

NEWS DESK

THE LONG DEFENSE OF THE ALABAMA DEATH-ROW PRISONER DOYLE LEE HAMM



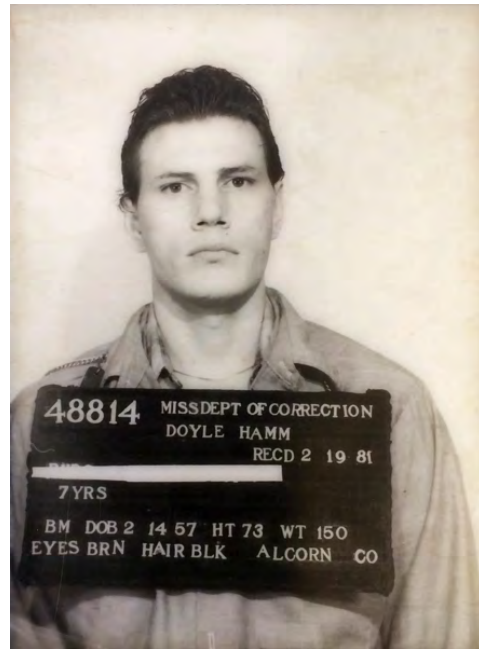
By Jennifer Gonnerman

September 13, 2016

On death row at the Donaldson Correctional Facility, in Bessemer, Alabama, Doyle Lee Hamm is known as Pops. He is fifty-nine years old and has been at Donaldson since 1987, when a jury found him guilty of fatally shooting a motel clerk during a robbery. The fact that Hamm has managed to elude execution for nearly three decades can be explained, in large part, by the tenacity of a single person: his attorney, Bernard E. Harcourt. The two met in 1990, soon after Harcourt began working for the lawyer Bryan Stevenson, who at the time had just started an organization in Alabama

to defend condemned prisoners. Hamm was one of Harcourt's first clients.

The two men came from opposite worlds. Harcourt was raised on Park Avenue, went to Princeton, and had recently graduated from Harvard Law School; his father was a partner in a law firm. Hamm grew up in northwest Alabama, the tenth of twelve children; his father worked as a carpenter and cotton picker, made his own moonshine, drank every day, beat his children with a switch, and was a frequent resident of the county jail (on charges of public drunkenness). Hamm's sister later described their childhood home as "constant hell all the time." She also recalled their father telling the children, "If you don't go out and steal, then you're not a Hamm."



After decades of appeals, the Supreme Court will decide this month whether to hear Doyle Lee Hamm's case. It will be his last chance to avoid execution. Photograph by Mississippi State Penitentiary via Bernard E. Harcourt

Growing up, Hamm flunked first grade, drank beer and whiskey mixed together, graduated to sniffing glue several times a day, quit school in the ninth grade, ingested Valium and Percocet and quaaludes, watched his six older brothers all go to jail, and eventually acquired his own extensive rap sheet, including arrests for burglary, assault, and grand larceny. He married and had one daughter. (The marriage lasted six months; his wife cited "habitual drunkenness" as one of the grounds for divorce.) In January of 1987, Hamm went on a crime spree that included a shooting in Mississippi and ended when he and two accomplices were arrested following the murder of a motel clerk in Alabama. About three hundred and fifty dollars were missing from the register and the clerk was found on the floor, shot once in the temple. Hamm confessed to the murder, and, at thirty years old, was condemned to death by way of Alabama's electric chair,

which was painted yellow and known by the nickname Yellow Mama.

Ever since meeting Hamm, Harcourt has been trying to save him from this fate. In the early nineteen-nineties, he hired an investigator named Gaye Nease to research Hamm's past and search for "mitigating evidence" that might persuade a judge to spare his life. With Nease's help, Harcourt collected hundreds of pages of documents, including Hamm's parents' original marriage certificate, from 1938; his father's honorable-discharge papers from the Army, from 1946; and medical records from Doyle's birth, in 1957. Harcourt also obtained elementary-school report cards, test scores showing Hamm reading at a first-grade level in fifth grade, his mother's food-stamp paperwork, his brothers' rap sheets, divorce papers filed by his brothers' wives, Hamm's own divorce papers, and photos of his parents and siblings and ancestors.

Through the decades, wherever Harcourt went—to Harvard to get a doctorate in political science, to the University of Arizona to teach, to the University of Chicago for a tenured job—Hamm's case went with him. This did not mean simply dropping one more box into the back of a U-Haul; Harcourt had accumulated some twenty thousand pages, between legal documents and mitigating evidence—enough to fill eleven bankers boxes. Over the years, he kept in touch with Hamm by phone and travelled back to Alabama to work on the case.

