

Cruel and Usual: The History of Lethal Injection

by Liliana Segura and Jackie Roche

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In February 2018, Alabama tried to execute 61-year-old Doyle Lee Hamm. Hamm, on death row since 1987, had terminal cancer.



His lawyers had warned for months that it was too risky to kill him by lethal injection.

Things could go horribly wrong.



But Alabama didn't listen. For two and a half hours prison personnel poked and prodded to get his killing underway, aiming IV lines at his legs and ankles, then into his right groin.



On the gurney, Hamm wished for death. But just before 11:30p.m., officials announced the execution was off.



Something disturbingly similar had happened just a few months earlier in Ohio.



Prison staff tried and failed to insert IV lines to kill 69-year-old Alva Campbell.

The governor called off the execution after 25 minutes.



Campbell died less than four months later.

Botched executions are as old as the death penalty itself. But it's rare for a person to survive an execution. Now it had happened twice in three months. What was going on?



A lot of people still think of lethal injection as a sophisticated medical procedure—a modern death penalty marvel. But in reality, it is junk science.

Lethal injection is an American invention. It was first studied by a death penalty commission in New York State in the 1880s. But they rejected the idea on the basis it could make people mistrustful of the hypodermic needle.



So they went with electricity.
"The most humane and practical method known to modern science."

Things went wrong from the start. In 1890, William Kemmler became the first man killed in the electric chair. It was ghastly. But other states adopted it anyway, killing thousands of people by the time the U.S. Supreme Court suspended executions in 1972.



After the justices gave the green light to restart executions four years later, a pair of politicians in Oklahoma decided they wanted to replace the electric chair with something superior.

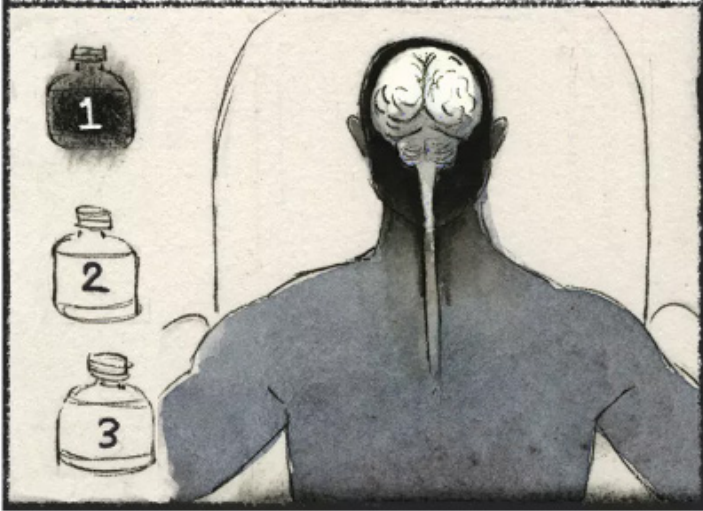


The Oklahoma Medical Association wanted nothing to do with the project. So they settled on the help of the state's chief medical examiner, Jay Chapman.

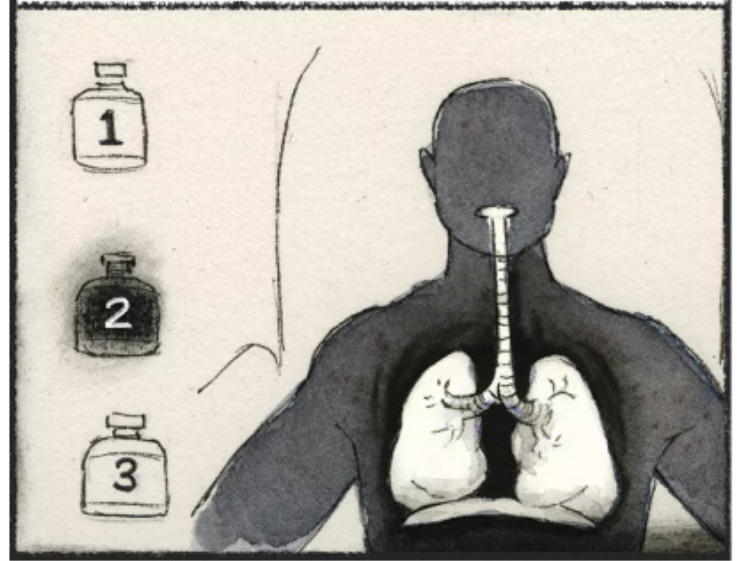
Chapman was no expert in euthanasia. And he knew other medical professionals might not approve. But he wasn't worried.



