IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

VERNON EVANS, JR., *
DOC Number 172357
Maryland Correctional Adjustment Center *
410 East Madison Street
Baltimore, Maryland 21202 *

Plaintiff, *

vs. * Civil Action No. ____

MARY ANN SAAR, Secretary, *
Department of Public Safety and
Correctional Services *
300 East Joppa Road
Suite 2000 *
Towson, Maryland 21286;
*

FRANK C. SIZER, JR., Commissioner,
Maryland Division of Correction *
6776 Reisterstown Road
Baltimore, Maryland 21215; *

LEHRMAN DOTSON, Warden, *
Maryland Correctional Adjustment Center
401 East Madison Street *
Baltimore, Maryland 21202
*

GARY HORNBAKER, Warden,
Metropolitan Transition Center *
954 Forrest Street
Baltimore, Maryland 21202 *

and, *

JOHN DOES, *

Defendants. *

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COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Vernon Evans, Jr., by and through his undersigned attorneys, brings the following complaint against defendants, all in their official capacity.

1. Plaintiff Vernon Evans, Jr., is under a sentence of death imposed by the State of Maryland. The Maryland legislature has chosen lethal injection as the State's method of execution, and the Maryland Division of Correction ("DOC") has designed a procedure by which lethal injections will be carried out in the State. The DOC procedures purport to induce death only after a condemned prisoner has been rendered unconscious and unable to experience pain. In reality, however, DOC's policies and practices in carrying out lethal injection create a grave and wholly unnecessary risk that Evans will be conscious during his execution, experiencing wanton pain and suffering, in violation of the United States Constitution

2. Evans does not herein challenge the fact of his sentence of death, nor does he challenge the constitutionality of lethal injection. Methods of lethal injection that would comply with the United States Constitution exist and are available for use by Defendants. Evans alleges, however, that the practices and policies chosen by the DOC to carry out that statute violate his constitutional rights.

3. In particular, Evans brings this action pursuant to 42 U.S.C. § 1983 for violations and threatened violations of his right to be free from cruel and unusual punishment and arbitrary and capricious DOC procedures under the Eighth and Fourteenth Amendments to the United States Constitution. Evans seeks equitable and injunctive relief.

PARTIES

4. Plaintiff Vernon Evans, Jr., is a United States citizen and a resident of the State of Maryland. He is currently a death-sentenced inmate in the custody of Defendants and under the

supervision of the DOC. His DOC Number is 172357. He is held at the Maryland Correctional Adjustment Center, 410 East Madison Street, Baltimore, Maryland 21202. On January 9, 2006, the Circuit Court for Baltimore County signed a Warrant of Execution, setting Evans's execution for some time in the five-day period beginning February 6, 2006.

5. Defendant Mary Ann Saar is the Secretary of the Maryland Department of Public Safety and Correctional Services ("DPSCS"), and is sued in her official capacity.

6. Defendant Frank C. Sizer, Jr., is the Commissioner of the DOC, and is sued in his official capacity.

7. Defendant Lehrman Dotson is the Warden of Maryland Correctional Adjustment Center where death-row inmates are housed, and is sued in his official capacity.

8. Defendant Gary Hornbaker is the Warden of the Metropolitan Transition Center (formerly the Maryland Penitentiary) in Baltimore where the execution of Evans would occur, and is sued in his official capacity.

9. Defendants, John Does, are employed by or under contract with the DOC to make preparations for, and carry out, Evans's execution. They include, but are not limited to, physicians, EMTs, physician's assistants, the "execution commander," and the "execution team." Their identities are not yet known, and as a matter of policy, Defendants will not reveal the identities of these persons. These persons are sued in their official capacity.

10. Defendants are acting under color of State law in establishing and designing the DOC execution practices and policies and would act under color of State law in selecting and administering to Evans chemicals in amounts, in combinations, and by methods that would unnecessarily risk conscious suffering and pain in the execution of a sentence of death.

JURISDICTION AND VENUE

11. This Court has subject-matter jurisdiction over Evans's federal law claims pursuant to 28 U.S.C. §§ 1331 (federal question) and 1343 (civil rights violations).

12. An actual controversy exists between these parties, thus the Court has the authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-22.

13. Venue in this Court is proper under 28 U.S.C. § 1391 because all defendants reside and work in the judicial district, and because a substantial portion of the events giving rise to this claim have occurred and will occur within this district as part of the official business of DPSCS.