Harcourt's hope was not to prove Hamm's innocence but to persuade a judge to throw out his death sentence and instead give him life in prison without parole. He fought on Hamm's behalf in state court until 1998, when Harcourt asked for a hearing to be postponed and a judge assigned Hamm another attorney. The new lawyer lost the hearing. Harcourt still considered himself



Hamm's attorney, however, and immediately filed an appeal on his behalf. This request was denied in 2002. Harcourt appealed the decision to the Alabama Supreme Court but lost again. He continued his battle in federal district court, filing a habeas petition in 2006 to try to get Hamm a new trial. That court denied Hamm's request in 2013.

A school photo of Hamm. Courtesy the family of Doyle Lee Hamm via Bernard E. Harcourt
Courtesy the family of Doyle Lee Hamm via Bernard E. Harcourt

None of these outcomes surprised Harcourt, but he kept at it, appealing the case to the U.S. Court of Appeals for the Eleventh Circuit, where he was turned down once again. About six months ago, Harcourt exercised his last option: filing a petition to the U.S. Supreme Court. On September 26th, the Court is set to consider whether to hear Hamm's case. The stakes could not be higher: if the Supreme Court declines to accept Hamm's case, Harcourt believes that the state of Alabama will finally set Hamm's execution date.

Today, the archive of Doyle Lee Hamm's life resides in Harcourt's sixth-floor office at Columbia Law School, where he is now a professor. Stacks of manila folders fill an entire file drawer, spread across a desk, and occupy the tops of two lateral file cabinets. News articles about Hamm's crime fill one folder, and relay a horrific story, but there is another story, too, hidden inside other folders—it comes out through interviews with a sibling and a neighbor and tells how Hamm's father came home from the Second World War so traumatized that he began drinking all the time. There is a report by a psychologist describing Doyle as a "severe polydrug abuser for much of his life," who had a "history of seizures" and "a significant history of head injuries," and who shows "neuropsychological impairment" and probable "brain damage." There is also a stack of documents, rising more than a foot, about an earlier arrest, in Tennessee. In 1977, at age twenty, Doyle, drunk and high, got into a fight in a bar parking lot. Afterward, the police arrested him for allegedly robbing the other man. Though he insisted that he had not robbed anyone, his court-appointed attorney coached him on how to enter a

guilty plea, and he was given a prison sentence of five years.

Fourteen years later, when Harcourt reinvestigated this conviction, the “victim” admitted that there had been no robbery, and Hamm’s attorney at the time, a man named William Travis Gobble, admitted that he had never investigated the allegations. “I was just too busy and overworked to give this case the time and attention it needed,” he said in an affidavit. “My practice at the time was not to educate my appointed clients about the judicial system. I assumed that they knew what a criminal trial was and what happened at trial. My concern was to make sure that my client gave the right answers at the plea hearing to get the deal agreed upon.” Years later, at the penalty-phase hearing following Hamm’s trial for capital murder, prosecutors brought up this earlier conviction to try to persuade jurors that they should send Hamm to the electric chair.

Another disturbing aspect of Hamm’s death-penalty case recently received some media attention. In 1999, when a state judge ruled against Hamm, he issued an eighty-nine-page opinion on the case. The trouble was that the opinion appeared to have been written by the office of the Alabama Attorney General. (The judge’s opinion was identical to a document submitted to the court one business day earlier by the Attorney General’s office. They even shared a title: “Proposed Memorandum Opinion”—apparently, the judge had not even removed the word “Proposed” before signing it.) “It bothers the heck out of me,” a judge on the Eleventh Circuit of the U.S. Court of Appeals said in court when he and his colleagues considered the case. “I don’t believe for a second that that judge went through eighty-nine pages in a day and then filed that as his own, as if he had gone through everything—went through his notes, the transcript, the exhibit[s], and the like,” he said. “It just can’t be done!”

The “proposed memorandum opinion”—and the legality of a federal court later deciding to defer to it—is at the center of Harcourt’s petition to the Supreme Court. “Deferring to the proposed order is basically deferring to the state’s interpretation of

the evidence,” Harcourt says. In this case, the state’s attorney general “was serving as prosecutor and judge.” (In its response to Hamm’s petition, the office of the Alabama Attorney General admitted that the “judge did not take the word ‘Proposed’ out of the order,” but argued that Hamm had failed to prove that the “findings of fact or conclusions of law” in the proposed opinion were “erroneous.”)

Harcourt has represented Hamm pro bono since leaving Alabama in 1994. “There have been times I’ve just felt overwhelmed by my other responsibilities,” he says. “I write books—I don’t litigate death-penalty cases for a living.” Harcourt occasionally considered handing Hamm’s case to another lawyer, but he never did. “I gave him my word early on, when we first met,” he said. “I told him I’d stick with him.” For twenty-six years, they’ve kept in regular contact, on the phone and by mail, and now that they are preparing to find out if the Supreme Court might hear his case, they speak more often.