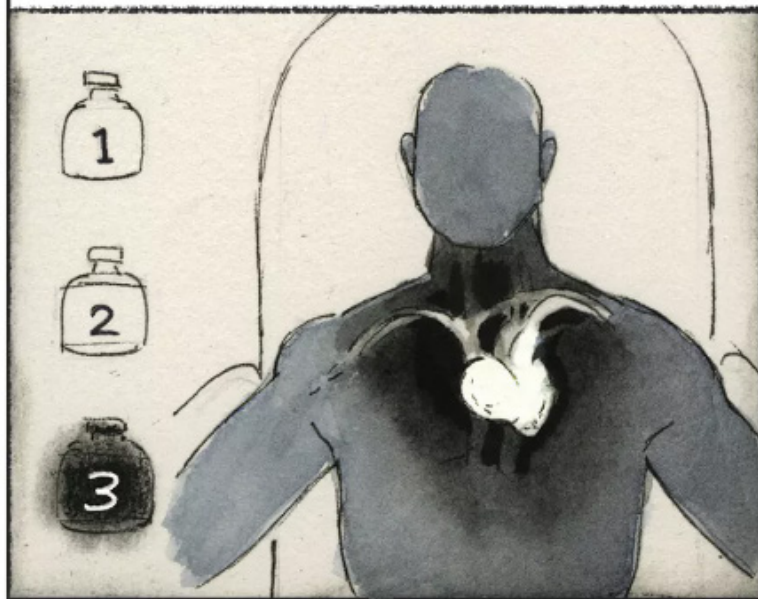
Chapman devised a three-drug cocktail: The first drug (sodium thiopental) anesthetized the prisoner.



The second (generally pancuronium bromide) caused paralysis, including the muscles used for respiration.



And the third (potassium chloride) stopped the heart.



The combination would make it look easy and humane, like a person was going to sleep.

The paralytic was especially important, since it would mask the ugly outward signs of what was happening. But there wasn't much research behind the formula.

The first to try the experiment was the state of Texas. To complete the medical look, the head of the Texas Department of Corrections, W.J. Estelle, decided prisoners should be strapped down on a hospital gurney, rather than the old electric chair.

A prison chaplain suggested "a nice clean room, something that doesn't look like a prison."



In 1982, Charlie Brooks Jr. was the first to die by lethal injection. One media witness said he "gasp[ed] and wheez[ed]," but things went okay otherwise. Still, over the next few years, Texas struggled with lethal injection, especially when it came to finding veins.



Sometimes, men on the gurney helped find a vein on their own bodies for executioners to use.

In 1992, AP reporter Michael Graczyk attended an execution that was more violent than any he had seen.