BACKGROUND FACTS

14. Plaintiff Evans has been on death row since 1984. Pursuant to Md. Code Ann., Corr. Servs. § 3-905, the DOC intends to carry out Evans's sentence of death by lethal injection. That statute requires use of an ultrashort-acting barbiturate ("or similar drug") and a paralytic agent.

15. The procedures employed by the DOC in executing inmates have varied over the years. Until 1994, Maryland executed inmates with lethal gas. Upon information and belief, since adoption of lethal injection in 1994 as the State's method of execution, both the chemicals used and the amounts injected have changed and the procedures employed in lethal injection have been repeatedly amended. Those procedures were amended twice within the three weeks preceding the June 2004 execution of Steven Oken. Evans does not know whether those procedures were again amended prior to the December 2005 execution of Wesley Baker.

16. Evans first sought access to DOC's current execution protocol pursuant to a public information request sent on March 7, 2005. In an effort to obtain the most up-to-date information, on December 20, 2005, Evans filed a second public information request with DOC seeking access to the

procedures employed in Baker's December 2005 execution. While DOC has never produced a complete copy of this protocol, Evans nevertheless filed a Request for Administrative Remedy with Warden Lehrman Dotson on December 9, 2005. The Warden denied this request on January 3, 2006, and Evans promptly appealed the Warden's decision to DOC Commissioner Frank Sizer. Commissioner Sizer has yet to address the merits of Evans's appeal.

17. While lethal injection has been asserted to be a peaceful and humane way to induce death, the chemicals that DOC has chosen to use and the procedures it has chosen to employ in injecting those drugs into inmates, have the potential to cause recipients, including Evans if he is subject to such injection, to consciously suffer an excruciatingly painful death. Indeed, because of this grave risk of agonizing death, it is unlawful in Maryland to euthanize animals in the manner in which Defendants intend to execute Evans.

18. On information and belief, in devising its current lethal injection procedures, DOC chose to use (1) the ultrashort-acing barbiturate sodium pentothal, (2) a neuromuscular blocking agent pancuronium bromide, and (3) potassium chloride, which causes cardiac arrest.

Sodium pentothal

19. On information and belief, the first chemical the DOC would inject in its execution of Evans will be sodium pentothal, which, unless fully and effectively delivered, may not provide sedative effect throughout the entire execution procedure. If less than the intended dose of anesthetic is administered, an inmate could regain consciousness and be sentient when the DOC injects the second and third chemicals—pancuronium bromide and potassium chloride—which, as described below, stop respiration and stop the heart, respectively. In other words, there is a risk that inmates executed in Maryland will awaken after an initial injection of sodium pentothal to experience suffocation induced by

pancuronium bromide and the painful sensation of potassium chloride as it burns through their veins, ultimately causing cardiac arrest.

20. The risk of agonizing pain is further increased by practices and policies of the DOC, which, on information and belief, were designed by persons with no medical training and which do not require the involvement of the medical personnel necessary to administer anesthesia properly.

21. Administration of general anesthesia is a complicated task. In Maryland and elsewhere in the United States, general anesthesia is administered by physicians who have completed residency training in the specialty of anesthesiology, and by nurses who have undergone the specialized training to become Certified Registered Nurse Anesthetists ("CRNAs"). Physicians and nurses who have not completed the requisite training to become anesthesiologists or CRNAs are not permitted to provide general anesthesia.

22. Particular skill is required to administer sodium pentothal. Because of complications associated with maintaining anesthesia with sodium pentothal, when a surgical plane of anesthesia must be maintained for more than a matter of moments, drugs other than sodium pentothal are usually employed. If sodium pentothal is used both to induce and maintain a surgical plane of anesthesia, a qualified person must be present to assure that the sodium pentothal has been correctly administered and is maintaining a state of unconsciousness.

23. On information and belief, DOC procedures for lethal injection do not require participation of anesthesiologists or CRNAs or other similarly qualified persons. In other words, personnel administering anesthesia during lethal injections would not necessarily be permitted to administer anesthesia during treatment at the prison hospital. In fact, they might not be allowed to administer anesthesia in any circumstance other than an execution. On information and belief, the

procedures for lethal injection employed by DOC do not require any person—let alone a qualified person—to monitor the plane of anesthesia achieved by administering sodium pentothal during an execution.