Two or three times a week, Harcourt gets a call from Hamm, from death row in Donaldson prison. “Hey, how you doing?” Harcourt greeted him one afternoon this past June. “You doing O.K.?”

“Yeah, doing good,” Hamm said.

When they speak on the phone, Hamm always sounds the same—low-key, uncomplaining. Harcourt mentioned a riot that had taken place at another prison in Alabama and asked Hamm if he had heard about it. “I saw it on TV,” Hamm said, but insisted that all was calm where he was confined. “Everything is pretty good.” The two men talked about what had been on the menu lately, whether Hamm went outside that morning, which man on death row was most recently executed.

These days, Hamm has more contact with Harcourt than with any of his relatives; the last time he saw a family member, he recalls, was when his younger sister came to see him in 1997. Seven of his nine siblings are now dead. (One brother hanged himself,

two brothers had heart attacks, another died in a car wreck.) Aside from his attorney, the person Hamm talks to most often is the father of his friend Keith Johnson, who was on death row with him for fifteen years. Whenever Johnson's father is feeling well enough, he comes back to the prison to visit Hamm. Johnson was executed, in 2002, for his role in the fatal shooting of a jewelry dealer, even though he did not fire the shot that killed the victim.

Hamm estimates that he has lost about twenty-six friends in his nearly three decades on death row. Some died of natural causes, but many were executed; fifty-four people have been put to death in Alabama in those years. Yellow Mama, Alabama's electric chair, is now in storage. (Johnson was the first Alabama inmate to die by lethal injection.) Hamm now has two granddaughters, ages fourteen and four, and gray in his hair. The other inmates refer to him and three others as the O.M.G., which stands for the Old-Man Gang. He continues to pass his days in much the same way he has for years—playing dominoes, reading the Bible, and walking laps inside the prison.

“He did a good job, regardless of what happens,” Hamm said of Harcourt. “If I hadn't had Bernard, I believe I would have been executed. Yep, I do believe that.” He pauses. “I believe,” he said, “I would've been executed ten years ago.” The question of what will happen next—whether Hamm will be allowed to die of natural causes in prison, or will be tied down to a table one day and injected with deadly doses of drugs—lingers on the edge of every conversation he has with his attorney. One afternoon in late August, their phone call ended with Harcourt saying, “Take care, Doyle. Talk to you soon.” The hope of both men is that their calls will always end this way, that there will be never be a need to say goodbye.



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NEWS DESK

THE DECADES-LONG DEFENSE OF AN ALABAMA DEATH-ROW PRISONER ENTERS A FINAL PHASE



By Jennifer Gonnerman

December 19, 2017

When he was growing up, Bernard Harcourt often heard stories about the man who had saved his father's life, in 1940, after Germany invaded France. At the time, his father, who was Jewish and born in Paris, was twelve years old. Harcourt's father, aunt, and grandmother fled in a boat to Portugal with the help of a man named Aristides de Sousa Mendes. The story left a deep impression on Harcourt, who says he grew up feeling that his own life "was in some way made possible by someone's courage" and "that I, too, owed that back to others."

Harcourt, now fifty-four, earned a law degree and a Ph.D. in political science from Harvard, wrote six books, edited eight more, and became a professor at Columbia Law School. He also, for the past twenty-seven years, has been representing a prisoner on Alabama's death row named Doyle Lee Hamm. Soon after finishing law school, Harcourt moved to the South and began working alongside the attorney Bryan Stevenson, who had just started a project providing lawyers to death-row prisoners in Alabama. In 1990, in a small, cell-like visitation room at Donaldson Correctional Facility, Harcourt met Hamm. Hamm's crime: shooting a motel clerk in the head during a robbery.

Hamm had already been sentenced to be executed, but Harcourt was determined to do all he could to insure that this never happened. Over the next three years, Harcourt collected hundreds of pages of documents describing Hamm's life before the murder, showing, for example, that Hamm's father had been an alcoholic with an extremely long rap sheet; that all of his six older brothers had rap sheets, too; that Hamm had been a severe drug addict who had started inhaling glue and drinking whiskey at an early age; and that he had a "significant history of head injuries" and probable "brain

damage.” Harcourt also discovered that, in 1977, Hamm had been arrested for a robbery that he had not committed and spent five years in prison. Yet, after Hamm was found guilty of the motel murder, during the penalty phase of his trial, prosecutors had told the jury about this robbery conviction to try to persuade them to vote for a death sentence.

