

Under Review

3 executions stayed, state to decide lethal injection procedure

BY AMY BRYSON

Just the Facts

NORTH CAROLINA DEATH PENALTY 1962-2007

- *June 1, 1977* - The state's revised capital punishment law restores the death penalty for first-degree murder, which is defined as willful, deliberate and premeditated killing or killing while committing another felony.
- *1962-1983* - There are no executions in North Carolina.
- *Feb. 8, 2007* - 167 offenders sit on North Carolina Death Row.

NORTH CAROLINA'S EXECUTIONER

- *Electric chair* - The primary execution method for the first 28 years that North Carolina has the death penalty. On March 18, 1910, Walter Morrison becomes the first man to die in the state's electric chair at Central Prison.
- *Gas Chamber* - In 1936, the state first uses the gas chamber. It remains an alternative until 1998.
- *Lethal Injection* - In 1983, inmates choose between lethal injection or the gas chamber. In 1998, lethal injection becomes the state's only execution method.

MARCUS REYMOND ROBINSON

- *Aug. 5, 1994* - Robinson is sentenced to death in Cumberland County Superior Court for the first degree murder of Eric Tornblom. He also receives a concurrent sentence of 40 years for robbery with a dangerous weapon, 10 years for larceny and five years for possession of a weapon of mass destruction.
- *Nov. 3, 1995* - The North Carolina Supreme Court affirms Robinson's conviction and sentence of death.
- *Oct. 30, 2006* - The Supreme Court of the United States denies Robinson's petition to review the decision of the Fourth Circuit of Appeals, dismissing his appeal.
- *Dec. 12, 2006* - Execution date is set for Marcus Reymond Robinson
- *Jan. 25, 2007* - Execution is delayed by Wake County Senior Resident Superior Court Judge Donald W. Stephens, who rules that the Council of State must approve changes to execution procedures.

(Facts according to the North Carolina Department of Correction)

On Jan. 25, Superior Court Judge Donald Stephens stayed two executions scheduled for the end of January, and he later halted one planned for Feb. 9 to discuss altering the procedure for lethal injections.

While a doctor's presence during all executions is state law, on Jan. 18 the North Carolina Medical Board unanimously voted that it is unethical for a physician to actively participate.

"If the physician is doing something that actually furthers the progression of death, that is a violation of our policy," said George Saunders, chairman of the board's policy committee to a writer for the Associated Press. "If the physician is trying to decrease suffering and make that person's life the best that they can for however long it is going to be, that is an appropriate action."

In response, prison officials modified execution procedure to allow a nurse to monitor brain-waves while a doctor stands by in case of a medical emergency.

Citing a 1909 law, Stephens said that these changes require the approval of the governor and nine other statewide office holders before executions can continue. The executions of Marcus Robinson, 33, who was scheduled to die at 2 a.m. the next day and James Thomas, 51, scheduled for death a week later were immediately halted. The execution of James Campbell, 45, was stayed later.

The constitutionality of lethal injections is currently a nationwide debate. Critics contend that the mix of three chemicals currently used is cruel and unusual punishment. The first drug renders the inmate unconscious, the second paralyzes him and the third stops his heart. In mid-December, Angel Diaz's execution in Florida required 34 minutes, twice as long as normal, and a rare second dose of the chemicals due to needle misplacement.

"Botched executions are a pretty clear violation of the Constitution," said junior Aubrey Clark-Brown, who is active in Amnesty International and a member of the NCSSM Ethical Awareness Group. "With the Florida case, I think it is increasingly important to have a doctor present to make sure the injection is not painful."

Death penalty critics also believe that it may be impossible for doctors to both uphold the Hippocratic Oath and play a role in executions.

"On the one hand, a physician needs to be present in order to ensure humane treatment of a prisoner in the course of an execution," where three drugs are administered through IV lines, said Dr. Jonathan Groner, an Ohio State University professor and pediatrician to a writer for the Los Angeles Times. "On the other hand, physicians are forbidden from participating in an execution because of their medical ethics. It's an irresolvable conflict inherent in the method of the execution."

