Furman v. Georgia

408 U.S. 238

Country: United States
Region: Americas
Year: 1972
Court: Supreme Court
Health Topics: Prisons, Violence
Human Rights: Freedom from discrimination, Freedom from torture and cruel, inhuman or degrading treatment, Right to life

Facts

The Court considered three cases together that involved individuals sentenced to death. One case involved a black man who was convicted of murdering a homeowner during an attempted burglary. He was committed to a psychiatric hospital after arrest and diagnosed as suffering from mild to moderate mental impairments with psychotic episodes, but was later found competent to stand trial. Two companion cases involved black men convicted of forcible rape after breaking into private homes. One of the men was also diagnosed with certain mental impairments, including well below-average IQ.

In each case, a jury imposed the death sentence under state criminal laws that allowed discretion to judges or juries to determine whether to impose the death penalty. The men argued that their sentences constituted cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the U.S. Constitution.

In the decades prior to the Court decision, the number of executions in the United States had sharply decreased. In the 1930s, there were an average of 167 executions per year. Between 1961-1970, there were 135 total nationwide, only 10 of which occurred after 1964. During that same 10-year period, 1,177 prisoners entered death row.

Decision and Reasoning

The Supreme Court held that imposing the death penalty in the cases under consideration would be an unconstitutional violation of the Eighth and Fourteenth Amendments of the U.S. Constitution, which prohibit cruel and unusual punishment. However, the Court did not align on a single rationale to justify the outcome, achieving a majority through five separate concurring opinions.

The common emphasis across concurring opinions was that the death penalty was only rarely imposed in capital cases for which it was an authorized sentence. The concurring justices agreed that the extreme infrequency of the death penaltyâ€™s application undermined any general deterrent effect that it might have on the public and raised a strong inference that it was arbitrarily and discriminatorily applied.

Justices Douglas, Stewart and White declined to consider whether the death penalty was unconstitutional in any and all cases, focusing instead on its arbitrary and infrequent imposition under discretionary statutes.

Justice Douglas declared the imposition of death in such circumstances to be â€œpregnant with discriminationâ€• and therefore unconstitutional in operation. He declined to determine whether a statute proscribing a mandatory death penalty for certain classes of offenses would likewise be invalid.

Justice Stewart found discretionary death sentences to be cruel insofar as they were more excessive in their severity and irrevocability compared to the minimum prison sentences legislatures had deemed necessary, and to be unusual insofar as their application was extraordinarily rare. He expressed particular concern that race appeared to be one of the few discernable bases on which cases where the sentence was death could be differentiated from those where the sentence was a prison term, but declined to explicitly find the death penalty to be racially discriminatory in application.

Justice White also emphasized the extreme infrequency with which juries declared a sentence of death and with which states actually carried out executions. He noted that, where the legislature had authorized but not mandated a particular penalty for a class of crimes, it does not undermine the will of the legislature if that

maximum sentence is never imposed.

Justices Brennan and Marshall found the death penalty to be unconstitutional on its face. They each expressed a view of constitutional standards that evolved as societal mores changed and matured. Therefore, the fact that the death penalty may have been considered permissible in the past did not prevent it from being found unconstitutional under contemporary conditions. In addition to concerns about the infrequent, arbitrary and potentially discriminatory application of the death penalty, they concluded that the death sentence violated principles of dignity and humanity.

However, this position on the absolute unconstitutionality of the death penalty did not achieve a majority. The holding of the case was therefore limited to the Texas and Georgia laws allowing the discretionary imposition of the death penalty by judges and juries.

Decision Excerpts

â€œIt would seem incontestable that the death penalty inflicted on one defendant is â€˜unusualâ€™ if it discriminate against him by reason of his race, religion, wealth, social position, or class, or if it is imposed under a procedure that gives room for the play of such prejudices.â€• Douglas, J., concurring, p. 2.

â€œDeath is an unusually severe and degrading punishment; there is a strong probability that it is inflicted arbitrarily; its rejection by contemporary society is virtually total; and there is no reason to believe that it serves any penal purpose more effectively than the less severe punishment of imprisonment. The function of these principles is to enable a court to determine whether a punishment comports with human dignity. Death, quite simply, does not.â€• Brennan, J., concurring, p. 24.

â€œ[T]he Eighth and Fourteenth Amendments cannot tolerate the infliction of a sentence of death under legal systems that permit this unique penalty to be so wantonly and so freakishly imposed.â€• White, J., concurring, p. 33.

â€œ[T]he death penalty is exacted with great infrequency even for the most atrocious crimes andâ€¦ there is no meaningful basis for distinguishing the few cases in which it is imposed from the many cases in which it is not. The short of it is that the policy of vesting sentencing authority primarily in juriesâ€”a decision largely motivated by the desire to mitigate the harshness of the law and to bring community judgment to bear on the sentence as well as guilt or innocenceâ€”has so effectively achieved its aims that capital punishment within the confines of the statutes now before us has for all practical purposes run its course.â€• White, J., concurring, p. 36.

â€œPerhaps the most important principle in analyzing â€˜cruel and unusualâ€™ punishment questions is one that is reiterated again and again in our prior opinions of the Court; i.e., the cruel and unusual language must draw its meaning from the evolving standards of decency that mark the progress of a maturing society. Thus, a penalty that was permissible at one time in our Nationâ€™s history is not necessarily permissible today.â€• Marshall J., concurring, p. 41. (internal quotations omitted)