April 18, 2024

Hon. Volker Türk

United Nations High Commissioner for Human Rights

United Nations Office at Geneva

CH 1211 Geneva 10, Switzerland

Re: Invitation to Submit Testimony for Secretary-General’s Report to the General Assembly on a Moratorium on the Use of the Death Penalty

Your Excellency:

Nobody alive was closer to the nation’s first and thus far only nitrogen hypoxia execution than I was. As Kenneth Smith’s spiritual advisor, I saw every horrific second before, during and after the curtains closed. I want to make something perfectly clear, anyone who claims that this was anything short of torture is not just mistaken, they are a dangerous liar. Does this sound humane?

When nitrogen gas started to flow, Kenny Smith’s face grew more and more intense with every second. Colors started to change. Veins started to flex. Every muscle in his body started to tense. We’d talked for weeks prior to this moment about what he wanted to do. Never did he say that he was going to hold his breath. When things began to last way past the seconds that we were told it would, I began to wonder why. His chest moved up and down with gusto. He was clearly trying to breathe. “Shouldn’t he be unconscious already?” He clearly wasn’t. He started to look as if his head was going to pop off. I leaned back. There was nowhere to fall. There only was the nightmare in front of me. As Kenny’s reactions grew more visceral and violent, the expressions of the guards started to shift dramatically.

I couldn’t believe my eyes. The gurney wasn’t supposed to move. Yet, move it did. Kenny started heaving back and forth. The restraints weren’t enough to keep him still. Kenny was shaking the entire gurney. I’d never seen something so violent. Kenny’s muscles went from tensed up to looking like they were going to combust. Veins spidered in every direction. It literally looked like an army of ants were running throughout every centimeter of Kenny. There was nothing in his body that was calm. Everything was going everywhere all at once over and over. His face. My God…his face. The pieces of the mask attached to the gurney caused the mask to stop. There was nothing causing Kenny’s face to stop. Repeatedly, Kenny’s face jerked toward the front of the mask. I kept wondering if his bulging eyeballs were going to shoot right through. Saliva, mucus and a whole host of other substances shot out his mouth. The concoction of body fluids all started drizzling down the inside of the mask. Back and forth…back and forth…back and forth Kenny kept heaving. What we were told by the State of Alabama was going to last seconds was now going on minutes. Kenny was very much still conscious. I could see the horror in his eyes. In fact, I’ll never forget it.

Taking off my glasses, I sobbed. I’d never felt so far away from God. I prayed that God would forgive me. I was doing the best that I could. We all have decisions to make. I hope no one ever again has to deal with the options that I had. They were going to kill him one way or another with or without me…but I was still part of the horrific process. Life was never a choice. I just had to be present for Kenny. I prayed the words of the Psalmist repeatedly, “Even though I walk through the valley of the shadow of death…” But death was far more than a shadow at this point.

Convulsions gave way to shallow breathing. Kenny was barely conscious. Every breath brought more death. It wasn’t just death to a man…it was death to any idea that there could be anything humane about executing a person. We were told that we would be watching something peaceful. The devastating spectacle of it all was everything but.

In recent days, politicians have become emboldened to push for nitrogen hypoxia executions in other states. Such efforts are mindless lunacy. Mindless in that the people backing the efforts have no idea what they’re talking about. Lunacy in that they are championing the wholesale acceptance of legally suffocating people to death. These folks haven’t seen what I did. These insane explosions of moral suicide have the propensity not just to destroy life…but even to destroy our very souls. I felt it.

Article 5 of the **Universal Declaration of Human Rights** states, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” There is no doubt that what I saw perpetuated against Kenny Smith was torturous, cruel, inhuman and degrading. In the midst of such perpetuation, I saw the ultimate murderous violation of Article 3’s mandate that, “Everyone has the right to life…” Since the suffocation of Kenny Smith, due to the legal protections afforded to participants, there are no legal remedies available to punish those who I saw commit this crime against humanity, in violation of Article 8, “Everyone has the right to an effective remedy…”. Therefore, I am appealing to the international community to hold the people in the execution chamber responsible for the suffocation of Kenny Smith.

For decades, international courts have pursued and sentenced state actors who have committed atrocities in various nations. Nazi guards have been punished. Genocidal actors in Rwanda have been punished. Pol Pot’s henchman at a variety of extermination camps have been punished. One could fill books with responses to all sorts of atrocities. The suffocation of Kenny Smith is a similar level of atrocity that will be repeated incessantly if the international community doesn’t step in an punish those who perpetuated it.

I directly witnessed four people participate in the atrocity committed against Kenny Smith. As the Warden of William C. Holman Correctional Facility, Terry Raybon helped facilitate and direct the suffocation of Kenny Smith and was in the chamber during the execution. As the Alabama Department of Corrections Regional Director, Cynthia Stewart-Riley helped facilitate and direct the suffocation of Kenny Smith and was in the chamber during the execution. As the leader of the Execution Squad, Brandon McKenzie helped facilitate and direct the suffocation of Kenny Smith and was in the chamber during the execution. As a member of the Execution Squad, Chris Quarles helped facilitate and direct the suffocation of Kenny Smith and was in the chamber during the execution. These four people are immune to any accountability under our current legal system here in the United States. In order to stop the atrocity that I witnessed from happening again, we need prosecutorial help from the international community.

Suffocating someone to death should never be protected by the laws of any nation. The fleeting words “never again” is not enough. We need for the execution of Kenny Smith to be the absolute last nitrogen execution ever. One of the ways that this can be accomplished is to punish the participants, Terry Raybon, Cynthia Stewart-Riley, Brandon McKenzie and Chris Quarles, to the fullest extent of international law. Only then, will people realize that there is nothing normal or moral about suffocating people to death.

Kenny Smith and I walked through the gaseous valley of a nitrogen execution, and nobody should have to walk those steps again.

The Rev. Dr. Jeff Hood

Spiritual Advisor, Death Rows Across the United States