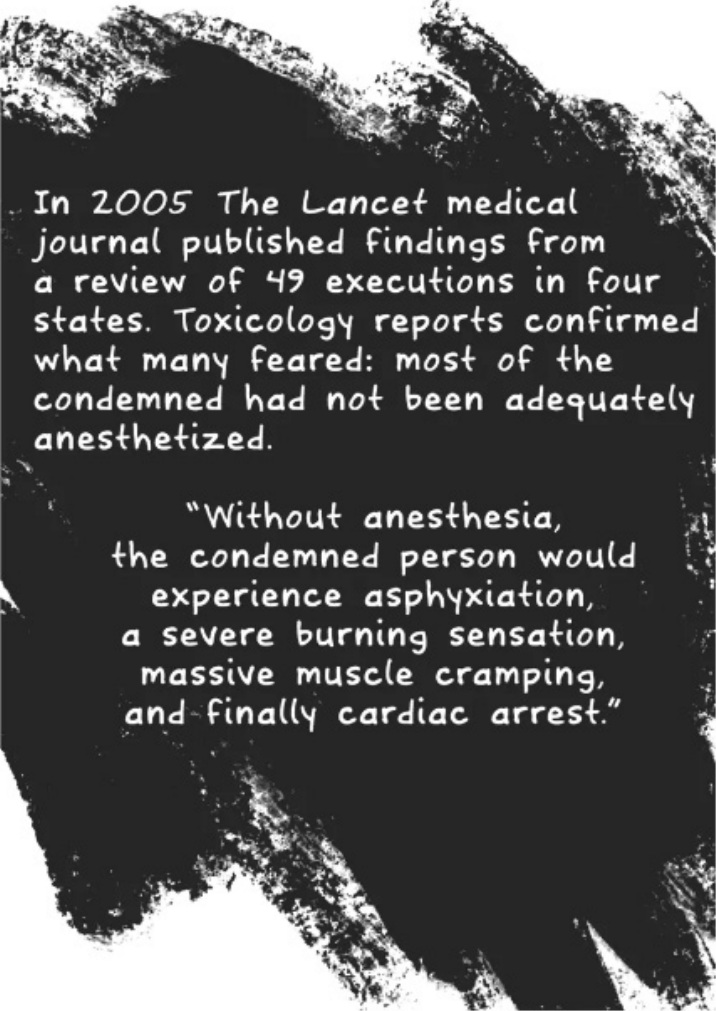


The man "went into a coughing spasm, groaned and gasped, lifted his head from the death chamber gurney and would have arched his back if he had not been belted down. After he stopped breathing, his eyes and mouth remained open."

These were glaring signs that the drugs were not working as planned. Nevertheless, lethal injection continued to spread.



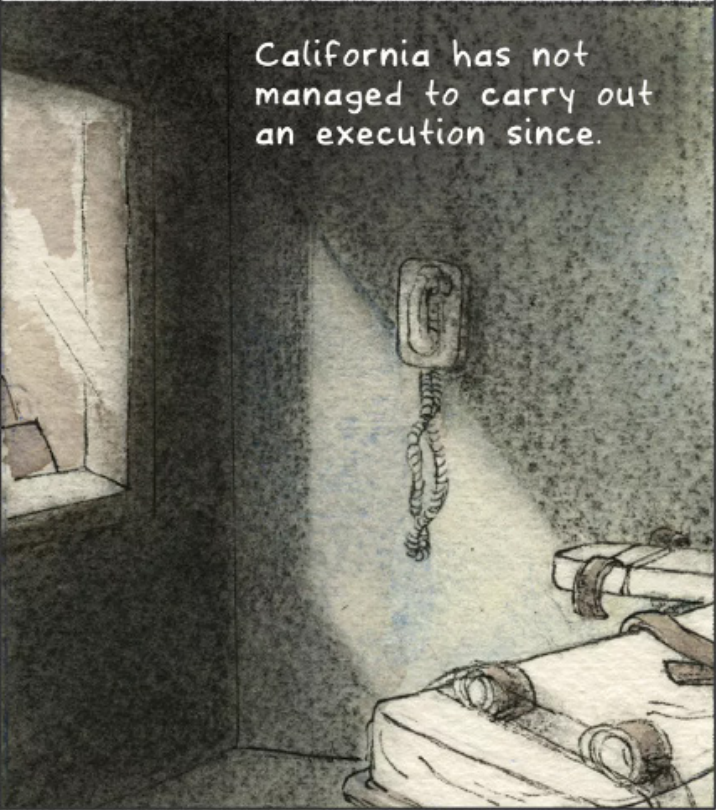
By 2002, nearly every death penalty state and the federal government had adopted it.



In 2005 The Lancet medical journal published findings from a review of 49 executions in four states. Toxicology reports confirmed what many feared: most of the condemned had not been adequately anesthetized.

"Without anesthesia, the condemned person would experience asphyxiation, a severe burning sensation, massive muscle cramping, and finally cardiac arrest."

In 2006, Michael Morales was hours from being placed on the gurney when the two anesthesiologists who were supposed to do this refused to participate.

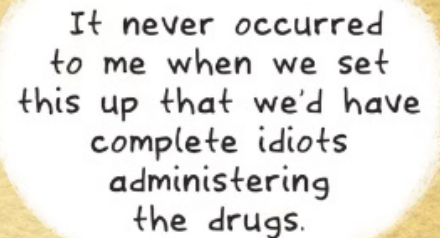


California has not managed to carry out an execution since.

Later that year, Florida botched the execution of Angel Diaz, causing Governor Jeb Bush to temporarily suspend all executions "to consider the humanity and constitutionality of lethal injections."



The momentum against lethal injection finally led the U.S. Supreme Court to agree to review Kentucky's execution protocol, in *Baze v. Rees*. As the justices prepared to hear the case, Jay Chapman criticized the misuse of his invention.



