

SUPREME COURT OF THE UNITED STATES

Bucklew v. Precythe

Bucklew v. Precythe, 139 S. Ct. 1112 (2019) · No. No. 17-8151 · Decided April 1, 2019

SUMMARY

The Supreme Court held that the standards established in *Baze v. Rees* and *Glossip v. Gross* govern both facial and as-applied Eighth Amendment challenges to methods of execution. A prisoner must identify a feasible, readily implemented alternative method that would significantly reduce a substantial risk of severe pain, and the Court concluded that Russell Bucklew failed to satisfy that standard with his proposed nitrogen-hypoxia method. The Court affirmed the Eighth Circuit’s judgment.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice Gorsuch; Chief Justice Roberts; Justice Thomas; Justice Alito; Justice Kavanaugh; Justice Ginsburg; Justice Breyer; Justice Sotomayor; Justice Kagan
JURISDICTION	Federal
DECIDED	April 1, 2019
DOCKET	No. 17-8151
DISPOSITION	affirmed
PROCEDURAL POSTURE	Russell Bucklew brought an as-applied Eighth Amendment challenge under 42 U.S.C. § 1983 to Missouri's lethal-injection protocol. After the district court granted Missouri summary judgment, the Eighth Circuit affirmed, and the Supreme Court granted certiorari.
STANDARD OF REVIEW	De novo review of summary judgment; summary judgment is proper when there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	binding Supreme Court precedent
PARTIES	Russell Bucklew v. Anne L. Precythe, Director, Missouri Department of Corrections, et al.

TOPICS

cruel and unusual punishment

prisoners rights

section 1983

post-conviction relief

constitutional law

PRACTICE AREAS

constitutional law

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QUESTIONS PRESENTED

1. Whether the Baze-Glossip alternative-method test governs all Eighth Amendment method-of-execution challenges, including as-applied challenges based on an inmate's particular medical condition.
2. Whether Bucklew identified a feasible and readily implemented alternative method of execution that would significantly reduce a substantial risk of severe pain and that Missouri declined to adopt without a legitimate penological reason.
3. Whether the record created a genuine dispute of material fact sufficient to preclude summary judgment.

HOLDINGS

1. Baze v. Rees and Glossip v. Gross govern all Eighth Amendment method-of-execution claims alleging that a method of execution inflicts unconstitutionally cruel pain, whether the challenge is facial or as applied.
2. Bucklew failed to establish that nitrogen hypoxia was a feasible and readily implemented alternative method of execution.
3. Bucklew failed to present evidence that nitrogen hypoxia would significantly reduce a substantial risk of severe pain compared with Missouri's pentobarbital protocol.

KEY QUOTATIONS

“Baze and Glossip govern all Eighth Amendment challenges, whether facial or as-applied, alleging that a method of execution inflicts unconstitutionally cruel pain.” (139 S. Ct. 1112, syllabus)

“a prisoner must show a feasible and readily implemented alternative method of execution that would significantly reduce a substantial risk of severe pain and that the State has refused to adopt without a legitimate penological reason.” (139 S. Ct. 1112, opinion at 13)

“That is a proposal for more research, not the readily implemented alternative that Baze and Glossip require.” (139 S. Ct. 1112, opinion at 21)

FACTUAL BACKGROUND

Bucklew was convicted of murder and sentenced to death in Missouri. He suffered from cavernous hemangioma, a condition causing vascular tumors in his head, neck, and throat, and argued that Missouri's pentobarbital lethal-injection protocol would cause him severe pain, airway obstruction, hemorrhaging, and suffocation. After being directed to identify an alternative method, he proposed execution by nitrogen hypoxia, but his proposal lacked details concerning administration, concentration, duration, safety, and implementation.

PROCEDURAL HISTORY

Bucklew filed his as-applied challenge shortly before a scheduled execution, alleging that his cavernous hemangioma would cause severe pain and suffocation during lethal injection. The district court initially dismissed the claim; the Eighth Circuit remanded to permit identification of an alternative execution method. After discovery, Bucklew proposed nitrogen hypoxia, but the district court granted summary judgment for Missouri, finding insufficient evidence that the alternative was feasible, readily implemented, and would significantly reduce the risk of severe pain. The Eighth Circuit affirmed, and the Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Baze v. Rees, 553 U.S. 35 (2008)
- Glossip v. Gross, 576 U.S. ____ (2015)
- Marks v. United States, 430 U.S. 188 (1977)
- Hill v. McDonough, 547 U.S. 573 (2006)
- Citizens United v. Federal Election Commission, 558 U.S. 310 (2010)
- Wilson v. Seiter, 501 U.S. 294 (1991)
- Doe v. Reed, 561 U.S. 186 (2010)
- McGehee v. Hutchinson, 854 F.3d 488 (8th Cir. 2017)
- Arthur v. Commissioner, Alabama Department of Corrections, 840 F.3d 1268 (11th Cir. 2016)
- Nooner v. Norris, 594 F.3d 592 (8th Cir. 2010)
- Dunn v. Ray, 586 U.S. ____ (2019)
- Wilkerson v. Utah, 99 U.S. 130 (1879)
- In re Kemmler, 136 U.S. 436 (1890)
- State v. Bucklew, 973 S.W.2d 83 (Mo. 1998)
- Bucklew v. State, 38 S.W.3d 395 (Mo. 2001)
- Bucklew v. Luebbbers, 436 F.3d 1010 (8th Cir. 2006)
- Taylor v. Crawford, 457 F.3d 902 (8th Cir. 2006)
- Taylor v. Crawford, 487 F.3d 1072 (8th Cir. 2007)
- Middleton v. Missouri Department of Corrections, 278 S.W.3d 193 (Mo. 2009)
- Ringo v. Lombardi, 677 F.3d 793 (8th Cir. 2012)
- Clemons v. Crawford, 585 F.3d 1119 (8th Cir. 2009)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)
- Tolan v. Cotton, 572 U.S. 650 (2014) (per curiam)
- Nken v. Holder, 556 U.S. 418 (2009)
- Woodson v. North Carolina, 428 U.S. 280 (1976)
- Estelle v. Gamble, 429 U.S. 97 (1976)

- Kennedy v. Louisiana, 554 U.S. 407 (2008)
- Trop v. Dulles, 356 U.S. 86 (1958)

CITED IN

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