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Calif appeals court delays new injection plan

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(11-21) 18:38 PST San Francisco, CA (AP) --

California's new lethal injection plan could be further delayed, after a state appeals court ruled that the state didn't follow proper procedure when devising the plan.

Friday's ruling upholds a lower court decision that state prison officials failed to gather public comment and take other required steps in forming a new execution plan.

The case stems from a December 2006 ruling by a federal judge that California's lethal injection procedure was so badly designed and carried out that it was likely to cause pain and suffering.

In response to that, the state attempted to address Fogel's concerns by devising this new execution plan. Two condemned inmates sued the state over the procedural missteps in Marin County — home to the state's death chamber at San Quentin — and Judge Lynn O'Malley Taylor ruled in their favor.

The San Francisco-based 1st District Court of Appeal upheld O'Malley Taylor's ruling Friday.

The state attorney general's office says it's reviewing the decision and has not decided if it will appeal to the California Supreme Court.

If the state chooses not to appeal, the execution plan would have to be submitted for public comment that could last for weeks, or months.

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