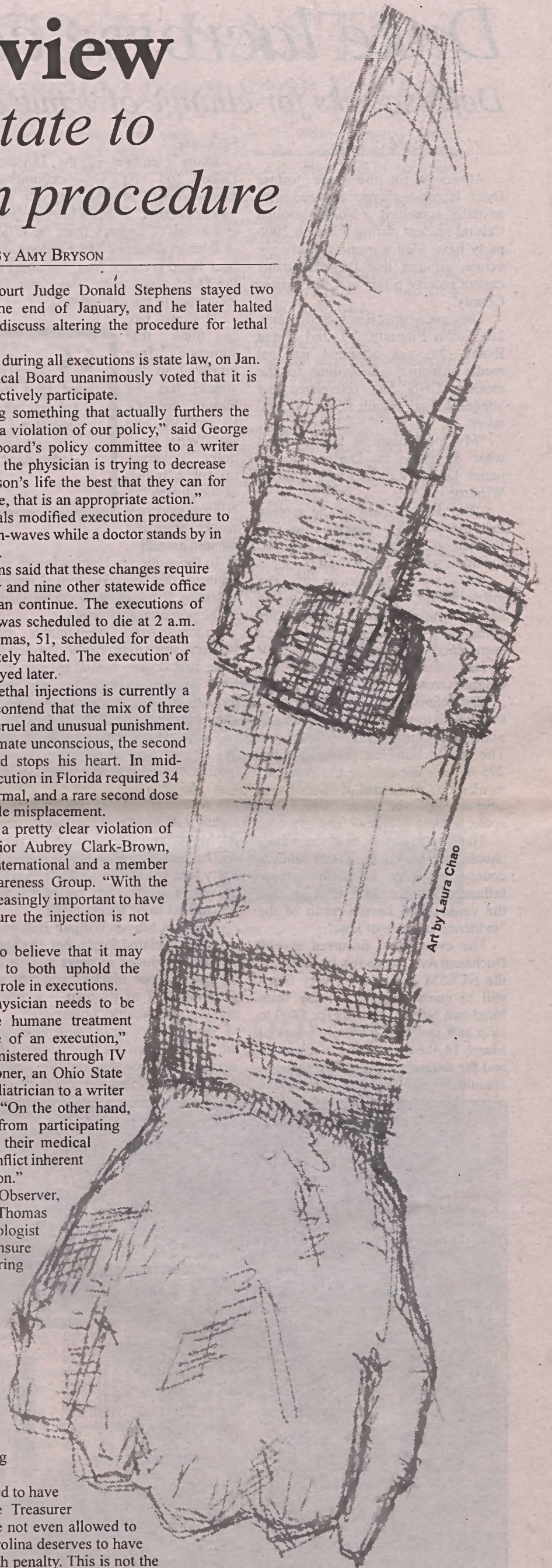
According to The News & Observer, lawyers for Robinson and Thomas argue that an anesthesiologist should be present to ensure sedation and to avoid suffering during executions.

On Tuesday, Feb. 6, the North Carolina Council of State approved the changes to the procedure in a 7-3 vote. In a council made up of Governor Mike Easley, Lieutenant Governor Beverly Purdue, and eight other statewide officials, many felt it was the wrong forum for this debate.

"This body is not equipped to have a policy discussion," State Treasurer Richard Moore said. "We're not even allowed to hear from people. North Carolina deserves to have an honest debate on the death penalty. This is not the place to have it."

The council formally asked lawmakers to address many issues surrounding the death penalty in North Carolina, including a doctor's role.

"It's going to end up in the legislature one way or another," said Rich Rosen, a UNC law professor who opposes the death penalty. "The question is how long they want to play around before they do that."



Art by Laura Chao