After appealing Hamm’s sentence to the Alabama Supreme Court and the U.S. Court of Appeals for the Eleventh Circuit, Harcourt attempted, in 2016, to persuade the U.S. Supreme Court to review Hamm’s case. That year, I wrote [a story](#) about Harcourt’s decades-long defense of Hamm. “If I hadn’t had Bernard, I would have been executed,” Hamm told me at the time, pausing on the phone line. “I believe I would’ve been executed ten years ago.”

Last Wednesday, the day after Doug Jones defeated Roy Moore in the U.S. Senate race, Harcourt’s cell phone rang with a call from Alabama. He didn’t recognize the number, but he answered anyway. The man on the line was very brief, and by the time the call ended Harcourt was very shaken. Afterward, he found a voice mail on his office phone from the same man: “Hey, Mr. Harcourt. Good morning. My name is Leale McCall. I’m a staff attorney at the Alabama Supreme Court clerk’s office. I was calling about Mr. Doyle Lee Hamm. The Supreme Court has set an execution date for Mr. Hamm for February 22, 2018,” he said. “An order will be going out. If you’ve got any questions, you’re welcome to call me.”



Doyle Lee Hamm has been on death row in Alabama since 1987. Photograph Courtesy the family of Doyle Lee Hamm via Bernard E. Harcourt

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For twenty-seven years, Harcourt had been able to keep the state of Alabama from executing his client, but now, in the end, it seemed likely that the state would prevail. For the last several weeks, Harcourt had been speaking with Hamm every day or two to make sure that Hamm was getting the medical care he needed. “He’s literally been seeing doctors,” Harcourt said. “They’re trying to treat his cancer at the same time the state is trying to execute him.”

Hamm is sixty years old and has cranial and lymphatic cancer. The U.S. Supreme Court declined to review his case, and, this past September, Harcourt brought an anesthesiologist who teaches at Columbia to Alabama to examine Hamm. The doctor found that he had virtually “no accessible veins” in his arms and legs due to years of intravenous drug use. Executing Hamm by lethal injection will almost certainly require “central vein access”—a challenging procedure under any circumstances, but one that would likely be much more complicated in Hamm’s case, due to his

lymphatic cancer. Relying on the doctor's findings, Harcourt filed papers in court requesting that the court appoint a special master to "oversee a proper medical examination" of Hamm before executing him.

After getting the call from Alabama, Harcourt left a message for Hamm with the warden's office at Donaldson prison. Hamm called him back a few minutes later from a phone in the prison's day room. After Hamm hung up the phone, he told nearby death-row inmates his news. "Everybody was quiet and telling me, 'We're sorry, man, that this happened, and we hope everything turns out alright,'" Hamm recalled.

Later that afternoon, Harcourt filed yet another piece of litigation on Hamm's behalf, focussing on the challenge of obtaining "central venous access." If prison officials try to execute Hamm with their usual method of lethal injection, "he will suffer an agonizing, bloody, and painful death," he wrote. "Mr. Hamm's serious and deteriorating medical condition poses an unacceptable risk that he will experience significant pain." Harcourt urged state officials to consider an "oral injection of a lethal drug cocktail" instead of an intravenous injection. Harcourt hopes that somehow, in the weeks ahead, he will be able to find a way to save his client from the death chamber. If not, he will travel to Alabama once again, this time to witness the event that he has spent nearly three decades fighting to stop: the execution of Doyle Lee Hamm.



Jennifer Gonnerman joined The New Yorker as a staff writer in 2015. She is the author of "Life on the Outside: The Prison Odyssey of Elaine Bartlett."

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Another Failed Execution: the Torture of Doyle Lee Hamm

Just months after Ohio failed to kill 69-year-old Alva Campbell, Alabama tried for two and a half hours to execute Hamm, a man with terminal cancer.

[Liliana Segura](#)

March 3 2018, 9:58 a.m.

As the white van rolled toward the death house at Holman Correctional Facility last Thursday night, 57-year-old Danny Hamm began to sweat. The vehicle was emblazoned with the logo of the Alabama Department of Corrections. Two uniformed officers guarded the passengers inside. They drove through a series of sally ports and pulled up to the execution chamber, stopping just short of the red door. Parked in front was a large black coroner's vehicle. "I don't bite fingernails," Hamm said, "but mine was down to my quicks." Any moment, he would be escorted out of the van and led inside to watch his brother die.

In January 1987, Hamm's older brother Doyle was arrested for fatally shooting a night clerk, Patrick Cunningham, during a motel robbery. He was swiftly convicted and sentenced to death. A lawyer from New York had helped keep him alive for three decades, uncovering serious [flaws](#) in his case, including mitigating evidence the jury never heard. Like many who face execution, Doyle and Danny Hamm had grown up in a deeply dysfunctional household – one of the 12 siblings [described](#) it as "constant hell all the time." As Doyle Hamm aged on death row, his brothers and sisters started passing away. By 2018, almost all of his siblings were gone.



