

Supreme Court of Florida

TUESDAY, OCTOBER 17, 2006

CASE NO.: SC06-2023

ARTHUR DENNIS
RUTHERFORD

vs. CHARLES J. CRIST, JR.,
ETC., ET AL.

Petitioner(s)

Respondent(s)

Arthur Rutherford, who is under a pending death warrant, has filed a Petition Seeking to Invoke this Court's All Writs Jurisdiction and a Motion for Stay of Execution, which is scheduled for October 18, 2006. Rutherford's petition concerns the Department of Corrections' denial of a public records request for current lethal injection procedures, followed by the circuit court's denial of a motion to compel production. The State has filed a response to which it has attached the Department's procedures governing execution by lethal injection, effective August 16, 2006. We permitted Rutherford to file a reply.

We deny relief. Our review of the current lethal injection procedures, attached to the State's response, reveals nothing that would cause this Court to revisit our previous conclusions "that procedures for administering the lethal injection as attested do not violate the Eighth Amendment's prohibition on cruel and unusual punishment." Rutherford v. State, 926 So. 2d 1100, 1113 (Fla. 2006)

(quoting Hill v. State, 921 So. 2d 579, 583 (Fla. 2006), and Sims v. State, 754 So. 2d 657, 668 (Fla. 2000)).

Accordingly, Rutherford's petition and motion for a stay of execution are hereby denied. No motion for rehearing will be allowed.

It is so ordered.

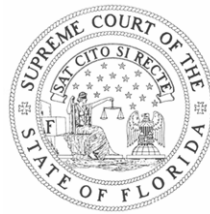
LEWIS, C.J., and WELLS, PARIENTE, QUINCE and CANTERO, JJ., concur.
ANSTEAD, J., concurs specially with an opinion.
BELL, J., recused.

A True Copy

Test:



Thomas D. Hall
Clerk, Supreme Court



jn

Served:

CAROLYN M. SNURKOWSKI
LINDA MCDERMOTT
MARTIN J. MCCLAIN
HON. JOHN ELLIS "JEB" BUSH, GOVERNOR
ROSA H. CARSON
CHARMAINE M. MILLSAPS

ANSTEAD, J., concurring specially.

I concur in the majority's denial of relief because I, too, am bound by the rulings of this Court rejecting similar challenges to the State's procedures for execution by lethal injection in Hill and Rutherford as cited by the majority. I am troubled, however, by the fact that the State has not at all times made its execution procedures and protocols a matter of public record, and by the fact that since our initial decision in Sims approving the use of lethal injection based substantially on theory, there has been no public evidentiary hearing focused on the purpose and effectiveness of the State's procedures, and on what actually takes place during the course of an execution by lethal injection. Now that this method of execution has been in place for a number of years we would all benefit by such a hearing.