Atkins v. Virginia (1996)

**Facts**: Daryl Atkins was sentenced to death for participating in the kidnapping, robbery and murder of an airman serving at Langley Air Force Base. During the sentencing phase of his trial, psychological testing revealed he had an IQ of only 59 and thus was mildly retarded. He was given the death penalty. On appeal, it was found an improper sentencing verdict form had been used, so while the conviction was upheld, a retrial of the sentencing phase was ordered. Upon retrial, the death penalty was handed down again.

**Procedural History**:

* Convicted and sentenced to death at criminal trial
* Sentence tossed by appellate court because of improper jury instructions
* Sentencing retried at criminal court, death penalty is awarded again
* Sentence is appealed to the Virginia State Supreme Court who denies the appellant
* Sentence is appealed to the US Supreme Court

**Issues**:

* Is the execution of the mentally retarded a violation of the “cruel and unusual punishment” clause of the 8th Amendment

**Holding**:

* Yes. Executions of the mentally retarded are a violation of the “cruel and unusual punishment” clause of the 8th Amendment.

**Judgment**: Reversed. Case was remanded to back to the state for reconsideration

**Opinions**: The majority opinion was written by Justice Stevens and was joined by O’Connor, Kennedy, Souter, Ginsberg and Breyer. Justice Rehquist wrote a dissent joined by Scaila and Thomas. Justice Scalia also wrote a dissented joined by Rhenquist and Thomas.

**Legal Reasoning**:

* 8th Amendment Claim
	+ “…The Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.”
		- Important marker of evolving standard is legislation by the states and federal government on these matters
	+ Since initial ruling in 1988, 18 states have passed limits on, or banned, the execution of the mentally retarded. Federal government’s own death penalty forbids such a sentence
		- A further 13 states have abolished the death penalty
		- An IQ of less than 70 is generally considered retarded
	+ “…clinical definitions of mental retardation require not only subaverage intellectual functioning, but also significant limitations in adaptive skills such as communication, self-care, and self-direction that became manifest before age 18…Their deficiencies do not warrant an exemption from criminal sanctions, but they do diminish their personal culpability.”
	+ Dual purposes for the use of capital punishment: societal “…retribution and deterrence of capital crimes…”
		- “First, there is a serious question as to whether either justification… for the death penalty applies to mentally retarded offenders… Unless the imposition of the death penalty on a mentally retarded person “measurably contributes to one or both of these goals, it ‘is nothing more than the purposeless and needless imposition of pain and suffering,’ and hence an unconstitutional punishment.”
		- Second: “The risk ‘that the death penalty will be imposed in spite of factors which may call for a less severe penalty,’ Lockett v. Ohio (1978), is enhanced… by the possibility of false confessions, but also by the lesser ability of… defendants to make a persuasive showing of mitigation in the face of prosecutorial evidence of one or more aggravating factors… defendants may be less able to give meaningful assistance to their counsel and are typically poor witnesses, and their demeanor may create an unwarranted impression of lack of remorse...”
* Rhenquist Dissent
	+ Concurs with Scalia’s dissent but issues his own to object to Footnote 21, lines 11-12, in the majority opinion
		- Objects to the footnote’s reference to foreign law, amicus briefs and polling as additional ways to determine changing societal views
	+ “In my view, these two sources–the work product of legislatures and sentencing jury determinations–ought to be the sole indicators by which courts ascertain the contemporary American conceptions of decency for purposes of the Eighth Amendment.”
	+ Stanford opinion rejected foreign views of American punishment guidelines as informative to the process.
		- “serve to establish the first Eighth Amendment prerequisite, that [a] practice is accepted among our people.”
	+ Objects to use of polls, and resulting polling data, are inaccurate and easily manipulated guides to public opinion.
		- Offers questions as to the wording of the poll’s questions and other issues of methodology
* Scalia Dissent
	+ Two standards for “Cruel and Unusual Punishment”
		- “those modes or acts of punishment that had been considered cruel and unusual at the time that the Bill of Rights was adopted…”
		- “…modes of punishment that are inconsistent with modern ‘standards of decency,’ as evinced by objective indicia, the most important of which is ‘legislation enacted by the country’s legislatures’…”
	+ Majority decision does not rest their decision in “the original intent” of the Constitution
		- Scalia states he can find no “original intent” to indicate the Founding Fathers considered executing the mentally retarded as “cruel and unusual punishment.”
		- “…Those who were not ‘idiots’ – suffered criminal prosecution and punishment and capital punishment.”
	+ Majority instead uses, the second standard, of modern decency
		- Rejects majorities evidence of a “national concensus”
		- Only 18 of the states that allow for capital punishment restrict its use on the mentally retarded
			* Several of the states that banned the practice, only banned it going forward. Scalia claims this shows a lack of absolute moral repugnance at the practice
		- Scalia claims that previous decisions on 8th Amendment matters have required “…a much higher degree of agreement before finding a punishment cruel and unusual on ‘evolving standards’ grounds.”
	+ Scalia claims the majority’s “national consensus” is cover for an underlying political agenda
		- “The second assumption–inability of judges or juries to take proper account of mental retardation… contradicts the immemorial belief, here and in England, that they play an indispensable role in such matters”

**Relation To Other Cases**: Overturned Perry v. Lynaugh (1989), which stated it was permissible to execute the mentally retarded. However, in this decision it reversed and remanded the capital sentence against Perry because jury did not give adequate mitigation to Perry’s mental capabilities during the sentencing phase of his trial.

**Source of Law**: 8th Amendment’s “Cruel and Unusual Punishment” clause.

**Interpretation Style**: “Evolving Standards” interpretation of the 8th Amendment