Pancuronium bromide

24. On information and belief, the second chemical the DOC would inject in its execution of Evans would be pancuronium bromide. Pancuronium bromide is a derivative of curare that acts as a neuromuscular blocking agent. Such drugs are used clinically to induce skeletal muscle relaxation to facilitate tracheal intubation and/or to suppress spontaneous respiration. While pancuronium bromide paralyzes skeletal muscles, including the diaphragm, it has no effect on consciousness or the perception of pain and suffering, and thus must be administered with great care. Unless consciousness is clinically assessed *prior* to the administration of pancuronium bromide, the paralysis induced by the drug will prevent anyone—even someone with advanced medical training—from determining whether the patient is conscious and experiencing pain. Incidents of neuromuscular blocking agents immobilizing inadequately anesthetized patients are well documented. Patients undergoing such experiences have provided reports of the terror and torture involved in experiencing extreme pain while immobilized and unable to signal distress.

25. Pancuronium bromide serves no medical function in an execution. Its use makes a prisoner look serene because the prisoner's muscles cannot move or contract to show pain, suffering, or any emotion.

26. If the barbiturate (sodium pentothal) is administered in insufficient quantity, or if it is administered using procedures that do not deliver the complete dose or allow it to wear off or be neutralized or rendered otherwise ineffectual, the subsequent administration of pancuronium bromide

and the neuromuscular paralysis that results will completely mask the fact that an inmate has regained consciousness and feeling. The inmate will be unable to communicate the fact that he or she is conscious, and as the potassium chloride is injected into the inmate's body to induce cardiac arrest, the executioners and witnesses will be unable to observe any signs of awareness or distress.

27. Furthermore, if the sodium pentothal and potassium chloride are administered insufficiently to sedate and kill the inmate, the paralysis induced by pancuronium bromide will ultimately cause an intense, painful death by asphyxiation. Desperately straining to draw breath, but with no corresponding muscle response, an inmate would not be able to signal that he or she is awake and experiencing the agony of suffocation. Death by asphyxiation as a method of execution has been ruled unconstitutional as violative of the Eighth Amendment.

Potassium chloride

28. On information and belief, the third chemical the DOC would inject if it executes Evans would be potassium chloride. While a certain level of potassium chloride is needed for normal cardiac electrical activity, the quantity of potassium chloride administered in executions causes death by stopping the heart. Potassium chloride affects the nerve fibers lining the veins, and there is universal medical agreement that its administration to an inadequately sedated person would be agonizingly painful. In an inadequately sedated inmate, administration of potassium chloride would cause extreme and protracted pain and would be torturous.

29. This risk of extreme and protracted pain is entirely unnecessary. The DOC could use a less-painful heart-stopping drug. The DOC has arbitrarily and needlessly added potassium chloride to its lethal injection procedure.

Unwarranted Risk of Maladministration

30. The risk of inflicting severe and unnecessary terror, torture, and pain upon Evans is made more dire because, on information and belief, the practices and policies DOC has devised for his execution do not include adequate directions for preparation of drugs and training of staff, do not establish necessary safeguards regarding the manner in which the execution is to be carried out, do not require participation of qualified personnel in performing critical tasks in the lethal-injection process, do not provide for necessary supervision of personnel, and do not establish appropriate criteria and standards that these personnel must rely upon in exercising their discretion during the lethal injection process.

31. Defendants have conceded maladministration of at least one lethal injection—that of Tyrone Gilliam in 1998. On its website, DOC declares that its lethal-injection procedure "lasts about seven minutes."[1/] The execution of Tyrone Gilliam took 23 minutes. (In fact, on information and belief, only one of the five lethal injections conducted by DOC—that of Flint Gregory Hunt in 1997—has been completed within 7 minutes.) Throughout Gilliam's execution, a primary IV line leaked and liquids pooled on the execution room floor. On information and belief, the same DOC personnel who failed to correctly set up and monitor the intravenous line system in Gilliam's execution will be responsible for designing and carrying out Evans's execution. Unless DOC's protocols and procedures are changed, Evans risks suffering the same botched execution as did Gilliam.

