

April 23, 2010



HUFFPOST BUSINESS THE
WALL STREET REFORM
BATTLE...



MORE IN BUSINESS Obama And
Megabanks... Goldman Sachs
metaphors... Bank Robbery

]; document.write(house_ads[Math.round(Math.random())]);



This is the print preview: [Back to normal view](#) »

Utah 'Firing Squad' Execution Planned For Ronnie Lee Gardner (PHOTO)

JENNIFER DOBNER | 04/23/10 06:20 PM |

SALT LAKE CITY — Utah is set to execute a convicted killer by firing squad after a judge agreed Friday to the inmate's request, renewing a debate over what critics see as an antiquated, Old West-style of justice.

Ronnie Lee Gardner, 49, was given the choice of being killed by lethal injection or shot by a five-man team of executioners firing from a set of matched rifles — a rarely used method of execution that harkens back to Utah's territorial history.

"I would like the firing squad, please," Gardner told state court Judge Robin Reese after hearing his avenues for appeal appear to be exhausted.

Gardner, 49, was sentenced to death for killing an attorney 25 years ago during a failed escape attempt and shootout.

Defense attorney Andrew Parnes said he plans to quickly seek a stay of execution and appeal Reese's ruling to the Utah Supreme Court.

It's unclear if a stay would be granted, but an appeal, once received, would be promptly reviewed because of the nature of the case, Utah State Courts spokeswoman Nancy Volmer said.

Gardner also has seven days to ask Utah's Board of Pardons and Parole to commute his sentence to life without the possibility of parole.

This is the fourth time a judge has signed a warrant for Gardner's execution. Parnes said it seems his client's death may be "closer than ever before."

"I don't think it was a shock or a surprise, and he's coming to grips with that," Parnes said without explaining Gardner's choice of firing squad.

Story continues below ↓

"It's his personal choice," he said. "He did that in 1985 and he's done it again."

Gardner would be Utah's first execution since 1999 and the third man to be killed by a firing squad in the state since the U.S. Supreme Court reinstated capital punishment in 1976: Gary Gilmore on Jan. 17, 1977 – after famously uttering the last words, "Let's do it," and John Albert Taylor on Jan. 26, 1996.

Of the 35 states with the death penalty on the books, Utah is the only one to still use the firing squad as a method of execution. Oklahoma is the only other state that considers a firing squad an acceptable option, but by law would only use it if lethal injection was deemed unconstitutional. The state has never used the method.

In an appeal, Parnes would likely reiterate arguments made to Reese that Gardner had been denied state funds to pay for experts and investigators who could have provided mitigating evidence during the penalty phase of his case.

"We believe that there is a reasonable probability that had the evidence been presented at a sentencing phase in front of a jury of eight or 12 people that at least one of those jurors would have returned a verdict of life," he said after the hearing. "If there is not unanimity, then it is an automatic life sentence under the laws of Utah."

Assistant Utah Attorney General Tom Brunner said he doesn't think Gardner is entitled to an appeal, but that he may be able to seek an expedited review of his case by the state's highest court.

"We will vigorously oppose any further stays of execution," Brunner said.

Friday's hearing was conducted amid heavy security with several officers standing guard around the shackled Gardner, who wore an orange jumpsuit and white shoes.

He traded pleasantries with Brunner and Utah's Attorney General Mark Shurtleff, who asked Gardner how he was doing.

"Good, considering the circumstances," Gardner replied.

Utah's death row inmates were for decades allowed to choose how they wanted to die. State lawmakers removed that choice in 2004 and made lethal injection the default method, though inmates sentenced before then still have a choice.

The repeal of the firing squad wasn't tied to any discomfort with the method itself. Rather, state lawmakers disliked the heaps of negative media attention that firing squads focused on the state, said Rep. Sheryl Allen, R-Bountiful, who twice carried legislation to change the law.

In 1996, more than 150 media outlets descended on Utah to cover Taylor's execution, painting the firing squad as an Old West-style of justice that allows killers to go out in a blaze of glory that embarrasses the state.

Lawmakers did not retroactively ban the firing squad out of fear that it would give condemned inmates a new avenue of appeal, Allen said.

Gardner is one of at least four of 10 men on Utah's death row who have said they want to die by firing squad.

About 20 anti-death penalty protesters demonstrated in the courthouse rotunda before the hearing.

"The firing squad is archaic, it's violent, and it simply expands on the violence that we already experience from guns as a society," said Bishop John C. Wester, of Utah's Catholic Diocese.

Gardner was convicted of the fatal shooting death of Utah attorney Michael J. Burdell during an escape attempt and shootout at the old Metropolitan Hall of Justice in downtown Salt Lake City on April 2, 1985.

Although he was handcuffed and surrounded by prison guards, a female acquaintance slipped Gardner a loaded, long-barreled .22-caliber handgun in the basement of the building just before the shooting. He shot Burdell in the head and wounded the court bailiff before being captured on the courthouse lawn.

On Friday, both Burdell's girlfriend from 1985 and his father, Joseph Burdell Jr., testified that Burdell would not want Gardner to die in his name.

A pacifist who was drafted into the U.S. Army, Burdell served in Vietnam but refused to carry a gun, Donna Nu said.

"He would have not wanted Ronnie Lee's execution. He didn't believe in that," a tearful Nu said. "If Ronnie would have just wounded him and Michael would have lived, he would have defended him."

Get HuffPost Denver On Twitter, Facebook, and Google Buzz! Know something we don't? E-mail us at denver@huffingtonpost.com



[Click Here For HuffPost Denver Twitter Edition »](#)

HUFFPOST DENVER

THE INTERNET NEWSPAPER: NEWS BLOGS VIDEO COMMUNITY