(Continued)

scheduled to take place. Oklahoma, in April 2015, also adopted legislation providing death by asphyxiation using nitrogen gas. Tennessee has authorized the use of the electric chair to execute individuals if lethal injection drugs are unavailable.

In June 2015 in *Glossip v. Gross* (576 U.S. __ [2015]), the Supreme Court in a 5-4 decision held that Oklahoma inmates challenging the state's use of midazolam as the first drug in a three-drug protocol "fail[ed] to establish a likelihood of success on the merits of their claim that the use of midazolam violates the Eighth Amendment." Justice Samuel A. Alito Jr. in his majority decision held that the inmates were unable to establish that the challenged drug created a substantial risk of severe pain and that the inmates had failed to identify a less painful alternative. Justice Alito also noted that the inmates should not benefit from the fact that anti–death penalty activists had pressured foreign pharmaceutical companies to "refuse to supply the drugs used to carry out death sentences."

Justice Sonia Sotomayor in her dissenting opinion pointed out that the three inmates had made the serious allegation that Oklahoma's three-drug protocol was the chemical equivalent to being "burned alive." Justice Sotomayor stressed that "under the court's rule [requiring a less painful alternative], it would not matter whether the state intended to use midazolam, or instead to have petitioners drawn and quartered, slowly tortured to death or actually burned alive."

States have become increasingly varied in the drugs they use to carry out executions. In January 2014, six executions were conducted in six different states using four different protocols. In October 2015, Oklahoma halted the execution of Glossip after prison officials found that the wrong drugs had been delivered by the state's supplier of execution drugs and discovered that in January 2014 the state had executed an inmate using the wrong drug. Glossip's attorneys have continued to insist on his innocence. Should states continue to rely on lethal injection to execute individuals?