Doyle Hamm before his conviction in 1987.

But Danny Hamm survived, along with their sister Linda. After news came that the state of Alabama planned to execute Doyle on February 22, they left their hometown of Cherokee, on the banks of the Tennessee River, and drove south to Atmore, Alabama, just north of the Florida line. In the visitation room at Holman prison, the brothers were reunited after 30 years. "There were a lot of tears," said Nika Cohen, a member of the legal team. Yet Hamm seemed "filled with hope" that his brother would somehow survive this, too.

Bernard Harcourt, Doyle Hamm's longtime attorney and a Columbia University law professor, knew better than to be optimistic. Still, "there were moments when I thought that the courts would actually stop the execution," he said. Hamm, 61, had large-cell lymphoma; the cancer had spread from his left eye to other parts of his body. After providing radiation, the state insisted the cancer was in remission and prioritized his execution over further treatment. Surgery scheduled for December to remove a cancerous lesion under his left eye was canceled — he received a death warrant that same day. Hamm's illness compounded other problems: his veins were severely deteriorated, due in part to years of drug use, which would make inserting intravenous lines supremely difficult. There was one potentially viable vein in his hand, but nurses repeatedly reported having trouble using it to draw blood. The lethal injection would almost certainly not go according to plan.

The execution was supposed to begin at 6 p.m. Danny Hamm had been ordered to be in the parking lot of the nearby Fairfield Inn and Suites at 5:15 p.m. (Harcourt was told to wait at a Shell station off the highway.) But shortly afterward, the U.S. Supreme Court granted a stay of execution. For the next few hours, Harcourt and Hamm waited, only to receive bad news at 8:45 p.m.: The stay had been vacated. Harcourt called his client to break the news — "the most crushing moment of my life." Then the van pulled up to take them to the prison.

But at Holman, facing the coroner's vehicle and the red door, there was even

more waiting. An hour passed, and then another. Neither Harcourt nor Hamm was allowed to bring their phones, making it impossible to receive information. The guards would not talk to them. "They won't tell you anything," Hamm said. "And you know something's wrong. I mean it's horrible ... That's my only brother laying in there."

Harcourt was convinced he knew exactly what was wrong. "I've been telling them for seven months what's gonna happen — which is that they're not gonna be able to find a vein," he said. By 11 p.m, he was losing it. "I tell the correctional officer that I need to talk to the warden, but she says no way." Harcourt got the attention of the reporters inside the media van parked next to theirs, gesturing and pointing at his arm. A local TV reporter, [Jack Royer](#), who was live-tweeting throughout the night, wrote that he was likely letting them know that the state was running out of time — the execution warrant expired at midnight. "But what I was trying to tell him was they're torturing him."

It was almost 11:30 p.m. when word finally came from inside: the execution had been stopped. Hamm and Harcourt broke down — "grown men crying," Hamm said. The van pulled out quickly, along with the coroner's vehicle, and dropped them off at the gas station. ADOC Commissioner Jeffrey Dunn addressed the media. They had called off the execution "out of an abundance of caution," he said. It was "a time issue," he said. "I wouldn't necessarily characterize what we had tonight as a problem."

When Harcourt saw Doyle Hamm the next day, he was limping and sore. On the phone from New York, Harcourt struggled for the words to describe him. He was "a shadow of himself," he said. "It's almost as if there was his body and there was Doyle the person, and they were only kind of coincidentally the same at that moment. It's almost as if he really wasn't supposed to be there."

Hamm told Harcourt what had happened as he had lain strapped to the gurney for two and a half hours. Two people stood on either side of him

attempting to access a vein. They “inserted needles multiple times on his left and right legs and ankles, each time forcing the needles into his lower extremities,” Harcourt later wrote on a [website](#) where he has posted updates on the case. They turned Hamm on his stomach, slapping the back of his legs, but could not get a vein. “With peripheral access unavailable, other IV execution personnel next attempted central venous access through Hamm’s right groin,” Harcourt wrote. It was painful and bloody. Hamm prayed and hoped they would succeed. When he was finally removed from the gurney, he collapsed.

The torture of Doyle Hamm was widely reported. New York Times columnist Roger Cohen [decried](#) the “ghoulish proceedings” and called for clemency. Sara Totonchi, executive director of the Southern Center for Human Rights, called it “unconscionable,” [writing](#), “Our hearts go out to everyone involved in this macabre display: from Mr. Hamm and his family and defense team, to the victim’s family, to the correctional officers.”

