

EXHIBIT 4

Affidavit of Mark J. S. Heath, M.D.

I, Mark J. S. Heath, M.D., being of lawful age and legal resident of New York City, New York, declare the following:

1. I am a board-certified anesthesiologist practicing full time at Columbia University in New York City, New York.
2. I have served as an expert witness in numerous legal cases regarding the practice of execution by lethal injection in the United States. I have testified about the practice of lethal injection in multiple state and federal courts, including in Tennessee.
3. I have performed in-person medical examinations of five prisoners who survived lethal injection execution attempts because of inability to secure intravenous access:
 - a. Romell Broom (Ohio) – Attempted execution date of Sept. 15, 2009
 - b. Doyle Hamm (Alabama) – Attempted execution date of Feb. 22, 2018
 - c. Kenny Smith (Alabama) – Attempted execution date of Nov. 17, 2022
 - d. Alan Miller (Alabama) – Attempted execution date of Sept. 22, 2022
 - e. Thomas Creech (Idaho) – Attempted execution date of Feb. 28, 2024
4. The injuries caused by IV access attempts display a dynamic healing pattern and it is important that the physical examination be accomplished as soon as possible. The above evaluations were accommodated/ordered and supported by the courts and Departments of Corrections in the respective states, and with the exception of Romell Broom, (due to travel and availability issues) occurred within 24-48 hours of the attempted execution.
5. In-person evaluation, documentation, and photography create a reliable record of the events and injuries that occurred during an attempted execution. The interview can surface aspects of the procedure(s) that would not otherwise be recognized. For example, when examining Mr. Hamm, it became apparent that the physician who attempted femoral central venous access inadvertently punctured or lacerated Mr. Hamm's urethra or bladder with a large bore needle.
6. It is particularly important to perform a timely evaluation in cases where central venous access was attempted.
7. Because of the evolving and dynamic nature of healing of IV access injuries, Mr. Tony Carruthers should ideally be evaluated as soon as practicable, ideally within 48 hours. The evaluation would ideally include the use of standard medical devices for measuring blood pressure, heart rate, oximetry, and temperature. The ability to bring and use photographic equipment (i.e., a small

digital camera) is very valuable for documenting any visible injuries and/or other pertinent findings.

8. I reserve the right to alter any stated opinions should the advent of additional information so warrant.

I declare under penalty of perjury and the laws of the United States and State of New York that the foregoing is true and correct.

Dated: May 21, 2026



Mark J. S. Heath, M.D.