It never occurred to me when we set this up that we'd have complete idiots administering the drugs.



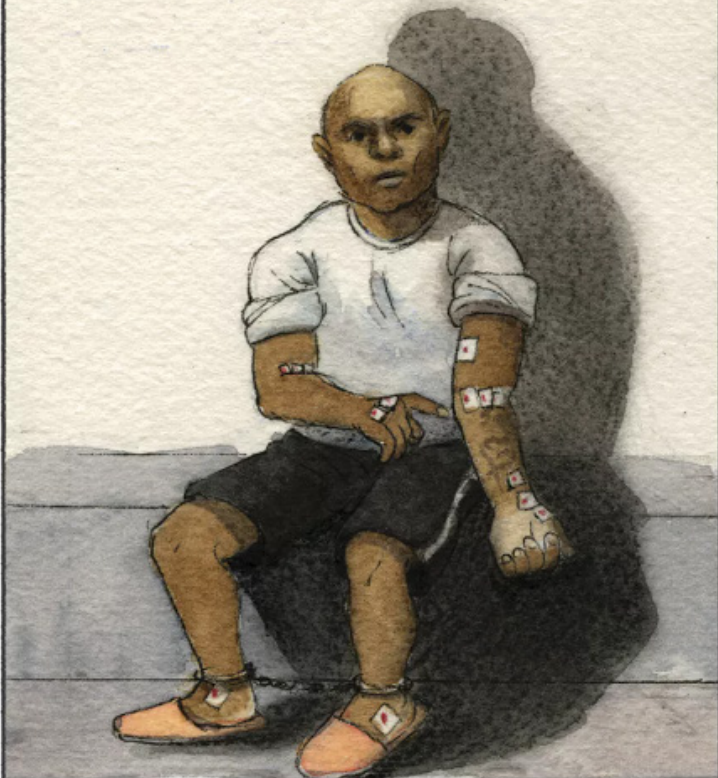
Oral arguments took place in January 2008. Kentucky defended its protocol and the paralytic. "The purpose it serves is the purpose of dignifying the process for the benefit of the inmate and for the benefit of the witnesses," a state lawyer said.



The Court upheld lethal injection, 7-2. "[A]n isolated mishap alone does not violate the Eighth Amendment," John Roberts wrote.



But executions continued to go wrong. In 2009, Romell Broom became the first man to survive an attempted lethal injection after Ohio prison staff failed to find a vein. They gave up after two hours.



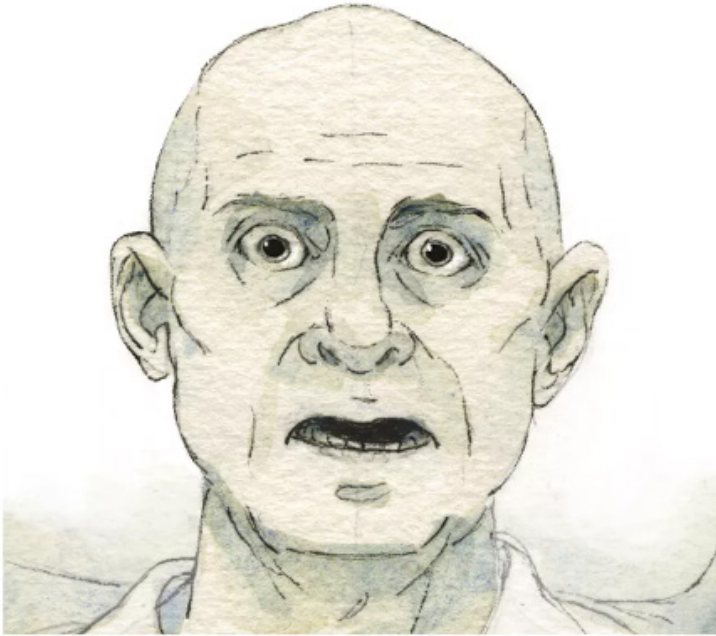
Meanwhile, Hospira Inc., the sole U.S. manufacturer of sodium thiopental, announced a temporary halt after one of its suppliers stopped making a crucial ingredient.



Their plans to move operations to Italy were thwarted when the Italian government refused to facilitate the export of drugs to be used in executions under pressure from human rights groups.

States began getting sodium thiopental from wherever they could. One batch was traced back to an office building in the back of a driving school in the U.K.