32. Maryland's policies and procedures are specifically deficient in numerous respects. Among other things, administration of intravenous ("IV") anesthesia requires proficiency at achieving

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1/ *See* http://www.dpscs.state.md.us/publicinfo/capitalpunishment/historical.shtml (last visited January 18, 2006).

and maintaining IV access. On information and belief, Defendants are not qualified to create and maintain IV access. On information and belief, DOC procedures directing IV access in lethal injections are vulnerable to error, and thus risk grossly inadequate anesthesia.

33. Moreover, on information and belief, Defendants intend to carry out the lethal injection process without taking into consideration any individualized facts that affect appropriate dosage, such as Evans's body weight and his individual sensitivity to or tolerance to DOC's chemicals of choice.

34. On information and belief, Evans's lethal injection will also be carried out without adequate preparation for the very real possibility that, due to Evans's previous intravenous drug use, DOC personnel will not be able to access a peripheral vein. If such peripheral access is not obtained, Defendants will need to create venous access through a surgical cut-down, wherein a vein is exposed by incision or is catheterized, or through the invasive and painful processes of inserting a percutaneous central line, which involves tunneling under the skin to reach the subclavaian or central vein. Were placement of a central venous catheter to be needed, an array of equipment would be necessary, both for the placement of the catheter and for treating any complications that might occur during the procedure. Further, it is essential that placement of a central line be performed by an individual with adequate proficiency and demonstrated licensure and credentialing in an appropriate medical field. Failure by the DOC to provide staffing and personnel able to perform the placement of a central venous catheter risks painful and unnecessary consequences that include exsanguinations (severe blood loss), pneumothorax (collection of air between the lung and the inner chest wall, which if progressive and untreated, results in an excruciating death by suffocation), pain, unstable cardiac rhythms requiring delivery of electrical shocks, perforation of the bladder, and multiple other complications. Because cut-downs and insertion of central venous catheters require much more skill and training and are far more invasive than

peripheral venous access, they are normally performed in highly equipped emergency rooms or operating theatres. On information and belief, Defendants are not so equipped.[2/]

35. On information and belief, DOC procedures governing lethal injections risk unnecessary pain, suffering, and death because, unlike procedures in effect in other States, DOC procedures make no provision for the possibility that a stay of execution will be received after the lethal injection process has begun.

36. Several other states execute death-sentenced inmates using lethal injection. On information and belief, correctional officers in many of these States administer lethal injections pursuant to procedures suffering the same deficiencies as those used by DOC: failure to provide adequate directions for preparation of drugs and training of staff, failure to establish necessary safeguards regarding the manner in which the execution is to be carried out, failure to require participation of qualified personnel in performing critical tasks in the lethal-injection process, failure to provide for necessary supervision of personnel, and failure to establish appropriate criteria and standards that these personnel must rely upon in exercising their discretion during the lethal injection process. These deficiencies have resulted in a startling number of botched lethal injections, including the following:

a. Brian Steckel was executed in Delaware in 2005. Several minutes after corrections officials began administering the lethal injection, he was still speaking. At one point, he turned towards the witnesses and said: "Why is it taking so long?"[3/]

[2/] Recognizing that it was ill-equipped to gain venous access through a cut-down or percutaneous central line, at least one State's corrections agency has formally promised that, in the event that peripheral venous access is not obtained within a reasonable period of time, a lethal injection will be postponed. Another State, recognizing the likelihood of complications and errors where insufficiently credentialed personnel attempt even peripheral venous access, employs a properly credentialed *physician* to insert a percutaneous central line in *all lethal injections*.

b. Joseph Martinez High was executed in Georgia in 2001. Corrections officials searched High's arms for 20 minutes for a suitable vein. Ultimately, a medical doctor was called upon to make an incision and insert a needle into High's chest. A second needle was inserted into his arm.[4/]

c. Bennie Demps was executed in Florida in 2000. While Florida law requires two injections, corrections officials forewent the second injection after searching for 33 minutes and failing to find a suitable vein. In his final statement, Demps complained of pain and bleeding.[5/]

d. Joseph Cannon was executed in Texas in 1998. Immediately after his final statement, the lethal injection commenced, but a vein in Cannon's arm collapsed and the needle sprung loose of his arm. Cannon closed his eyes and exclaimed: "It's come undone." Corrections officials drew the curtain between the witnesses and the execution chamber for 15 minutes, then reopened it for a weeping Cannon to give a second final statement, and the lethal injection resumed.[6/]

e. Tommie Smith was executed in Indiana in 1996. The lethal injection process took over an hour. Corrections officials were unable to find suitable veins in Smith's arms, so they called upon a medical doctor to make an incision for insertion of a needle into Smith's chest.

