

## Roper v. Simmons

Argued October 13, 2004 – Decided March 1, 2005

### Facts

In September of 1993, Christopher Simmons broke into the suburban St. Louis home of Shirley Crook with the intention to rob and possibly kill her. Simmons and a friend tied the victim up with duct tape and drove her to a nearby state park. At the park, Simmons pushed the victim, who was still alive, off of a bridge and into the Meramec River where she drowned. Simmons was 17 years old at the time of the murder. Before the crime, he had told several of his friends of the plan to burglarize a home and kill the occupants, noting that they could do it and “get away with it” (not get charged for it) because they were juveniles.<sup>1</sup>

Simmons and his friends were arrested the following day, and Simmons confessed on videotape at the police station. He even agreed to re-enact the crime on videotape and returned to the park and demonstrated where Mrs. Crook had been pushed from the rail bridge. At trial the jury easily found him guilty. During the sentencing hearing the defense attorneys asked the jury to use Simmons’ age and the fact that he had no prior convictions as mitigating factors and not give Simmons the death penalty. However, the jury focused on the brutal and aggravated nature of the crime and sentenced Simmons to death by lethal injection.

Simmons’ case was appealed, citing ineffective trial support. His age and thus impulsiveness, along with a troubled background were brought up as issues. The trial court upheld the jury’s death sentence. The Missouri Supreme Court upheld the conviction and the U.S. Supreme Court denied review. Simmons’ attempt at legal relief from the federal courts (habeas corpus) was also denied.

However, in light of a 2003 U.S. Supreme Court ruling in *Atkins v. Virginia* (2002) that overturned the death penalty for the mentally retarded, the Missouri Supreme Court reconsidered Simmons’ case. In an unusual move, the Missouri Supreme Court concluded that, “a national consensus has developed against the execution of juvenile offenders” and sentenced Simmons to life imprisonment without parole.

The State of Missouri appealed the decision to the U.S. Supreme Court. On January 26, 2003, the U.S. Supreme Court granted certiorari (agreed to hear the case) and ordered oral arguments in the case *Roper v. Simmons*.

### Issue

Does the Eighth Amendment prohibit the execution of juveniles who commit capital crimes prior to turning 18 years of age?

### Precedents

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<sup>1</sup> Herndon, Jennifer (July 2004) Brief for Christopher Simmons.

*Tropp v. Dulles* (1958)—While this is not a death penalty case, the Supreme Court interpreted that the Eighth Amendment contained an “evolving standard of decency which marked the progress of a maturing society.”

*Ford v. Wainwright* (1986)—The Supreme Court banned the execution of mentally ill individuals.

*Thompson v. Oklahoma* (1988)—The Supreme Court ruled it was unconstitutional to execute offenders aged 15 and younger at the time of their crimes.

*Stanford v. Kentucky* (1989)—The Supreme Court held that it does not violate the Constitution to give 16 and 17 year olds the death penalty.

*Penry v. Lynaugh* (1989)—The Supreme Court held that executing persons with mental retardation was not a violation of the Eighth Amendment.

*Atkins v. Virginia* (2002)—The Supreme Court ruled it was unconstitutional to execute the mentally retarded.

### Arguments for Roper

- o Currently, death penalty sentences are done in a thoughtful and deliberative manner. A jury makes the decision on whether a 16 or 17 year old should be given the death penalty. At sentencing, the jury is given information that assists in their decision of whether the death penalty is an appropriate punishment. During sentencing the defendant’s age is taken into consideration along with other pertinent information. The fact that *Simmons* would be only the second juvenile executed in Missouri is further proof that juries only use the death penalty for the worst offenders.
- o There is not sufficient evidence to determine that a national consensus has emerged against executing 16 and 17 year olds. Since *Stanford v. Kentucky* in 1989, few states have raised the age for capital punishment. Only Indiana, Montana, South Dakota, and Wyoming have passed legislation that has raised the age for death penalty eligibility.
- o The research into adolescent brain development does not provide any definitive conclusions about the reasoning capabilities of teenagers. Though the American Psychological Association (APA) claims that there is scientific evidence showing that juveniles do not have the capacity to take moral responsibility for their decisions, this same organization has made contradictory claims in past cases. For example, in *Hodgson v. Minnesota* (1990), the APA said there was research evidence to show that by age 14-15, adolescents gain adult-like abilities to think logically about moral decisions and understand social rules and laws.

- o The *Atkins v. Virginia* (2002) case in which the Court decided it violated the Eighth Amendment to execute the mentally retarded is not an appropriate precedent. Sixteen and 17 year old offenders should not be placed in the same category with the mentally retarded. Age and maturity levels should be dealt with on a case-by-case basis. Age is just an arbitrary number; it does not magically transform a bad person into a good one.
- o Some crimes are so horrible and horrific that the death penalty is the only appropriate sentence. Society is better served removing the worst criminals with the death penalty. This serves as deterrence to other youth offenders and gives a sense of relief to law-abiding residents.
- o There is a potential problem that adult members of gangs could assign their 16 and 17 year old members to be "hit men" knowing that they will not face as harsh a penalty in the criminal justice system.

#### **Arguments for Simmons**

- o In many cases, the horrific nature of the crimes committed by juveniles makes it difficult for juries to consider age as a mitigating factor. Jurors can become swayed by the atrocity of the crime itself and are then less able to take into account the offender's age as an explanation for the crime. Because of this problem, considering whether to use the juvenile death penalty on a case by case basis will not work.
- o Just as was the case in *Atkins v. Virginia* (2002) when the Supreme Court ruled it was unconstitutional to execute the mentally retarded, there has been a shift in the use of the juvenile death penalty that reflects society's "evolving standards of decency." A national consensus has developed since *Stanford v. Kentucky* (1989) in which the majority of states do not support the use of the death penalty for juveniles. Currently, 30 states prohibit the juvenile death penalty, and 12 of those states have banned the death penalty completely. In addition, since 1989, five states that previously allowed the juvenile death penalty have banned its use, either through legislation or through judicial decision.
- o Of the states that retain the juvenile death penalty, very few actually use this punishment. In the past 10 years, only three states have actually executed prisoners who committed crimes as juveniles: Oklahoma, Texas, and Virginia.
- o In the international community, the majority of our allies condemn the use of the death penalty on juvenile offenders. Since 1990, the United States has been one of the only countries in the world to execute juveniles, along with Iran, Pakistan, Saudi Arabia, Yemen, Nigeria, the Democratic Republic of Congo, and China. Since that same time, each of these countries has stopped the use of the juvenile death penalty or publicly

renounced the practice. Thus, there is a clear global opinion that the death penalty is too strong a punishment for offenders under the age of 18.

- o There is research that shows that brain development, and specifically moral reasoning, is not fully developed until adulthood. Since the *Stanford v. Kentucky* (1989) decision, new neurological research has shown that the parts of the brain that regulate higher-order thinking capacities have not reached full development in 16 and 17 year olds. Other research shows that adolescents do not have the maturity and judgment necessary to fully weigh decisions and control their impulses. One indicator of this is that adolescents are statistically more likely to engage in reckless behavior than people of other age groups.
- o The age 18 is an important benchmark in our society. When a young person turns 18 a host of added rights and responsibilities are awarded them. The majority of states do not allow people under the age of 18 to vote, serve on juries, or marry without parental permission. It is logical then that the age 18 should also be the marker of when a person can be held fully responsible for committing a crime.