

Alabama judges override juries to impose death sentences

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A report that appeared Sunday on NPR.org reveals the widespread practice by Alabama judges of overriding recommendations of life sentences by capital juries in order to impose the death penalty.

The article recounts the story of Courtney Lockhart, an Iraq war veteran convicted of capital murder in 2010, whose lawyers are currently appealing to the Alabama Supreme Court to overturn his death sentence. Like countless other veterans, Lockhart suffers from post-traumatic stress disorder (PTSD) stemming from his experiences in the war.

At trial, the jury unanimously decided that Lockhart's mental state mitigated Lockhart's culpability, and chose to sentence him to life in prison. However, the presiding judge, Jacob Walker III, threw out the sentence and imposed the death penalty, citing alleged robberies committed by Lockhart that the jury could not have taken into consideration.

Far from being an isolated incident, such "overrides" are common practice in capital cases in the Alabama court system. Since the US Supreme Court reinstated the death penalty in 1976, Alabama judges have imposed the death penalty over the recommendations of juries 101 times. By comparison, Alabama judges have imposed life sentences over jury recommendations of the death penalty only 10 times.

The death penalty is imposed in cases such as Lockhart's in flagrant violation of recent US Supreme Court rulings limiting the use of judicial override. *Apprendi v. New Jersey* in 2000 established that judges could only extend sentences beyond the statutory maximum based on facts established beyond a reasonable doubt by a jury trial. *Ring v. Arizona* expanded this provision to cover the death penalty in 2002.

Nevertheless, the high court bears considerable responsibility for the judges' outrageous actions, having ruled them to be constitutional in 1984, and having

repeatedly upheld Alabama's override practice as recently as November of last year in *Woodward v. Alabama*. The Equal Justice Initiative (EJI), an Alabama-based civil rights group whose reports provide the basis of the NPR story, describes the judicial override process as "largely unregulated, with no meaningful standards or oversight," where the judge is not effectively required to take the opinion of the jury into consideration.

EJI has also noted the propensity of judicial overrides to increase in election years, spurred on by superheated campaign rhetoric in which judicial candidates boast of their being "tough on crime." The group pointed to a television ad in which a candidate for the Alabama Supreme Court bragged that he "looked into the eyes of murderers and sentenced them to death."

The reasoning given for judicial overrides is generally crude, self-serving and often racist. For example, in 1990 Judge Charles Partin rejected claims of mental incompetency in the case of James Neal, declaring that "the sociological literature suggests Gypsies intentionally test low on standard IQ tests."

In 1999, Judge Dale Segrest, who was in the midst of a re-election campaign, declared in open court that he was sentencing Bobby Waldrop, a white teenager, to death because "if I had not imposed the death sentence, I would have sentenced three black people to death and no white people."

Along with Delaware and Florida, Alabama is one of only three states where judicial override is legal in capital cases. However, Alabama is the only state that routinely overrides life sentences. Delaware currently has no one on death row due to judicial override, and override has not been used in Florida since 1999.

Judicial overrides in capital cases have declined in Alabama as a result of *Ring v. Arizona* from a high of 40 during the 1990s to a low of 27 since 2000. This reactionary, undemocratic practice still persists, however,

under conditions in which support for elementary democratic rights has collapsed among the ruling elite. Moreover, there is clear nervousness in ruling circles with respect to the potentially explosive social consequences of their reckless policies, which have had a catastrophic impact on tens of millions of American workers.

Alabama has the 15th highest poverty rate of all US states and the District of Columbia, with fully 22 percent of the state's population struggling below the poverty line. At the same time, Alabama has the 8th highest Gini coefficient, a measure of income inequality, in the United States. Inequality is particularly severe in the former industrial center of Birmingham and in sparsely populated rural areas. Alabama ranks 45th in per capita income at \$23,587, with an official unemployment rate of 6.8 percent, although the real jobless rate is much higher.

The case of Courtney Lockhart also bears special significance. At least 20 percent of all Iraq and Afghanistan war veterans, or around 300,000 people, have been diagnosed with PTSD. Veterans receive little to no help for their psychological problems either from the military or from Veterans Affairs hospitals and clinics. Instead they go for months without receiving treatment, with many ending up on the streets where they often lash out violently.

Veterans from Lockhart's unit, the 506th Infantry Regiment (the much-vaunted "Band of Brothers" unit that was the subject of an HBO miniseries, now known as the "Lethal Warriors"), have suffered from extremely high rates of psychological disorders such as PTSD upon returning to the United States. No less than 12 former soldiers from the unit had been arrested for murder or attempted murder as of 2010.

The regiment's psychiatrist, Dr. Randal Scholman, expressed the contempt with which the US Army holds its soldiers when he told the Associated Press, "My mission here is to keep people on mission, keep people in the fight, keep people in the theater as opposed to having them air-evacuated out."



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