3/ Randall Chase, *Convicted Killer Executed in Delaware*, ASSOCIATED PRESS, Nov. 4, 2005.

4/ Doug Gross, *Lethal Injection Draws Criticism*, FLA. TIMES-UNION, Nov. 12, 2001.

5/ Deborah W. Denno, *When Legislatures Delegate Death: The Troubling Paradox Behind State Uses of Electrocution and Lethal Injection and What It Says About Us*, 63 OHIO ST. L.J. 63, 141 & Table 9 (2002).

6/ Jane Ellen Dee, *Sisters of Death Row*, HARTFORD COURANT, Apr. 15, 2001.

This process also failed. Eventually, a needle was inserted into an artery in Smith's foot. Smith remained conscious during each of these incisions. Corrections officials acknowledged that they had been aware that Smith had unusually small veins before the lethal injection, and that they were aware his small veins could complicate attempts at venous access.[7/]

f. Emmitt Foster was executed in Missouri in 1995. More than 30 minutes after corrections officials expected the lethal injection to be complete, Foster was still alive. Corrections officials discovered he was strapped too tightly to the gurney and loosened the straps so that the chemicals could flow into his veins.[8/]

g. John Wayne Gacy was executed in Illinois in 1994. An "unexplained glitch" in a delivery tube caused the lethal injection to last eighteen minutes.[9/]

h. Ricky Ray Rector was executed in Arkansas in 1992. After nearly an hour, a team of eight was unable to find a suitable vein for administration of Rector's lethal injection. Rector eventually assisted corrections officials in finding a vein.[10/]

i. George "Tiny" Mercer was executed in Missouri in 1990. When corrections officials were unable to gain peripheral venous access, they had to call on a medical doctor to perform a "cut-down" into Mercer's groin.[11/]

[7/] Darlene Scates, *Injection Flap Spurs Review*, SOUTH BEND TRIBUNE, Jul. 28, 1996.

[8/] Michael Browning, *Botched Efforts Scar Capital Punishment Legislature to Consider Lethal Injection*, PALM BEACH POST, Jan. 3, 2000.

[9/] Jim Ritter, *Lethal Injection is Painless, But Only if Done Exactly Right*, CHICAGO SUN-TIMES, Jun. 10, 2001.

[10/] Denno at 140 & Table 9.

j. Steven McCoy was executed in Texas in 1989. During the execution, McCoy violently reacted to the drugs—gasping, coughing, and choking during their administration. The Texas Attorney General stated that McCoy "seemed to have a somewhat stronger reaction," and noted that "the drugs might have been administered in a heavier or dose or more rapidly," than intended.[12/]

f. Raymond Landry was executed in Texas in 1988. After the flow of lethal chemicals had begun, a syringe popped out of his vein, spraying the chemicals towards the witnesses. The execution team had to reinsert the catheter into his vein; the curtain between the execution chamber and the witnesses was drawn for 14 minutes while venous access was reestablished.[13/]

g. James Autry was executed in Texas in 1984. Throughout his 10-minute lethal injection, he complained of pain. Corrections officials blamed "faulty equipment or inexperienced personnel."[14/]

Veterinary Standards of Euthanasia

37. Because of legal, moral, and ethical restrictions on human euthanasia, the best model and best source of information and humane protocols for extinguishing life is studies of methods for euthanasia of animals. The American Veterinary Association ("AVMA") has protected animals from

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11/ Denno at 139 & Table 9.

12/ Kathy Fair, *Witness to an Execution*, HOUSTON CHRONICLE, May 27, 1989.

13/ J.R. Gonzales, *A Deadly Distinction*, HOUSTON CHRONICLE, Feb. 7, 2001.

14/ Bob Hepburn, *When the State Kills*, TORONTO STAR, Apr. 11, 1987; Denno at 139 & Table 9.

the tragic mishaps described above by devising a protocol for euthanasia that has a very high tolerance to error, is simple to administer, and creates very little risk of pain and suffering. Condemned prisoners deserve the same protection.

38. The AVMA Panel on Euthanasia continually studies various protocols for the euthanasia of animals to determine whether they are humane. It periodically issues reports identifying acceptable and unacceptable protocols for euthanasia.

