers argued this was necessary in order to:

- Preserve Leavitt's right to privacy during his final moments of consciousness.
- Alleviate strain placed on other death row inmates.
- Protect Leavitt's family and friends from watching him suffer.
- Safeguard the medical team from public exposure while they insert the IV lines.

That was good enough for U.S. District Judge Edward Lodge, who further noted deputy prisons bureau Chief Jeff Zmuda offered that opening up the execution to the public's proxies would "greatly impair IDOC's ability to recruit and retain medical team members and will have a chilling effect on the medical team members' willingness to serve." Added Lodge, there simply wasn't enough time to consider the reporters' arguments without throwing Leavitt's execution off schedule.

Then the 9th Circuit weighed in.

No, it told the prison, the burden of proof wasn't on the reporters. It was state's duty to comply with a court ruling issued 10 years ago.

The 9th Circuit ruled Friday, giving the state about three days to comply.

And what happened?

Was the execution delayed while the prison department scrambled to devise new procedures?

Did the agency find it impossible to recruit medical team members to work under the watch of witnesses?

No.

The only thing that changed was this: Witnesses entered the viewing room earlier and the curtain was pulled back on the process.

At the least, you have to wonder if the correction department was overwrought about performing this dreadful task in the open; at the worst, you may suspect the agency of misleading the public.

So often, when government officials say they can't disclose the public's business to the public - on advice of lawyers - you have no choice. You have to take their word for it.

Yet, when the courts intervened here, you saw how remarkably and quickly an arm of that government was able to adapt and do its job in the sunshine.

Makes you wonder how much more public business could be conducted in public, doesn't it? - M.T.