

In The
Supreme Court of the United States

No. 03-633

**Donald P. Roper, Superintendent,
Potosi Correctional Center,**
Petitioner,

v.

Christopher Simmons,
Respondent.

**On Writ of Certiorari
To The Supreme Court of Missouri**



Brief for the Respondent

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Alessandra Sonoga
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Chelsey Finnamore
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Statement of the Case

Early on September 9, 1993, Christopher Simmons, accompanied by his friend, Charlie Benjamin, broke into the residence of Shirley Crook. While going through the house, the two boys awoke Mrs. Crook and she confronted them. Both Simmons and Crook recognized each other from an automobile incident that had transpired months before. The boys proceeded to bind and gag Mrs. Crook and transport her to a bridge that spanned the Meramec River. After stopping, the boys beat Mrs. Crook unconscious and bound her with more duct tape and leather belts. Mrs. Crook was then thrown, unconscious, into the river and left to drown.

Mr. Simmons was arrested later that day and taken to the police station for interrogation. While being interrogated, Mr. Simmons was given a false sense of security, and told that it was in his best interest to simply confess, even though the police did not have enough evidence to press charges against him. At trial, no evidence was provided, although readily available, to prove that Mr. Simmons had factors in his life that affected his decisions. Prior to his sentencing of death, a psychologist evaluated Mr. Simmons to have a psychological disorder and a substance abuse problem.

Before his execution took place, the Missouri Supreme Court granted a stay of execution for Mr. Simmons. This was granted in response to the United States Supreme Court's deliberations in *Atkins v. Virginia*. The Missouri Supreme Court decided to wait for the decision in *Atkins* because Mr. Simmons would have been the first juvenile in Missouri and the seventeenth nation wide to be executed. Upon hearing the verdict of *Atkins*, the Missouri Supreme Court overturned the lower court's decision, and sentenced Mr. Simmons to life in prison. Although this decision contradicted precedent set by the

United States Supreme Court, the Missouri Supreme Court cited the “evolving standards of decency” as relative to “cruel and unusual punishment” as basis for its decision.

Questions Posed to the Court

Certiorari is granted in this case to consider the question as to whether or not the execution of person who commits a crime while under the age of eighteen constitutes “cruel and unusual punishment” and is therefore barred by the Eight and Fourteenth Amendments of the Constitution of the United States of America. Also granted for consideration is whether a lower court has to power to reach a decision contradictory to a set precedent based on the “evolving standards of decency” as first cited in *Trop v. Dulles*.

Summary of Argument

“Death is...an unusually severe punishment, unusual in its pain, in its finality, and its enormity (Justice Brennan, Dissenting opinion, Gregg v. Georgia). The Eighth Amendment of the Constitution of the United States of America bans the practice of cruel and unusual punishment. The Fourteenth Amendment of the same Constitution extends the right of due process to all citizens of this nation. The execution of a criminal who committed a heinous crime under the age of eighteen is not only unusual in practice in this great nation, but also in the world abroad.

Since the year 1990, the execution of juvenile offenders has only reportedly occurred in only seven countries. The countries committing this socially reprehensible act are Iran, Pakistan, the Democratic Republic of the Congo, Yemen, Saudi Arabia, Nigeria, and the United States of America. In the past eight years, six of these nations have either denied further execution of minors or have amended laws to ban this practice. The United States is the only nation to have made no move to ban this horrendous act. The prohibition of this act is not only present in many national constitutions, but also in many international treaties including, but not limited to The International Convention on Civil and Political Rights, the American Convention on Human Rights, the Geneva Convention Relative to the Protection of Civilian Persons in Times of War, and the United Nations Convention on the Rights of the Child.

Within the boundaries of the United States, the age of eighteen is widely regarded as the age at which one becomes fully responsible not only as a citizen, but also as a human being. Until the age of eighteen, many restrictions are applied to citizens. Privileges such as gambling, purchasing tobacco, consuming alcohol, playing the lottery, viewing pornography, obtaining marriage licenses, and claiming financial dependency are

restricted. All of the aforementioned are not allowed to those under the age of eighteen because they necessitate the ability to correctly and fully process and analyze the consequences of each individual situation. Although many adolescence have the ability to carry out these functions with the correct rationale, equally as many lack this skill. This fact is shown through brain scans conduction on those under the age of eighteen. The underdevelopment of the frontal lobe suggests that young adults lack the full capacity to understand and process the consequences of their actions, especially in situations with increased adrenaline and the “gut instinct”. The question here arises with at what point should we draw the line? Although the respondent was near the age of eighteen, he may not have possessed the ability to analyze the situation, freeing him from the punishment of the death penalty. In the case of *Penry v. Johnson* the respondent’s life was taken unjustly. This view is shown through the Supreme Court’s overturning of precedent in *Atkins v. Virginia*. Although Mr. Simmons is not mentally deficient to the point of protection, he still cannot be held culpable to the point of death for his actions. Mr. Simmons made a very poor decision while still under the nationally recognized standard age of eighteen, but because he was under this age of consensus, he cannot be punished by death. To do this would be unjust, unmoral, cruel, and unusual.