39. Because injection of potassium chloride—a chemical unnecessarily added to Maryland's protocol for the execution of humans—is so excruciatingly painful, the AVMA prohibits its use as the sole agent effecting euthanasia. If the chemical is to be used at all, it may only be administered by a practitioner with the skill and training necessary to assure that the subject to be euthanized has reached and maintains a surgical plane of anesthesia.

40. The report of the Panel on Euthanasia also explicitly forbids the use of a neuromuscular blocking agent—such as pancuronium bromide—in combination with a sedative—such as sodium pentothal—because this protocol is deemed inhumane. Consistent with the Report of the AVMA Panel on Euthanasia, Maryland and at least nineteen other states have enacted statutes that preclude the use of a neuromuscular blocking agent in the euthanasia of animals. Ten states have done so explicitly.[15/] At least nine additional states have implicitly banned such practices.[16/]

[15/] Fla. Stat. §§ 828.058 and 828.065; Ga. Code Ann. § 4-11-5.1; Me. Rev. Stat. Ann., Tit. 17, § 1044; Md. Code Ann., Criminal Law, § 10-611; Mass. Gen. Laws § 140:151A; N.J.S.A. 4:22-19.3; N.Y. Agric. & Mkts § 374; Okla. Stat., Tit. 4, § 501; Tenn. Code Ann. § 44-17-303; Tex. Health & Safety Code § 821.052(a).

[16/] Conn. Gen. Stat. § 22-344a; Del. Code Ann., Tit. 3, § 8001; Ky. Rev. Stat. Ann. § 321.181(17) and 201 KAR 16:090, § 5(1); 510 Ill. Comp. Stat., ch. 70, § 2.09; Kan. Stat. Ann. § 47-1718(a); La. Rev. Stat. Ann. § 3:2465; 2 Mo. CSR 30-9.020(F)(5); R.I. Gen. Laws § 4-1-34; S.C. Code Ann. § 47-3-420.

41. By failing to ensure that anesthesia is administered properly during executions and by including a neuromuscular blocking agent (pancuronium bromide) as part of the execution protocol, the DOC has chosen to implement Maryland's statute for execution and chosen a protocol and procedure for the death of condemned inmate that contravenes the standards in Maryland for euthanization of animals.

Alternatives to Maryland's Lethal-Injection Scheme

42. The particular cocktail of drugs chosen by DOC in designing its lethal injection procedures is not required by statute and unnecessarily makes a painful death more likely. Humane alternatives that would not present the grave risk of conscious paralysis and torture are available and would be inexpensive to implement. Under the current Maryland statute, the DOC could execute inmates humanely and constitutionally by administering an anesthetic (other than sodium pentothal) that would maintain unconsciousness while the other chemicals cause death, by administering pain killers, by using a less painful paralytic agent, by omitting unnecessary neuromuscular blocking agents, and by requiring appropriate medical safeguards, including the involvement of qualified medical personnel.

CLAIM FOR RELIEF

43. Evans incorporates and realleges the averments contained in paragraphs 1 through 42 by reference.

45. Defendants, acting under color of Maryland law, intend to execute Evans in a manner that will cause unnecessary pain, that do not comport with evolving standards or decency, thereby depriving Evans of his rights under the Eighth and Fourteenth Amendments to the United States Constitution to be free from cruel and unusual punishment and arbitrary and capricious procedures, in violation of 42 U.S.C. § 1983.

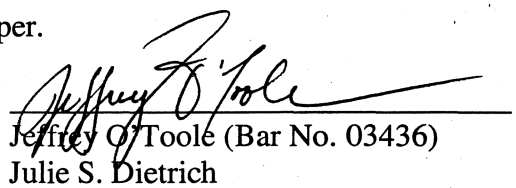
PRAYER FOR RELIEF

Evans prays that relief be entered against Defendants, granting Evans the following:

1. A permanent injunction barring Defendants from executing him using the practices and procedures currently employed by DOC in lethal injections.

2. Declaratory judgment stating that DOC protocols, policies, practices, and acts and omissions as described herein violate Plaintiffs' rights as guaranteed by the Eighth and Fourteenth Amendments to the Constitution of the United States;

3. Reasonable attorneys' fees pursuant to 42 U.S.C. § 1988, as well as for costs of suit and any further relief that this Court deems just and proper.



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Dated: January 19, 2006

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