Yet while certainly rare, the failed execution was not exactly an aberration. Just three months earlier, in November 2017, a similar saga [unfolded](#) at the Ohio State Penitentiary in Lucasville, when executioners tried and failed to kill 69-year-old Alva Campbell. After poking and prodding him for 25 minutes to find a vein, Ohio officials called it off. This came less than 10 years after Ohio tried unsuccessfully to kill another man, Romell Broom. Both remain on death row.

Botched executions are as old as the death penalty itself. But the recent debacles in Ohio and Alabama raise a new set of concerns. “This process has gotten a lot riskier and even more irresponsible than it ever was,” says Fordham law professor Deborah Denno, the foremost expert on lethal injection. In its early days in Texas, which saw a series of executions gone awry, “the mantra at the time was that this was going to get better – that accidents happen.” But instead, it’s gotten worse. Until the failed execution of Broom in 2009, Denno said, “We had never seen executions (by lethal

injection) that weren't completed."

That there have now been two such cases in a matter of months might be a fluke, says David Stebbins, the attorney for Campbell in Ohio. "It could be just the luck of the draw you have two very sick people come up almost back to back in different states," he said. "Or it might also be a function of how old these guys are getting — and their health." Like Harcourt, Stebbins raised alarm about Ohio's plan to kill his client, then waited helplessly at the prison as the inevitable occurred. "They — as we did — warned the prison folks that they weren't going to be able to get veins," he said. "They warned them, they had hearings on it, they had examinations — more so than we did, I think." In fact, Harcourt used Ohio as a cautionary tale. "I actually tried to introduce evidence of Alva Campbell's botched attempt in federal court," he said. They "didn't want to hear about it."

Alabama's indifference had been on display for months. In September 2017, Dr. Mark Heath, an anesthesiologist at New York Presbyterian Hospital, flew to Alabama, only to be barred from bringing his medical equipment past security. He resorted to using Harcourt's tie as a tourniquet. Heath was nevertheless able to document the risks presented by the state's plan. Hamm was "gaunt and frail," with no accessible peripheral veins. An attempt to find a central vein — a more invasive procedure requiring skill and an ultrasound — would be complicated by the abnormal lymph nodes around his arteries and veins. Heath concluded that the state "is not equipped to achieve venous access." But a state doctor, whose identity remains anonymous, disagreed. In early February, Harcourt sent a detailed letter to the governor, citing the risks and pleading for a reprieve. Danny and Linda Hamm wrote letters, too. They fell on deaf ears.

The refusal to heed such warnings has become a familiar theme in recent stories about lethal injection across the country. Even before the U.S. Supreme Court's disastrous 2015 ruling in [Glossip v. Gross](#) upheld the use of midazolam — a risky and unreliable sedative for the purpose of executions —

lawyers and medical experts warned of the dangers of putting untrained prison staff in charge of lethal injection. "Everyone focuses always on the drugs, particularly lately, without remembering that there are many other factors going on," Denno says. Difficulty finding suitable veins has always been a problem, long before a shortage of execution drugs sent states scrambling to try new combinations and doses. Even if the drug problem could be fixed, Denno explains, there remain "all the physical challenges that even a very highly trained person would encounter."

This is not just true for men like Campbell or Hamm. In cases in which the condemned are seriously overweight — a common issue on death row — the risks can be profound. When Arkansas [sought to execute](#) eight men in 11 days last spring, lawyers for both Marcel Williams and Jack Jones Jr., who were to die back to back, warned repeatedly that their obesity would complicate the process. In Jones's case, prison staff struggled for some 45 minutes to place a central line in his neck, then placed it elsewhere. A spokesperson for the governor described the execution as "flawless," but one trauma surgeon was disturbed. "Sounds like tonight's Arkansas execution was botched," he wrote in an email. "No one would try to place a central line in the neck of a 400 pound man without ultrasound guidance and a lot of previous experience. Who was placing the line?" That question — like most of the protocol in Arkansas, Ohio, and Alabama — remains secret by law.

Like most people whose executions have raised questions of torture, Jones is no longer alive to explain his experience. But there is reason to believe that there will be others who live to describe it. "Between the country's aging death row population and the difficulty of finding reliable drugs, it seems inevitable that there might be more failed executions," says Denno. Broom wrote about his own ordeal in a self-published [book](#), which described the painful punctures and the nightmares that followed. For Campbell, Stebbins says, "Obviously it was a very traumatic experience for him to be brought into the execution chambers, strapped to a gurney and have people attempt

to gain access. He's had a very hard time with that psychologically and struggles with it still today."



Doyle Hamm's witnesses, including family and defense counsel, wait to go into the execution chamber on Feb. 22, 2018.

