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Date: February 15, 2024

Oral OPPONENT testimony for HB 2782 Authorizing the secretary of corrections to use hypoxia for the purpose of carrying out a sentence of death and requiring the district court to issue a warrant to the secretary of corrections to carry out a sentence of death.

To: Madam Chair Representative Susan Humphries and House Judiciary Committee members

From: Chuck Weber, Executive Director, Kansas Catholic Conference

Madam Chair Humphries and members of the committee,

My name is Chuck Weber and I serve as the executive director of the Kansas Catholic Conference, the public policy voice of the Catholic Bishops of Kansas. Thank you for the opportunity to speak as an OPPONENT to HB 2782.

The sacredness and dignity of human life is a deeply held belief of the Catholic Church that undergirds our teaching on many issues.

“I came so that they might have life and have it more abundantly.”

John 10:10.

Our position on the sacredness and dignity of human life is consistent across a spectrum of issues, including assisted suicide, abortion or the issue at hand here today, a method of execution.

We present here two objections to HB 2782.

Firstly, the use of hypoxia, like all intentional methods of ending human life (i.e. assisted suicide, abortion, or the execution of criminals) “is an attack on the inviolability and dignity” of the person. (Catholic Catechism # 2267).

On this specific issue, restraining a person and forcing him or her to breathe into their lungs something that kills them is a violation of human dignity. If someone were the victim of a homicide taking place in this manner, we submit that most would agree this would be unusually cruel treatment.

The Catholic Church fully acknowledges that the crime of murder violates the inherent sacred right to life of the victim and causes horrific harm to victims' families and our communities. We recognize the state has the right to respond to crime and provide for public safety and accountability.

Our penal code and punishments must reflect a respect for the innate dignity of the person, a dignity which exists no matter how broken or desperate a person is. Execution by hypoxia (indeed, all methods of execution) fail the fundamental test of respect for human dignity since it ends in death.

Secondly, there is growing concern about this new method of execution among the public.

The recent execution of Kenny Smith in Alabama (January 25, 2024) by nitrogen hypoxia captured the attention of the international and national community.

Much of the reaction from eyewitnesses of the execution indicates that the method appeared to be barbaric and inhumane. All this information is new and emerging, and there will no doubt be more investigation, research, and more information that will come forth.

While the Attorney General of Alabama claims it was 'textbook', eyewitnesses offer a different account of a disturbing and lengthy execution. Witnesses say they observed that he (Kenny) "shook and writhed" for at least two minutes before breathing heavily for another few minutes.

"This was the fifth execution that I've witnessed in Alabama, and I have never seen such a violent reaction to an execution," said media witness Lee Hedgepeth.

Smith was pronounced dead 32 minutes after the gas began to flow.

Another eyewitness, Marty Roney, a reporter from the Montgomery Advertiser, had also witnessed two previous executions. He reports:

"For four minutes, he (Smith) was gasping for air. He appeared to be conscious. He was convulsing, he was writhing, the gurney was shaking noticeably."

Witnesses say they observed that he (Kenny) "shook and writhed" for at least two minutes before breathing heavily for another few minutes. "This was the fifth execution that I've witnessed in Alabama, and I have never seen such a violent reaction to an execution," said media witness Lee Hedgepeth.

We are in an unknown territory with the introduction of nitrogen hypoxia for Kansas. Facts about this emerging method of execution are still being gathered. Based on early, firsthand accounts, we would not consider the recent execution of Kenny Smith to be "textbook."



Elizabeth Sennet

We wish to conclude with a word about the victims of a murder and their family and friends. Their pain cannot be diminished or cast aside. In the Alabama case, the family members of murder-for-hire victim Elizabeth Sennett have greatly suffered. We grieve with them and other victims' families. They are not alone.

Our testimony here comes at the direction of the Catholic Bishops of Kansas, including Archbishop Joseph Naumann

In 1948, Fred Naumann was the assistant manager of a St. Louis liquor store. One night, a week before Christmas, Naumann told an employee to help unload a delivery truck. When the employee refused, Naumann fired him. They argued, and then the man turned around with a pocketknife, and slashed Naumann's throat. He died before he reached the hospital.

Fred Naumann was 31 when he was murdered. When he died, he had a young son, and his wife was expecting a baby. Born six months later, that baby was named Joseph Fred Naumann, now Archbishop Naumann.

"The suffering and the circumstances of each family who has lost a loved one by a violent crime are unique. I do not presume to be able to speak for all victims of murder," says Archbishop Naumann.

"Yet, I did witness how my mother struggled to provide for our family without the benefit of my father, and the pain that she suffered as a result of losing the love of her life. I also know what it is like for children to grow up without a father. In opposing this measure, it is not my intention to minimize the pain and loss of individuals and families who have suffered the death of a loved one as a result of a violent crime, but we can do better."

Thank you for the opportunity to provide this testimony.