

defendants ask the Court to enter its judgment so that any appeals may proceed expeditiously.” (State’s Response, Doc. # 217). On October 12, 2006, plaintiff filed Suggestions in Opposition stating that the July 14 protocol does not come close to providing for effective assessment of anesthetic depth and also fails to correct the additional flaws in the State’s lethal injection procedure identified by the Court. Plaintiff notes that the State has provided no grounds for the Court to reconsider its September 12, 2006 Order.

The Court declines to reconsider its September 12, 2006 Order. As the Court noted, although the State’s proposal was an improvement, there were still several areas which the Court finds do not meet Constitutional standards. The State’s response does nothing to address these concerns and indicates its lack of willingness to even attempt to comply with the Court’s order. Therefore, the Court hereby **DENIES** the State’s Motion for Reconsideration (Doc. # 217) and restates its previous determination that the protocol proposed by the State of Missouri is unconstitutional because it subjects inmates to unreasonable risk of cruel and unusual punishment.

Date: October 16, 2006
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge