

Ruling Allows Forcible Drugging of an Inmate Before Execution [Executed on Jan 6th 2004]

By NEIL A. LEWIS

WASHINGTON, Oct. 6 — The Supreme Court on Monday let stand a ruling by a federal appeals court allowing Arkansas officials to force a convicted murderer to take drugs that would make him sane enough to be executed.

The justices opened their fall term by listing dozens of cases decided by lower courts that they reviewed during the summer recess and chose not to reconsider. In addition to the Arkansas case, they let stand a ruling by the South Carolina Supreme Court upholding a murder conviction for a woman who used crack cocaine and then delivered a stillborn baby.

Though the justices did not rule directly on the cases, both represent the court's acceptance of significant extensions of state authority. In the Arkansas case, the appeals court, the United States Court of Appeals for the Eighth Circuit, based in St. Louis, had ruled 6 to 5 that the Constitution's prohibition against cruel and unusual punishment would not be violated if the authorities forcibly administered antipsychotic medication to the convicted murderer, Charles Laverne Singleton.

The appeals court rejected arguments by Mr. Singleton's lawyers that the drugs were not medically useful since their only purpose would be to facilitate his execution.

In two 1986 cases, the Supreme Court ruled that executing the insane was prohibited by the Eighth Amendment's edict against cruel and unusual punishment. In one of the cases, Justice Lewis F. Powell Jr. set out the standard, saying that "the Eighth Amendment forbids the execution only of those who are unaware of the punishment they are about to suffer and why they are to suffer it."

Until the Singleton case, no appellate court nor the Supreme Court had ruled on whether a prisoner could be forcibly medicated to be made sane enough to qualify for an execution.

Mr. Singleton killed a grocery clerk in Arkansas in 1979 and was sentenced to death that year. His mental health began to deteriorate in 1987; he said he believed his prison cell was possessed by demons and that the authorities had planted a device in his ear. He insisted that his victim, whom he had known at the time of the murder, was still alive.

The appellate judges were in sharp disagreement when they ruled in February. Writing for the majority, Judge Roger L. Wollman said the court had a choice "between involuntary medication followed by execution and no medication followed by psychosis and imprisonment."

In dissent, Judge Gerald W. Heaney said the authorities should have allowed Mr. Singleton to be medicated without the consequence of execution. "I believe that to execute a man who is severely deranged without treatment, and arguably incompetent when treated, is the pinnacle of what Justice Marshall called 'the barbarity of exacting mindless vengeance.' "

Scholars in medical ethics have said the issue of medicating patients to improve their mental health to execute them might present formidable obstacles for doctors. In practice, that could mean allowing nonmedical personnel to administer such treatments. The case is *Charles L. Singleton v. Norris* (02-10605).

In the South Carolina case, the Supreme Court's decision to let stand the murder conviction of the mother after her baby was delivered stillborn was of special note in the state. Officials there have been especially determined to make pregnant women responsible for their behavior.

The South Carolina Supreme Court first upheld in 1997 the state's practice of regarding a fetus as a person in connection with the prosecution of pregnant women who used drugs.

The current case involved Regina McKnight, described in court documents as a woman of markedly low intelligence who until 1998 was helped with her everyday needs by her mother. Her lawyers said that after her mother was killed in a hit-and-run accident, Ms. McKnight "quickly spiraled downward, becoming homeless, addicted to cocaine and marijuana — and pregnant."

After she delivered a stillborn female, nurses took blood samples from her and the baby and sent them to the authorities under a procedure put in place by the state. Both tested positive for cocaine.

The state had previously prosecuted women for abuse if their delivered babies showed traces of cocaine, but Ms. McKnight's was the first drug-related case to be tried and convicted for murder under a "homicide by abuse" law.

The law under which she was convicted carries up to a 20-year prison term; she was sentenced to 12 years in jail. The case is *Regina D. McKnight v. South Carolina* (02-1741).

The court also let stand a ruling that a Chicago ban on peddling outside a sports arena violated free-speech rights.

Without any comment, the Supreme Court rejected an appeal by Chicago defending its law that prohibits peddling on public sidewalks in certain areas of the city. The law states that "no person shall peddle merchandise of any type on any portion of the public way within 1,000 feet of the United Center," an arena that features professional basketball and hockey games as well as other major events. The case is *City of Chicago v. Mark G. Weinberg* (02-1710).

The court also threw out large punitive damage awards against two major businesses, Philip Morris USA and Chrysler, asking lower courts to reconsider the amounts in light of a case the justices decided in April. In that case, the court provided the business community a significant victory when it threw out a \$145 million damage award against the State Farm Insurance Company. Since the award for actual damages was only \$1 million, a majority of justices said the 145-to-1 ratio for damages was excessive and suggested that juries considering punitive damage awards should not be permitted to consider a company's wealth.

The Philip Morris case concerned an Oregon janitor whose descendants sued the cigarette maker and won \$79.5 million in punitive damages, 97 times the actual damages awarded. The case is *Philip Morris USA v. Williams, et al.* (02-1553).

The case involving Chrysler concerned a Kentucky widow who was awarded \$3 million in punitive damages for a truck accident that killed her husband, about 13 times the actual damages awarded. The case is *Chrysler Corp. v. Dorothy Clark* (02-1748).

The court also refused to consider the conviction of Ramsi Yousef, identified as the mastermind of the 1993 World Trade Center bombing. The case is *Ramsi Yousef v. U.S.* (03-5976).