Photo: Jack Royer/CBS 42 News

A few days after Hamm's aborted execution, Heath, the anesthesiologist, returned to Alabama. On Sunday, February 25, he arrived at the prison with Harcourt. He was allowed to bring in his medical equipment this time, but other requests were rejected. "We had asked to have access to some of the physical evidence, such as the clothes that [Hamm] had been wearing and the sheets and pads and any kind of equipment that would've been used," Harcourt said, "but we were denied that by a combination of the federal court and the warden." Nor were they allowed to see any notes that might show where exactly the IV personnel had tried to find a vein. Access to the execution chamber was also denied.

After the examination, Harcourt [posted](#) a brief update on his website. "Thursday night's execution was worse than anticipated," he wrote. Medical personnel "almost certainly punctured Doyle's bladder, because he was urinating blood for the next day." The amount of gushing blood also raised the possibility that his femoral artery has been struck. Hamm had "multiple puncture wounds on the ankles, calf, and right groin area." In an especially unnerving detail, one participant "twice insisted" he keep trying to gain access through Hamm's groin, even after the execution had been called off.

Harcourt was particularly disturbed by the wounds on Hamm's right groin, which he saw firsthand. The state's own doctor had warned of abnormal lymph nodes there – yet they stuck him repeatedly in that precise place, he said. "What is that about?"

As Harcourt awaits Heath's official findings, a hearing has been scheduled for March 6. "I think it's going to be an opportunity for the parties and the court to take stock of what happened and figure out a process to go forward," Harcourt said. He will continue to fight for the disclosure of notes and other materials from the execution. In the meantime, he is still processing what he calls a "surreal, mind-boggling, traumatizing experience." It was more than torture, he said. "It was a "wrongful execution."

Danny Hamm is still struggling to find his own words for what happened that night. "It was just bad," he said. "They need to rethink the way they're doing things." The state of Alabama was so convinced they would be able to do pull this off, he said. "And instead they went in and butchered a man."

Update: March 3, 2018

Shortly after this story was published, news [broke](#) that Alva Campbell died early this morning after being found unresponsive in his prison cell. Ohio planned to try again to execute him in 2019. He was 69 years old.

Doyle Hamm, Who Survived a Bungled Execution, Dies in Prison at 64

The failed lethal injection for Mr. Hamm, who was terminally ill, amounted to what his lawyer said was a case of cruel and unusual punishment.



By Sam Roberts

Nov. 29, 2021

Doyle Hamm, a convicted murderer who in 2018 became the third death row inmate in America to survive a botched execution by lethal injection, died on Sunday in the William C. Holman Correctional Facility near Atmore, in southern Alabama. He was 64.

The cause was complications of the lymphoma and cranial cancer for which he had been treated since 2014, said his pro bono lawyer, Bernard E. Harcourt, a Columbia University professor of law and political science.

Mr. Hamm was terminally ill when the death sentence was scheduled to be carried out, at 9 p.m. on Feb. 22, 2018. Doctors had warned that his veins were inaccessible because of his treatment for cancer and hepatitis C as well as for his intravenous drug use. As a result, an execution team struggled for nearly three hours, puncturing him at least 11 times in his legs, ankles and groin and apparently injuring several organs before giving up at 11:27 p.m. because the legal death warrant expired at midnight.

“I wouldn’t necessarily characterize what we had tonight as a problem,” Jeff Dunn, the Alabama Corrections Commissioner, said in a statement that astounded reporters during a news conference at the time.

Correctional officials had been told by a judge that Mr. Hamm’s upper limbs were off limits because his veins were so compromised. Mr. Hamm himself had suggested that the lethal drugs be administered orally. But that would not have been allowed under the state’s execution protocol.

Mr. Harcourt filed a civil rights suit describing the bungled attempt as unconstitutional cruel and unusual punishment and warning that any further attempt by the state would be challenged as subjecting Mr. Hamm to double jeopardy.

“This was a bit of butchery that can only be described as torture,” Mr. Harcourt told Roger Cohen, then an opinion columnist for The New York Times, shortly afterward. Mr. Cohen wrote two columns assailing the execution attempt, one under the headline “Death Penalty Madness in Alabama.”

This week, Mr. Harcourt told Mr. Cohen by email that “there’s no doubt” that the attention he gave the case “forced the hand of the Alabama attorney general and made them enter into an agreement with me that they would not seek another execution date.”