This view that Mr. Simmons was not old enough to be held accountable to the point of death is also upheld in the 1988 decision of *Thompson v. Oklahoma* in which this court overturned the decision held up by the Oklahoma State Supreme Court. In that case, the court cited “evolving standards of decency” as first recognized in *Trop v. Dulles*. Through both of these monumental decisions, this Supreme Court has acknowledged that the world as we know it is changing and that the myths and beliefs that society adheres to are steadily changing. It is essential that the court take this into consideration; that the

court recognizes that at the age of seventeen, a citizen of the United States is not viewed as an adult, both ethically and legally. The court must stand by decisions it has made in the past and set a precedent disallowing for the execution of minors.

Sentencing Mr. Simmons to death would not only be morally unjust, but would also compromise the integrity of the judicial system of the United States. If the respondent were sentenced to death, a precedent would be set that factors such as upbringing and mental status do not play a role in who can be executed. Mr. Simmons grew up a troubled childhood, and to kill him would violate the Eight Amendment. Mr. Simmons grew up in a house with an abusive step-father and an intimidated mother who stood by and watched her son get beat. Mr. Simmons step-father forced him to drink alcohol simply for amusement and admitted to tying Mr. Simmons to a tree while on a fishing trip. The respondent was raised in an unfit environment and through that environment did not adequately learn the skills necessary to function in society by making rational decisions. To kill Mr. Simmons would inflict an unjustly harsh and inhumane punishment on a juvenile who was not raised to know any better than what his actions showed.

Although many may believe in a form of punishment similar to “an eye for an eye,” this practice is cruel and unusual. A sentence of life in prison would serve a two fold advantage. In America, the median cost that a prisoner burdens society with is roughly 1.25 million dollars. If this number is compared with the 740,000 dollar cost for one sentenced to life in prison, the advantage is undeniable. Sentencing Mr. Simmons to life in prison would save the America public tax dollars, and would set precedent for further saving. The second advantage is one of moral conflict. Mr. Simmons has admitted to feeling remorse for the actions that he has committed. To sentence him to

death would, in essence, grant him a “get out of jail free card.” If Mr. Simmons life was taken away, he would escape many years of sitting in a jail cell, twenty four hours a day, having the constant reminder of the heinous act that he committed.

Thirty two years ago, in the landmark case of *Furman v. Georgia*, the death penalty was essentially ruled unconstitutional. If at one point, this nation outlawed that practice of imposing death as a punishment on *everyone*, then it would make sense that, since its reinstation, the practice should be prohibited for at least those under the age of eighteen. “The fatal constitutional infirmity in the punishment of death is that it treats members of the human race as nonhumans, as objects to be toyed with and discarded. [It is] thus inconsistent with the fundamental premise of the Clause that even the vilest criminal remains a human being possessed of common human dignity” (Justice Brennan, *Gregg v. Georgia*).

In regards to the Missouri Supreme Court being allowed the privilege to reach an opinion contradictory to a set precedent, the answer to this must be yes. As first cited in the case of *Trop v. Dulles* the nation’s courts must adhere to “evolving standards of decency.” Every year, the Supreme Court is bombarded with an enormous caseload and must turn away many cases. As a result, many precedents set in the past have remained there. State Supreme Courts should be allowed the opportunity to set new precedents based on the changing views of the world. Due to the Supreme Court’s low caseload, the states must be allowed to cast decisions that are more apt to the time and mindset of the general public.

Conclusion

In this nation, the age of eighteen is viewed as a rite of passage. Numerous laws and current social beliefs point toward this and the understanding of this fact is crucial to the justice system of the United States. Persons under the age of eighteen do not have fully developed brain function and can therefore not be subject to the death penalty. This court must rule with the Missouri Supreme Court and grant Mr. Simmons life in prison. This nation and the democratic world abroad have taken a stand against the imposition of the death penalty on minors and the court must not stray from this standard. The judicial system of America will undergo a serious blow if the death penalty is imposed upon a minor offender. This court must see that to kill a minor would go against previous precedent and degrade the moral standards of the American public. This court must concur with the ruling of the Missouri Supreme Court and grant Mr. Simmons a life sentence in prison.

The Missouri Supreme Court should also be allowed their decision to spare Mr. Simmons's life due to the "evolving standards of decency." It is commonsensical that the courts should be allowed to cast a decision that they feel is correct, and not necessarily one that was viewed as correct many years prior.

Group Roles and Precedents Used

Precedents:

- Atkins v. Virginia
- Trop v. Dulles
- Furman v. Georgia
- Gregg v. Georgia
- Penry v. Johnson

Group Roles:

Stephen: He was assigned to compose the bulk of the brief and keep all of the complied information in order. He also oversaw the actions of the group and made sure that all members remained on task

Ale: She was assigned to compose the closing argument for the responding team. She also assisted in the composition of the brief and the gathering of precedent related materials.

Carly: She also assisted in the composition of the brief. She was also given the responsibility to organize material on precedents directly related to this case and organizing them in a fashion suitable to the respondent's case.

Chelsey: She was assigned to compile as much information on the case as possible and to research other relevant cases. She was also assigned to gather precedents related to our case.

Missy: She was assigned to gather information on the respondent's background. With this, she was asked to compose part of the oral argument and present to the Court a presentation on the respondent's background.

Ryan: He was given the task of researching all applicable laws and precedents. He was also asked to compile information on other relevant cases and the precedents created by them.