Court Rules against Florida I.Q. Rule in Death Cases

By Adam Liptak
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WASHINGTON — The Supreme Court on Tuesday ruled that Florida had adopted too rigid a cutoff in deciding who is eligible to be spared the death penalty on account of intellectual disabilities.

“Florida seeks to execute a man because he scored a 71 instead of 70 on an I.Q. test,” Justice Anthony M. Kennedy wrote for the majority in a 5-to-4 decision. He was joined by court’s four more liberal members.

When the court barred the execution of people with mental disabilities in 2002 in Atkins v. Virginia, it largely let the states determine who qualified. Tuesday’s decision, Justice Samuel A. Alito Jr. wrote for the four dissenters, represented a “sea change” in the court’s approach.

Justice Kennedy responded that closer supervision of the states was warranted given the nature of the punishment.

“The death penalty is the gravest sentence our society may impose,” he wrote. “Persons facing that most severe sanction must have a fair opportunity to show that the Constitution prohibits their execution. Florida’s law contravenes our nation’s commitment to dignity and its duty to teach human decency as the mark of a civilized world.”

The case, Hall v. Florida, No. 12-10882, arose from the 1978 murder of Karol Hurst, who was 21 and seven months pregnant when Freddie L. Hall and an accomplice forced her into her car in a supermarket parking lot. She was found in a wooded area, where she had been beaten, sexually assaulted and shot.

There was significant evidence in school and court records that Mr. Hall was “mentally retarded,” the term that was used at the time. Before the Supreme Court’s decision in the Atkins case, a trial judge found that there was “substantial evidence” that Mr. Hall “has been mentally retarded his entire life.”

After the Atkins decision, Mr. Hall challenged his death sentence, relying in part on the earlier state court determinations.

The Atkins decision gave states only general guidance. It said a finding of mental retardation required proof of three things: “subaverage intellectual functioning,” meaning low I.Q. scores; a lack of fundamental social and practical skills; and the presence of both conditions before age 18. The court said I.Q. scores under “approximately 70” typically indicate retardation

A Florida law enacted not long before the Atkins decision created what Mr. Hall's lawyers called an "inflexible bright-line cutoff" requiring proof of an I.Q. of 70 or below. In 2012, the Florida Supreme Court ruled that Mr. Hall was eligible to be executed because his I.Q. had been measured at various times as 71, 73 and 80.

That approach, Justice Kennedy wrote, had at least two flaws. One was that it failed to take account of standard errors of measurement. "An individual's score is best understood as a range of scores on either side of the recorded scores," he wrote.

The second problem, he said, was that a rigid cutoff excludes consideration of other evidence. "Intellectual disability is a condition, not a number," he wrote.

Justice Alito protested that this changed the rules announced in Atkins, which required both low scores and more practical proof. He was also harshly critical of the court's reliance on the views of medical experts, saying the majority had overruled part of the Atkins decision "based largely on the positions adopted by private professional organizations."

The Supreme Court assesses whether given practices are barred by the Eighth Amendment's prohibition of cruel and unusual punishment by considering, in the words of a 1958 decision, the "evolving standards of decency that mark the progress of a maturing society." In doing so, Justice Alito said, it had always "meant the standards of American society as a whole."

"Now, however," he wrote, "the court strikes down a state law based on the evolving standards of professional societies, most notably the American Psychiatric Association."

Chief Justice John G. Roberts Jr. and Justices Antonin Scalia and Clarence Thomas joined the dissent.

The majority and dissenting opinions clashed over statistics and over how many states had laws similar to Florida's. By Justice Kennedy's count, Kentucky and Virginia have adopted a fixed cutoff of 70 by statute, and Alabama by court decision. Five other states, he said, have laws open to the same interpretation.

Justices Ruth Bader Ginsburg, Stephen G. Breyer, Sonia Sotomayor and Elena Kagan joined the majority opinion. In earlier decisions limiting the use of the death penalty and other harsh punishments under the Eighth Amendment, Justice Kennedy has often joined the court's liberal wing. He wrote several of those decisions, sometimes using the soaring language that marked his majority opinion on Tuesday.

"The Eighth Amendment's protection of dignity," he wrote, "reflects the nation we have been, the nation we are, and the nation we aspire to be. This is to affirm that the nation's constant, unyielding purpose must be to transmit the Constitution so that its precepts and guarantees retain their meaning and force."

The court returned Mr. Hall's case to the lower courts for a fresh assessment of his condition. "Freddie Lee Hall may or may not be intellectually disabled," Justice Kennedy wrote, "but the law requires that he have the opportunity to present evidence of his intellectual disability, including deficits in adaptive functioning over his lifetime."