

Juvenile executions banned

U.S. Supreme Court exempts 72 killers, including 4 Arizona murderers

Michael Kiefer

The Arizona Republic
Mar. 2, 2005 12:00 AM

The U.S. Supreme Court ruled Tuesday that it is unconstitutional to execute murderers for crimes they committed when they were 16 and 17 years old.

Reaction was mixed. Doctors organizations, religious groups, death-penalty watchers, even former President Carter issued statements lauding the ruling, while some victims' families and talk-radio callers complained about injustice.

"It's a great day for the Constitution," said Dale Baich, a federal public defender in Phoenix who specializes in death-penalty cases. "The court has confirmed that our society has evolved to the point where we joined with the rest of the world in outlawing the death penalty for juveniles."

Justice Sandra Day O'Connor voted to leave the law as it was and wrote in her dissenting opinion that some juveniles were indeed mature enough and responsible enough to be considered for death penalties.

"I think age was previously being given a great deal of consideration not only by the trial courts but by the Arizona Supreme Court," said Kent Cattani of the Arizona Attorney General's Office, echoing O'Connor's opinion.

There are 72 juvenile killers on death rows across the country.

In Arizona, the ruling affects four young men on death row, two more awaiting re-examination of their death sentences and four teens awaiting trial.

Seventeen-year-old Lonnie Bassett sighed with relief Tuesday morning when his lawyer told him that he would not face the death penalty in his upcoming trial for killing two people with a shotgun at close range last June.

Kenneth Laird's adoptive father was speechless and said only "amen" when he learned that his son would be removed from Arizona's death row in the wake of the decision, according to Sylvia Lett, Laird's federal public defender.

Laird was convicted of breaking into a Scottsdale house in 1992 and killing the woman who lived there. He then dumped her body in the desert and drove her truck and cashed her checks until he was arrested.

Victims' families upset

But victims relatives were not relieved.

"I'm fully shocked that these great minds could take somebody off death row just because of his age," said Richard Gee, whose brother and uncle were killed in 1992 in Tucson by a 17-year-old named Martin Soto-Fong. Soto-Fong is on death row.

"He did a capital crime, I think he deserves a capital punishment regardless of his age," Gee said. Gee wasn't alone.

"My whole family was very disgusted by it (the ruling)," said Nancy Arias, whose sister, Patricia Baeuerlen was murdered in Tucson in 1992 by then-16-year-old Levi Jackson. "We didn't think it would come to this."

The historic decision, written by Justice Anthony Kennedy, drew analogies to the 2002 decision to stop executing the mentally retarded.

The decision was not unexpected; the justices hinted as much in their remarks during oral arguments in October.

The court split 5-4., but the majority ruling pointed out that a majority of states already had outlawed the practice. It also cited the undeveloped brain and subsequent reasoning ability of adolescents and the fact that the United States was the last nation that still allowed juvenile executions.

Under the "evolving standards of decency that mark the progress of a maturing society," the justices ruled that such executions were "cruel and unusual punishment" and violated the Eighth Amendment of the Constitution.

"The differences between juvenile and adult offenders are too marked and well understood to risk allowing a young person to receive the death penalty despite insufficient culpability," Kennedy wrote.

Kennedy added, "Our determination that the death penalty is disproportionate punishment for offenders under 18 finds confirmation in the stark reality that the United States is the only country in the world that continues to give official sanction to the juvenile death penalty."

Behind the case

Like a crime thriller, Kennedy's majority opinion recounts the chilling facts of *Roper vs. Simmons*, the Missouri murder case at the heart of the debate.

In 1993, 17-year-old Christopher Simmons and accomplices broke into a house and kidnapped a woman living there. Just for fun and reasoning that they would get away with it because they were kids, Simmons decided to bind the woman with wire and duct tape and throw her from a railroad trestle into a river below.

Simmons was sentenced to death, but the penalty was reversed by the Missouri Supreme Court. The state prosecutor appealed to the U.S. Supreme Court, which affirmed the decision.

The high court had considered the issue twice, ruling in 1988 to draw the "bright line" for legal executions at age 16.

A year later, the court considered murderers who killed at 16 and 17 and decided to let the earlier decision stand.

In 2002, the court ruled it was unconstitutional to execute the mentally retarded because they could not be held completely culpable for their actions.

The *Simmons* decision used that earlier ruling as a precedent of sorts, citing scientific evidence that juvenile impulsiveness stems from an as-yet-undeveloped brain. The court already found in 1988 that juveniles were so impulsive that they were not deterred by the threat of death penalty or any other consequences.

Under Arizona law, the cases of the four young men on death row will be remanded to the Superior Court for resentencing.

"The courts still have options when sentencing juveniles who commit murder,

including sentencing someone to a natural life sentence, which is a life sentence with no possibility of parole or release," Arizona Attorney General Terry Goddard said in a prepared statement.

Actually, the natural life sentence was not written into Arizona law until 1993.

Three of the four murders by juveniles on death row were committed in 1992, meaning that the maximum sentence they can receive is 25 years to life. They will be eligible for parole in 14 years unless they still have to serve time on other offenses.

Reach the reporter at michael.kiefer@arizonarepublic.com or (602) 444-8994.

Email this article
Print this article
Most popular pages

Click to send
Click to print
Today | This Week