**Atkins vs. Virginia**

TEST: Should their be a constitutional category exempting persons of mental retardation from the death penalty?

EVOLVING STANDARDS OF DECENCY

**Facts:** Petitioner Daryl Atkins robbed and killed Eric Nesbitt. Daryl Atkins was convicted of capital murder and sentenced to death under Virginia state law. Daryl Atkins mental capacity was regarded as mentally retarded.

 **Procedural History:** The lower district court courts decided petitioner Daryl Atkins was mildly retarded. He was convicted of capital murder and sentenced to death. Atkins appealed and the Supreme Court of Virginia and was retried because a improper sentencing verdict for had been used. Atkins was retried by the State of Virginia. He was found once again mildly mentally retarded. He was still convicted and sentenced to death. He was re-tried but his death sentence was still upheld. The mechanism used to get *Atkins vs. Virginia* to the Supreme Court was the writ of certiorari, basically a higher court directing a lower court. The Supreme Court saw a change in state legislatures regarding the execution of the mentally retarded and agreed under the writ of certiorari to review his case.

**Issues:**

1. Does the state execution of the legally retarded violate the 8th amendment, through acts of “cruel and unusual punishment”?

**Holding:**

1. Yes. The 8th amendment prohibits excessive sanctions, basically the excess use of the laws, cruel and unusual punishment falls into excess laws. So the execution of mentally retarded criminals violates the 8th amendment. Execution is in excess of their criminal behavior.

. **Judgment:** Reversed

**Opinions:** Justice Stevens delivered the opinion of the court. Justices: O’Connor, Kennedy, Souter, Ginsburg, and Breyer joined Justice Steven’s opinion.

C. J. Rehnquist delivered the dissent of the court. Scalia also wrote a dissent. Thomas Scalia and Rehnquist all joined in the dissent

Justice Stevens delivered the opinion of the court:

- Mentally retarded persons who meet the laws requirements for criminal responsibility should be tried and punished

* As long as they are morally culpable
* Was their execution considered cruel and unusual
* Daryl Atkins stood trial twice and was sentenced to death
* The 8th amendment prevents the excessive use of laws. The idea that the “crime fits the punishment” is no longer the best case scenario. It was decided in Coker vs. Virginia where Coker was convicted of rape but not sentenced to execution. The idea that the crime fits the punishment does not always work because we live in an contemporary society.
* The court now uses the evolving standards of decency test to decided what is or is not an excessive use of the law.
* In 1989 in the Case Penry vs. Lynaugh, only two states outlawed the execution of the mentally retarded. This was not a enough of a majority for Penry not to be executed because of his mental capacity.
* In 2002 two 21 states had outlawed the execution of the mentally retarded so the preceding case of Penry needed to be reassessed because of the national consensus.
* A national change showed a consistent direction of change.
* Stevens believes that the disagreement now lies with determining who are legally mentally retarded, not all should be exempted from execution.
* Culpability and deterrence are the two social purposes achieved by the death penalty. Persons who are mentally retarded are less culpable for their actions, they do not realize how wrong their actions are. With deterrence, capital punishment can only serve as a deterrent when murder is premeditated. Mental retards do not understand the severity of their penalty. It is purposeless, persons who are mentally retarded will not understand the severity, and no retribution will be achieved.
* It violates the 8th amendment under the evolving standards of decency test
* The opinion of the court is to place a substantive restriction on state power to take the like of a mentally retarded offender

Justice William Rehnquist dissents

* Does a national consensus deprive a state (VA) the constitutional power to impose the death penalty on persons who are legally mentally retarded?
* Daryl Atkins is a capital murder defendant, he was competent to stand trial, and he is aware of his punishment.
* 19 other state leave the execution of mental retards up to selective incorporation
* Should the court place a weight on the laws of foreign nations, even if there is no support in the constitution for it.
* Rehnquist agrees with the 8th amendment and the evolving standards of decency. He agrees that we must maintain a link between the contemporary community and the penal system but the works of the Legislature and sentencing jury’s should decide it.
	+ This is who the courts should follow only the above not foreign laws, national polls, and professional organizations
* The court did not take notice, the petitioner have adduced by comprehensive statistics that would prove/ disprove whether or not juries routinely consider the death penalty a disproportionate punishment for mentally retarded criminals
	+ Instead they look to the laws of Europe
* We cannot make constitutional laws based solely on foreign laws, national polls, and professional organizations
	+ It is not reliable and we cannot support just on the basis of a national consensus.

**Source of Law:** 8th and 14th amendment

**Relation to Other Cases:** The decision, exempting persons who are legally mentally retarded because it violates the 8th amendment overturns the 1989 case of Penry vs. Lynaugh which sanctioned the death penalty for deserving offenders who were mentally retarded. It struck down state policy and placed a substantive restriction on state power.

See attached for Van Geel chart.