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ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

July 14, 2020

Honorable Doug Ducey
1700 West Washington
Phoenix, Arizona 85007

Dear Governor Ducey:

One year ago, I wrote urging you to lawfully obtain pentobarbital so Arizona may resume executions by lethal injection. I write again to renew this request and highlight developments over the past 12 months that further strengthen the case to resume executions in Arizona.

First, our office has successfully defended Arizona's statute protecting the confidentiality of drug suppliers*. In September 2019, the U.S. Court of Appeals for the Ninth Circuit affirmed that death row inmates have no First Amendment right to drug suppliers' identities**. The disclosure of suppliers' identities makes it more difficult to obtain drugs as it has given rise to harassment or retaliation by death penalty opponents. The Ninth Circuit's opinion now alleviates any such concern.

Second, the federal government is now using pentobarbital to carry out executions. The successful acquisition of pentobarbital demonstrates there is at least one supplier willing to sell the drug to governmental entities for lethal injection.

Third, it has been six years since Arizona carried out an execution. When I last wrote, 14 death row inmates had exhausted their appeals. Now, there are 20. Some of their vicious crimes occurred as far back as the 1970s and early 1980s. One of these individuals is Frank Atwood, who kidnapped, sexually assaulted, and brutally murdered 8-year-old Vicki Lynne Hoskinson of Tucson nearly 36 years ago. The time has come for Atwood and others to be held accountable.

The rights of victims are assaulted each time an execution is delayed. Over the past year our office has been steadfast in seeking justice for victims and their families. Most notably:

- We successfully defended the death penalty sentence for Arizona convicted killer James McKinney at the U.S. Supreme Court in February 2020.
- Arizona led a 14-state brief supporting the Federal Bureau of Prisons' (FBOP) protocol for executing death row inmates in December 2019.
- The U.S. Supreme Court upheld the above protocol. Today the federal government executed Daniel Lewis Lee, a white supremacist, who tortured and killed an Arkansas family.
- This week, Arizona filed a brief asking the U.S. Supreme Court to resume the execution of child murderer William Purkey.

I again ask for your assistance in procuring the drugs necessary to resume executions in Arizona. It is imperative to fulfill our obligation to uphold the rule of law. My office stands ready to defend you and the Arizona Department of Corrections, Rehabilitation, and Reentry in this effort. I urge you to act without delay.

Sincerely,



Mark Brnovich
Arizona Attorney General

*See Ariz. Rev. Stat. § 13-757(C)

** See *First Amendment Coalition of Arizona, Inc., et al. v. Ryan*, 938 F.3d 1069 (9th Cir. 2019)