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11th Circuit sets Alabama execution hearing

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MOBILE - A federal appeals court will hold a hearing Tuesday on whether an Alabama death row inmate's challenge to the state's use of lethal injection was properly dismissed by a lower court.

A three-judge panel of the 11th U.S. Circuit Court of Appeals in Atlanta is to review whether the lower court should have heard testimony about pain and suffering before dismissing Phillip Hallford's challenge to lethal injection.

The 11th Circuit last month granted a stay of Hallford's March 19 execution, without explanation, and the U.S. Supreme Court refused the state's request to lift the stay.

Hallford, now 61, was convicted in Dale County for the 1986 shooting death of his 15-year-old daughter's boyfriend, 16-year-old Charles Eddie Shannon, whose body was dumped from a secluded bridge.

Hallford's attorneys contend his suit challenging Alabama's use of lethal injection was improperly dismissed on Sept. 6, 2007 by the federal court in Mobile.

But the state attorney general's office argued that Hallford had exhausted his state and federal appeals before the execution date was set and that his lawsuit came after a legal deadline for filing. His suit was filed five years after the state adopted lethal injection for its executions.

Similar challenges have been filed unsuccessfully by other Alabama death row inmates. Assistant Attorney General Clay Crenshaw, who will represent the state at Tuesday's hearing, contends the U.S. Supreme Court ruling that upheld Kentucky's lethal injection protocol covers Alabama.

But Andrew E. Kantra of Philadelphia, a lawyer who represents Hallford, said even though the lethal injection procedures in Alabama may be "substantially similar" to Kentucky's, no court has issued a final decision on their constitutionality.

Hallford's suit claims he has the constitutional right not to be executed in a manner that is likely to involve the "unnecessary and torturous infliction of pain." The state responds that there's been no proof that lethal injection causes an inmate pain and that the state has a right to complete executions without unjustified delays.

If the 11th Circuit overturns the lower court's dismissal of the lawsuit, further proceedings could examine the state's lethal injection protocol at a trial. But if the Atlanta court upholds the dismissal, the stay of execution is likely to be lifted and a new execution date set.

It was not immediately clear how a ruling in Hallford's case might affect Alabama's next execution, which is scheduled for April 16.
