

# Supreme Court stops Florida execution, requiring more evidence to assess mental competency

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The US Supreme Court ruled on Tuesday that it was unconstitutional for states to set an absolute standard using IQ test results to determine whether people on death row are mentally competent enough to be executed.

The ruling concerned a man from Florida who is suspected to have been mentally impaired at the time of his crime. The new Supreme Court opinion comes amidst a crisis in the country's execution system, in which, due to a drug boycott from Europe, executioners in the United States are experimenting with new drug cocktails that have led to horrific, drawn out, killings.

The Supreme Court ruled 5 to 4 that Freddie Lee Hall, who was sentenced to death in 1978, should not be executed, and that his defense team should be allowed to present evidence, beyond his IQ tests, with regard to his mental competency. If he is deemed mentally incompetent he will avoid execution and spend the rest of his life in jail.

Hall has been on death row for 36 years and has scored between 60 and 80 on nine different IQ tests. Multiple witnesses told the Court that he had severe mental impairment when he committed the crime. Doctors told the Court that he was "significantly mentally retarded" and that he was regularly beaten by his mother, at least ten times a week throughout his life, for being "slow."

Before the ruling, Florida had based itself solely on IQ test results to determine whether someone could be sent to the execution chamber without violating the US Constitution's ban on "cruel and unusual punishment." By the State's logic, a convicted criminal on death row would be allowed to live if his IQ was 70 or below. That cut-off was used because it was two standard

deviations below the average.

Florida, like all states, had used its own criteria to implement the 2002 decision by the Supreme Court that banned executions if prisoners were, according to the Court's language, "mentally retarded." Many other states also use IQ tests to determine or help determine whether they think someone is mentally competent enough to be put to death by the state authorities.

Supreme Court Justice Kennedy authored the majority opinion. Kennedy wrote, "the flaws in Florida's law are the result of the inherent error in IQ tests themselves. An IQ score is an approximation, not a final and infallible assessment of intellectual functioning."

Kennedy sided with Hall's defense team, which argued that IQ tests have a margin of error of 5 points. According to slate.com, "Kennedy says that when a defendant's IQ falls within the margin of error for intellectual disability, he or she must be able to present other evidence about problems adapting."

Since 1976, when the US Supreme Court reinstated the death penalty, over 1,300 people have been executed. These have included the mentally ill and impaired, foreign nationals denied their consular rights, and those convicted for crimes committed as juveniles. No doubt some of those who have been put to death were innocent of the crimes for which they were convicted.

On April 29th, in the midst of an execution drug boycott from Europe, the United States killed Clayton Lockett through lethal injection. Lockett's execution took 43 minutes, and he was conscious for a long period of that time. His attorney described Lockett twenty minutes into the execution: "He was definitely

writhing around. His whole upper body was lifting off the table.”

It is within this context that Kennedy wrote, “Florida’s law contravenes our nation’s commitment to dignity and its duty to teach human decency as the mark of a civilized world.” We should assume then, according to Kennedy’s logic, that the US commitment to civilization, dignity and human decency is upheld as long as executions are carried out on those whose IQ test results are greater than 75. For Kennedy, state execution is neither cruel nor unusual.

Never failing to set new standards for social backwardness, the Court’s most right-wing Justices protested Kennedy’s reasoning. Led by Justice Alito, they argued that the Court was under the influence of psychological experts and must instead heed “the standards of American society as a whole.” Alito wrote, “what counts are our society’s standards—which are to say, the standards of the American people—not the standards of professional associations, which at best represent the views of a small professional elite.”

According to a Pew Research Center poll in March 2014, 55 percent of Americans support the death penalty, the lowest level ever recorded since Pew began polling. Among people aged 18-29, only 51 percent now support capital punishment. Throughout the world 141 countries, including all of Europe and almost every other country, have abolished the death penalty.



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