

# MISSOURI COURT OF APPEALS TO HEAR LANDMARK CHALLENGE TO LETHAL INJECTION PROTOCOL

*Posted on May 17, 2016 by Capes Sokol*



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Days after Pfizer announced that it will block the use of its drugs in executions, a case seeking to stop Missouri public officials from using a compounded copy of an execution drug is before the Missouri Court of Appeals.

The case was brought by four Missouri taxpayers: [Joan Bray](#), a former member of the Missouri Senate and former state representative; , a former state representative; the [Rev. Elston McCowan](#), a Baptist minister and the criminal justice and prison committee chairperson for the Missouri NAACP; and [Mary Ann McGivern](#), a Sister of Loretto in the Catholic Church.

The case is the first to challenge Missouri's lethal injection protocol through taxpayer standing. In particular, the lawsuit alleges that Missouri's method of executing prisoners violates laws prohibiting the compounding of FDA-approved pentobarbital, the fatal drug used to kill Missouri inmates under the current method of execution. The lawsuit also alleges that Missouri's method of execution violates state and federal controlled substance laws because the compounded pentobarbital is procured by an invalid "prescription" written by a doctor who is contractually-bound to write the "prescription" and who conducts no medical examination whatsoever. The plaintiffs are seeking a declaratory judgment and injunctive relief to stop Missouri public officials from violating the law.

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The appeal was filed on December 22, 2015, after the Circuit Court of Cole County, Missouri, dismissed the case finding the plaintiffs lacked standing to raise these claims. The appeal argues that the plaintiffs do have standing and that this case should proceed on the merits. A three-judge panel of the Missouri Court of Appeals (Western District) will hear oral argument the morning of May 18, 2016, in Kansas City, Missouri. The case is *Bray, et al. v. Missouri Department of Corrections, et al.*, Case Number 15AC-CC00312.

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