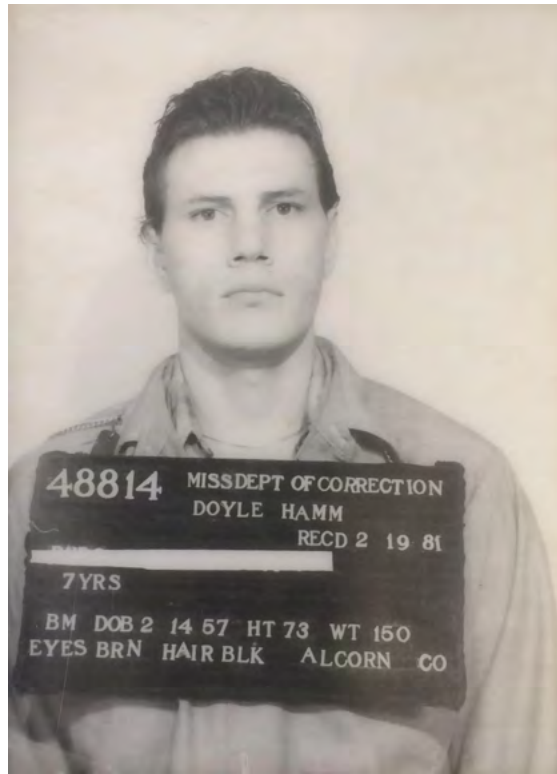
Details of that agreement, on March 26, 2018, were kept confidential, but amounted to a sentence of life imprisonment.

Mr. Hamm had been on death row since 1987, when he confessed to participating in the robbery of the Anderson Motel in Cullman, Ala., in which a night clerk, Patrick Cunningham, was fatally shot once in the temple with a .38 caliber pistol that Mr. Hamm had stolen in a robbery he committed in Mississippi earlier that day, Jan. 24 of that year.

The cash register was emptied of \$350, and \$60 more was taken from Mr. Cunningham’s wallet. Two witnesses were later charged as co-defendants but testified for the prosecution.

Mr. Harcourt helped stave off Mr. Hamm’s execution for three decades, starting in 1990, by working with Bryan Stevenson, a lawyer in Alabama who had begun an organization to defend indigent criminals in capital cases.

Pursuing appeals up to the United States Supreme Court, Mr. Harcourt argued that his client had received a woefully inadequate defense, that mitigating evidence about his background had never been introduced, and that a judge's 89-page ruling against Mr. Hamm had been adopted word-for-word from a document submitted one business day before by the state attorney general.



Mr. Hamm in the 1980s. Beginning in 1987, he was on death row for three decades after he confessed to robbery and murder. Mississippi Department of Corrections

Doyle Lee Hamm was born on Feb. 14, 1957, in Lancaster, Calif., the 10th of 12 children of Eula Mae Howell and Major Edward Hamm, a World War II veteran whose first name was not his Army rank but one given at birth. Doyle's six older brothers served time in jail. So did his father, who worked intermittently as a carpenter and cotton picker. One of Doyle's sisters quoted her father as saying, "If you don't go out and steal, then you're not a Hamm."

Doyle Hamm married Cammie Crab in 1981; they divorced the next year, after the birth of their daughter, Maranda. His survivors include his daughter; a brother, Danny Wayne Hamm; and a grandniece, Dwan Powell.

Mr. Hamm had an I.Q. of 66 in the sixth grade, possibly a result in part of fetal alcohol syndrome. He flunked the first grade and dropped out of school in the eighth grade.

When he was 20, Mr. Hamm pleaded guilty to a robbery that had taken place in the parking lot of a bar and was sentenced to five years' imprisonment after his court-appointed lawyer was quoted in court documents as saying that he, the lawyer, had been "too busy and overworked to give this case the time and attention it needed"; the victim later recanted.

Lethal injection was first adopted by Oklahoma in 1977 because it was considered a more humane and cheaper method of capital punishment than electrocution or lethal gas, practices that were already permitted in several states. Mr. Hamm had been sentenced to death by electrocution, but Alabama's electric chair, nicknamed Yellow Mama because of its color, was mothballed when the state conducted its first execution by lethal injection in 2002.

Robert Dunham, executive director of the Death Penalty Information Center, said that as death row inmates age and confront more maladies, the likelihood will grow that executions by lethal injection will go wrong.

Mr. Harcourt said by email that his client “actually came closer to death, and survived, than anyone else who was subject to lethal injection.”

“Doyle Hamm’s case will stand as a tragic illustration of how a government’s uncritical and merciless pursuit of justice can turn a legal system into a form of human sacrifice,” Mr. Harcourt continued, “as Alabama prosecutors and its most august state and federal judges desperately sought to offer up a fragile 61-year-old man dying of cancer to snatch his life before nature — or God — could take its course.”

Correction: Nov. 29, 2021

An earlier version of this obituary referred incorrectly to Mr. Hamm’s survival of a botched execution in Alabama. He was the third death row inmate in the United States to survive a mishandled lethal injection, not the fourth.

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