

Supreme Court weighs juvenile death penalty

WASHINGTON (AP) - The Supreme Court last week struggled to assess the morality and propriety of states' executing murderers who killed at age 16 or 17 — the ultimate punishment carried out in few places outside the United States.

The court has outlawed executions for those 15 and under when they committed their crimes. Still, 19 states allow the death penalty for those older teenage killers.

Justices debated whether such killers are children who cannot grasp the consequences of their actions and should be kept from death row, or criminals whose executions would ensure justice for victims and deter other youths.

The justices seemed sharply aware of the world audience as they discussed whether the executions are cruel and unusual punishment in violation of the Constitution.

They heard arguments in a Missouri case involving Christopher Simmons, who at 17 kidnapped a neighbor and threw her off a bridge.

Juvenile offenders have been put to death in recent years in just a few other countries, including Iran, Pakistan, China and Saudi Arabia. All those countries have gone on record as opposing capital punishment for minors.

"We are literally alone in the world," said Seth Waxman, Simmons' lawyer.

Justices repeatedly referred to arguments filed on behalf of Simmons by foreign leaders, Nobel Peace Prize winners and former U.S. diplomats.

Justice Anthony M. Kennedy, a moderate expected to be a key swing vote, said that with world opinion against the punishment, "Does that have a bearing on what's unusual?"

James Layton, representing the state of Missouri, said the court's judgment about unconstitutional punishment in America "should not be based on what happens in the rest of the world."

"Is there some special reason why what happens abroad would not be relevant here?" Justice Stephen Breyer asked.

Justice Ruth Bader Ginsburg, quoting from the Declaration of Independence, said that for the United States to lead, it must "show a de-

cent respect for the opinions of mankind."

Simmons was convicted of the 1993 murder of Shirley Crook. Prosecutors say he planned the burglary and killing. The victim, wearing only underwear and cowboy boots, was hog-tied and thrown off a bridge.

Simmons was sentenced to die, but Missouri's highest court overturned the sentence last year.

Justice Antonin Scalia, a death penalty supporter, said the court could be asked to declare juveniles too immature to face punishment of any kind.

"Why pick on the death penalty? Why not say they're immune from any criminal penalty?" he asked. "I don't see where there's a logical line."

The case has drawn intense interest. People carrying sleeping bags arrived at the Supreme Court before midnight in hopes of getting a seat for the argument. It featured a lively debate that touched on gang violence, global influence on America and scientific evidence about the development of the teenage brain.

The Supreme Court increasingly has looked at international opinion. The four most liberal members — Ginsburg, Breyer, and Justices John Paul Stevens and David H. Souter — have taken a stand against the death penalty for minors, saying it is "a relic of the past and is inconsistent with evolving standards of decency in a civilized society."

Justice Sandra Day O'Connor, also an important swing vote, spoke only once during the arguments. She pointed out that the statistics about the use of executions for juveniles showed the same

consensus as existed two years ago against executing the mentally retarded.

About 20 states allowed executions of retarded people when the court voted 6-3 to outlaw them. Kennedy and O'Connor supported the 2002 decision.

Kennedy seemed more conflicted by this case. He said he was troubled about youth gang violence and the possibility of an increase in teenage murderers if the court protected them from the death penalty.

"If we rule against you, then the deterrent remains," he told Simmons' lawyer.

Layton, who also was pressed on the subject, acknowledged there is no conclusive evidence that minors are deterred by the fear of the death penalty.

Death penalty supporters, including families of victims, traveled to Washington to hear the landmark case.

"The death penalty is reserved for the worst of the worst. It is not just for adults," said Dianne Clements, president of the victims' rights group Justice For All.

"It doesn't matter how old the killer is. What matters is that your loved one is gone."

Two court conservatives, Chief Justice William H. Rehnquist and Scalia, said jurors should be allowed to consider evidence about a teenager's maturity and culpability.

Rehnquist appeared skeptical of scientific evidence that showed juveniles are not as advanced as adults in impulse control and decision-making.

But Breyer said even without that evidence "every parent ought to know" that minors are still developing.

The case is Roper v. Simmons, 03-633.

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