By the time it was used to kill people in the U.S., it had expired. The men died with their eyes open.



Some states broke federal laws in their scramble to seek drugs. The DEA swooped in and seized them.



Meanwhile, states started passing new laws to expand their options, just in case. Tennessee made the electric chair the default alternative. Others weighed the firing squad.



In 2013 The Florida Department of Corrections made lofty promises about a brand new drug, the sedative midazolam:

it was "compatible with evolving standards of decency that mark the progress of a maturing society, the concepts of the dignity of man, and advances in science, research, pharmacology, and technology."

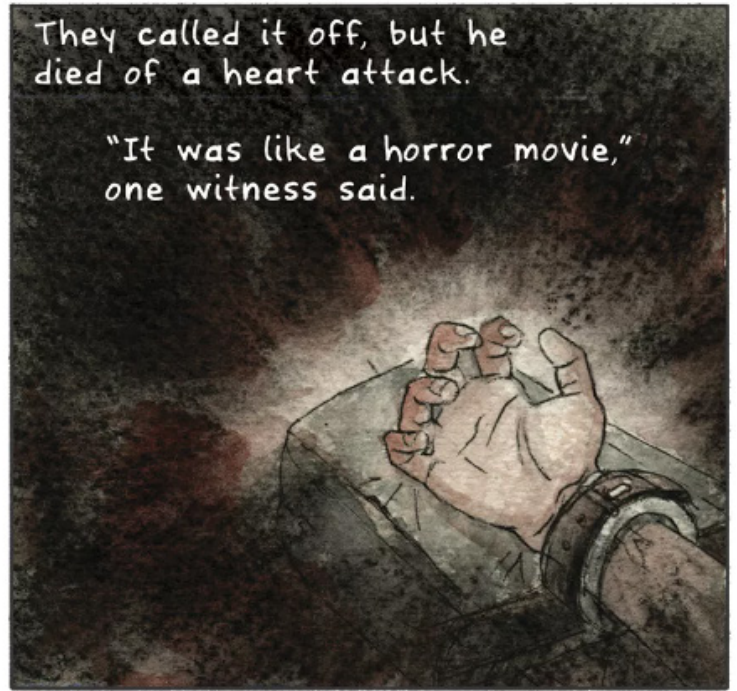


In 2014, Oklahoma tried to execute Clayton Lockett with midazolam. He writhed and moaned. Executioners discovered the drugs were seeping into the tissue of his inner thigh instead of his veins.

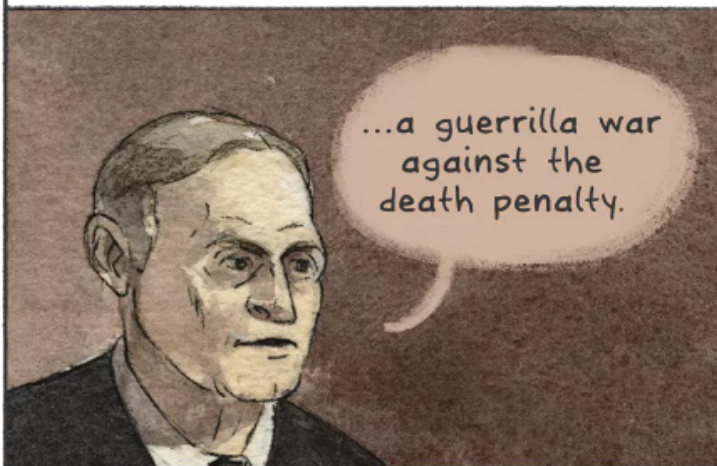


They called it off, but he died of a heart attack.

"It was like a horror movie," one witness said.



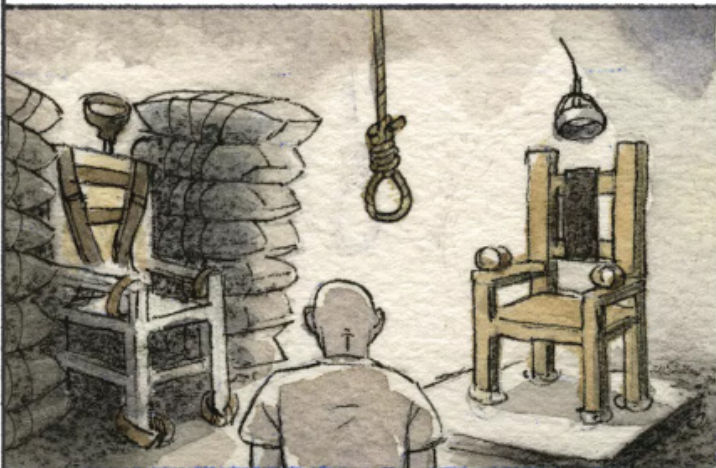
After the disastrous execution, the Supreme Court heard a challenge to Oklahoma's lethal injection protocol, in *Glossip v. Gross*, where Justice Alito claimed activists were waging...



