

THE DEATH PENALTY FOR JUVENILES?

"Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted" 8th Amendment to the Constitution

In 1989 the Supreme Court of the United States ruled on the Eighth Amendment in a consolidation of two cases in which juvenile offenders were sentenced to death after being convicted of murder .

- Kevin Stanford, 17 years old, was found guilty of robbing a gas station, raping and sodomizing the station attendant, and then shooting her to death so that she could not identify him. He was sentenced to death plus 45 years imprisonment.
- Heath Wilkins, 16 years old, was convicted of first degree murder after robbing a convenience store, repeatedly stabbing the owner, and leaving her to die. The trial record showed that Wilkins had not only planned the robbery, but also the murder of whomever was working at the store because, in his words, " a dead person can't talk." Wilkins was also sentenced to death.

THE COURT'S DECISION

In Stanford v. Kentucky 106 L.Ed.2d 306 (1989), five justices of the Supreme Court agreed that the death sentence was permissible in these cases, even though the convicted murderers were minors at the time of the crimes. Justice Scalia was joined by Justice Rehnquist and Justices White, O'Connor, and Kennedy in the majority opinion, which held that the imposition of the death penalty for crimes committed at age 16 or 17 does not violate the Eighth Amendment's prohibition against cruel and unusual punishment.

Justice Scalia observed that a majority of the 37 states whose laws permit capital punishment allow the penalty for crimes committed at age 16 or above. While it is true that statistics show that a far smaller number of offenders under 18 than over 18 have been sentenced to death in the United States, continued Scalia, this does not mean that the death penalty is unacceptable for offenders under 18. Scalia also rejected the argument that there should be a relationship between the legal age for voting, driving, or drinking alcohol and the age at which the death penalty would be appropriate. "It is . . . absurd to think that one must be mature enough to drive carefully, to drink responsibly, or to vote intelligently, in order to be mature enough to understand that murdering another human being is profoundly wrong, " he wrote.

THE DISSENT

Justice Brennan, Marshall, Blackmun, and Stevens dissented, stating that it is cruel and unusual punishment to execute any person for a crime committed while that person was under 18 years of age. Among other points, the dissenters noted that 27 states either do not authorize capital punishment or specifically limit it to persons who are at least 18 years old. In addition, they emphasized that the Eighth Amendment forbids punishment that is "wholly disproportionate to the blame-worthiness of the offender." Because the law often assumes that juveniles, as a class, are insufficiently mature to be regarded as "fully responsible", explained Brennan, the same principles ought to apply to exempt juveniles from the ultimate penalty.

ACTIVITY

Argue for and then against the imposition of the death penalty in the following hypothetical cases:

1. A 13 year-old boy assaulted an old man (knocked him to the ground, resulting in superficial bruises, a cut, a bruised liver, and a broken hand) and stole his wallet. The man died four days later in the hospital as a result of complications from his injuries.
2. A 17 year-old boy killed his father while he slept. In court, it comes out that the boy planned for six months to kill his father because of the physical abuse the father was inflicting upon his mother. The father never hit the boy, but the boy watched his father abuse his mother for the past four years on a weekly basis.
3. A 15 year-old girl hit a student she knew from school with her car, killing her instantly. The girl claimed she hit the student on purpose and planned to do so all day, but did not mean to kill her. She claimed she hit her because she was angry about a fight they had earlier in the day over a boy.

OBJECTIVES

1. To introduce the students to information about how Supreme Court opinions are written.
 - What is a majority opinion, dissent, concurrence.
 - How the politics of the justices can affect their positions.
 - How a Supreme Court opinion determines future law.
2. Discuss elements of the 8th Amendment and the Death Penalty.
 - What is “cruel and unusual”?
 - Why might the death penalty not be (or be) cruel and unusual?
 - Are some forms of capital punishment more likely to be found “cruel and unusual”?
3. Introduce students to concepts of appellate advocacy.
 - Arguing a case from both sides.
 - Arguing a case based on existing precedent.