

Connecticut high court rules state death penalty unconstitutional

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The Connecticut Supreme Court ruled Thursday that the state's death penalty is unconstitutional and is at odds with today's societal values. With its ruling, the high court spared the lives of the 11 men remaining on the state's death row.

The ruling comes three years after the Connecticut legislature abolished capital punishment while leaving death sentences intact for inmates convicted of crimes committed before the measure took place.

The court's 4-3 ruling, however, went beyond the limited issue of whether the 11 inmates could be executed, declaring that in the modern age the death penalty met the definition of cruel and unusual punishment, which is prohibited by the state's constitution.

Justice Richard Palmer wrote for the court's majority, "We are persuaded that, following its prospective abolition, this state's death penalty no longer comports with contemporary standards of decency and no longer serves any legitimate penological purpose."

In a dissenting opinion, Connecticut Chief Justice Chase T. Rogers said that the majority's decision overstated the public aversion to the death penalty, describing the ruling as "fundamentally flawed" and "based on a house of cards, falling under the slightest breath of scrutiny."

Bitterly opposing the decision, she wrote, "I can only conclude that the majority has improperly decided that the death penalty must be struck down because it offends the majority's subjective sense of morality."

In 2012, Governor Daniel Malloy, a Democrat, signed into law a bill abolishing the death penalty, making Connecticut the 17th state in the US to repeal capital punishment and the fifth to do so in the last five years. Under pressure from death penalty advocates,

however, the 11 inmates already on death row in the state were exempt from the repeal.

One of these inmates, Eduardo Santiago, appealed the death sentence for his conviction of a murder in West Hartford in 2000. Santiago's attorneys argued that any executions carried out after the state repealed the death penalty would constitute cruel and unusual punishment.

Ruling for the plaintiff in *Connecticut v. Santiago*, the majority on the court said the 2012 law "held a mirror up to Connecticut's long, troubled history with capital punishment: the steady replacement by more progressive forms of punishment ... the freakishness with which the sentence of death is carried out; and the racial, ethnic, and socioeconomic biases that likely are inherent in any discretionary death penalty."

Since the US Supreme Court reinstated the death penalty in 1976, Connecticut has executed only one inmate. Serial killer Michael Ross was put to death in 2005 after he dropped his appeals. Prior to this execution no one had been executed in the state since 1960.

Connecticut came close to abolishing the death penalty in 2009, but the governor at the time, Republican M. Jodi Rell, vetoed a bill that would have abandoned the practice. She came under pressure to maintain the death penalty in the wake of a crime two years earlier that garnered widespread attention in the state.

Two men broke into a family's home in Cheshire, Connecticut on July 23, 2007, sexually assaulting a woman, Jennifer Hawk-Petit, and her daughter Michaela, 11. The two men also beat the girl's father, William, before killing Jennifer, Michaela and the couple's 17-year-old daughter Hayley, 17.

Joshua Komisarjevsky and Steven Hayes were convicted in the case and sentenced to death. They are

two of the 11 men on death row whose sentences now appear to be vacated by the state's high court ruling.

The court's ruling, which came in spite of the continued high-profile protests of William Petit, the surviving husband and father of the 2007 murder victims—and a well-orchestrated campaign by pro-death penalty proponents in both big business parties—is an indication of growing public opposition to capital punishment.

Thirty-one US states, plus the federal government and the US military, still have capital punishment statutes. There are currently 18 states without the death penalty. Twelve states banned it before 2007 and six banned it between 2007 and 2013—New Jersey, New York, New Mexico, Illinois, Connecticut and Maryland.

With Connecticut's 2012 repeal, New Hampshire remains the only state in New England with capital punishment still fully on the books. Legislators came within one vote of abolishing it in the state in 2014.

While a growing number of states have repealed the death penalty, the US Supreme Court has consistently upheld the constitutionality of capital punishment. Following a series of horrific lethal injections in recent years in which condemned inmates showed visible signs of distress and suffering in the execution chamber, the nation's high court ruled 5-4 on June 29 to uphold Oklahoma's lethal injection protocol.

The Connecticut Supreme Court majority decision Monday referred to Justice Stephen Breyer's dissent in the US high court's Oklahoma ruling, in which he suggested that the court take up the question of the constitutionality of the death penalty as a whole.

Justice Antonin Scalia, concurring with the majority in the case, filed an angry opinion at the time denouncing Breyer for taking on "the role of the [death penalty] abolitionists in this long-running drama."

The high court ruled 5-4 on June 26 to uphold the right of same-sex couples throughout the US to legally marry, demonstrating that it is willing to make concessions on certain democratic rights that are of particular concern to better-off sections of the middle class. However, the death penalty—the ability of the state to kill its citizens—is a key element of class rule that it is determined to uphold.

Barack Obama, despite expressing concern about lethal injections gone wrong and the racial and socio-economic disparities in the implementation of the death

penalty, has maintained that there are certain instances in which crimes are "particularly heinous" and capital punishment is needed. Instead of abolishing it, the president has cynically called for the inherently barbaric practice to be carried out "humanely."



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