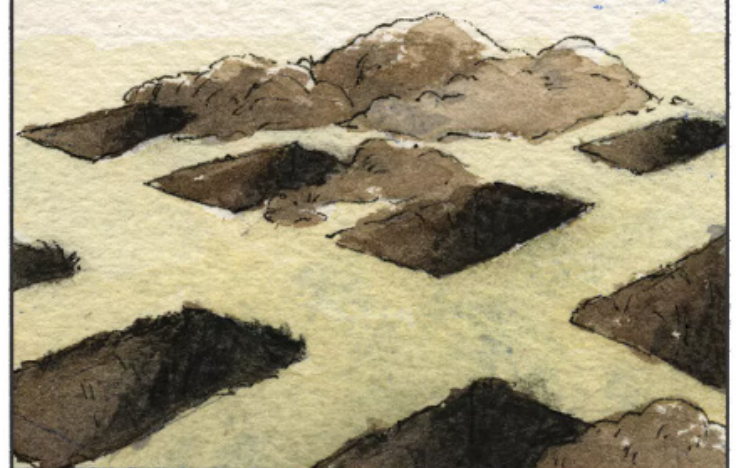
But later that year the Court upheld midazolam, 5 - 4. Alito reasoned that, as long as there is capital punishment, there must be a constitutional way to carry it out.



It also added a perverse new requirement for prisoners challenging their execution by lethal injection: They now had to provide a viable alternative way for the state to kill them.



After *Glossip*, states rushed to adopt midazolam. In 2017, Arkansas set eight execution dates over 11 days, trying to make use of its supply before it expired.

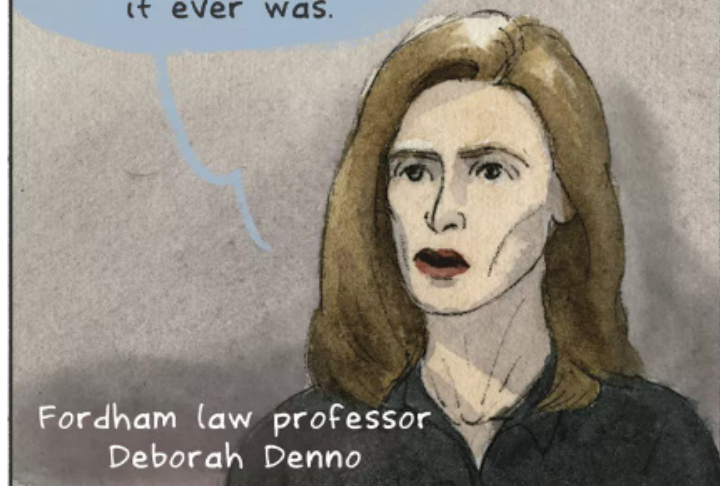


What cruel irony that the method that appears most humane may turn out to be our most cruel experiment yet.



Justice Sonia Sotomayor

This process has gotten a lot riskier and even more irresponsible than it ever was.



Fordham law professor
Deborah Denno

Jay Chapman, the creator of lethal injection, is not a big fan of executions these days.

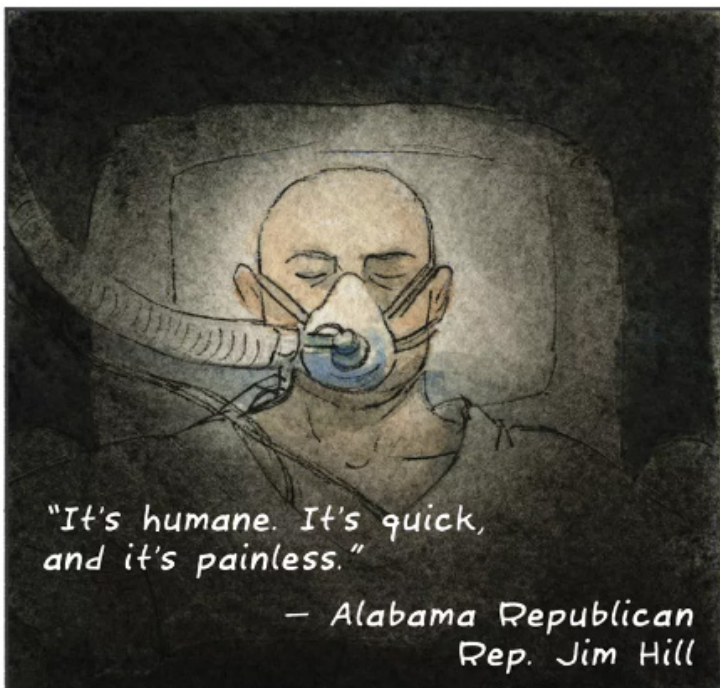
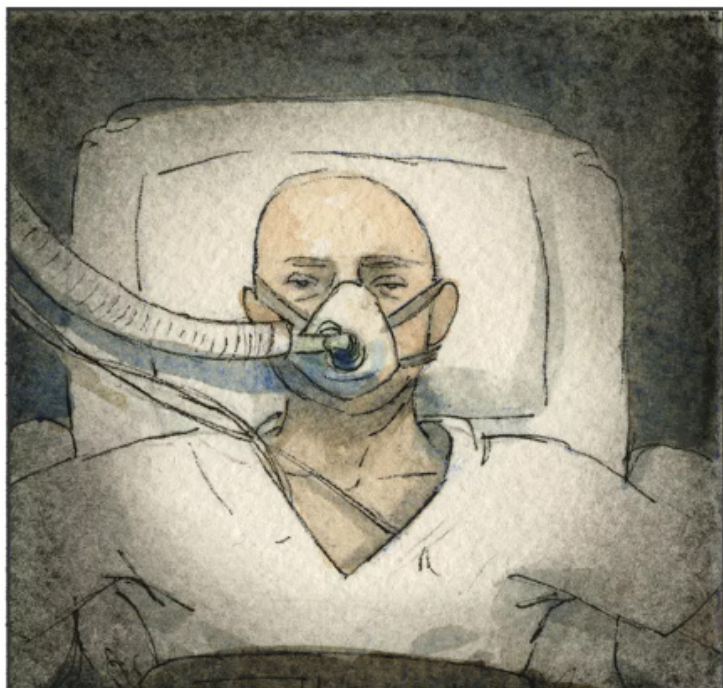
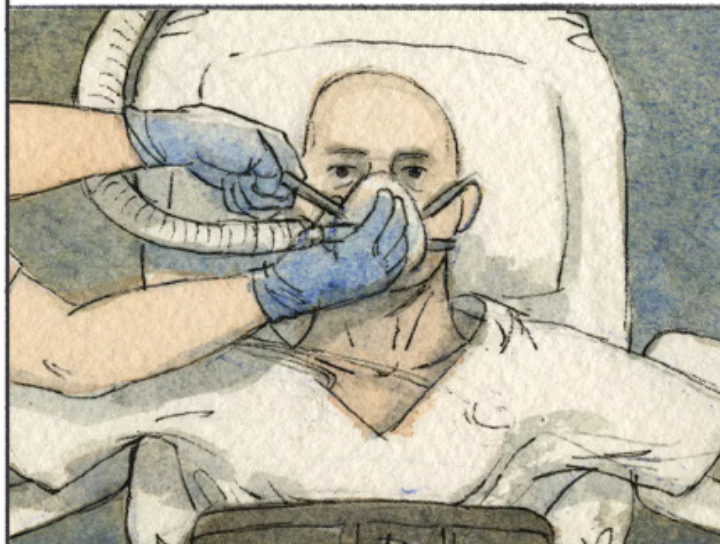
I had no idea,

I was so naive.

I was young—
I had no idea that it would spread so quickly across the states.



Meanwhile, Alabama has announced a whole new execution invention: nitrogen gas.



"It's humane. It's quick, and it's painless."

— Alabama Republican
Rep. Jim Hill

Sources: "Photos Form a Botched Lethal Injection," The New Republic, deathpenaltyinfo.org, Deborah Deno, and WHNT News.