

No. 03-0633

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IN THE SUPREME COURT OF  
THE UNITED STATES

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Donald P. Roper, Superintendent, Potosi Correctional Center  
*Petitioner,*

v.

Christopher Simmons  
*Respondent.*

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BRIEF FOR THE RESPONDENTS

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Katie F., Broughton High School

Honors Law and Justice

March 29, 2004

Broughton High School, Raleigh, NC  
Teacher, Billy Lane

### **QUESTION PRESENTED**

The United States Supreme Court ruled in August 2003 that the execution of minors under the age of 18 violates the Eighth Amendment of the United States Constitution as well as the continuously evolving standards of decency. Due to this ruling, Christopher Simmons was resented to life in prison without the possibility of parole or probation. In the latter days of January 2004, the Supreme Court announced that it would discuss (***Roper v. Simmons***) in coordination with the reexamination of the constitutionality of juvenile execution.

Does the Eighth Amendment's ban on cruel and unusual punishment, in conjunction with the "national consensus" against the execution of minors in ***Atkins v. Virginia (2002)***, prove enough to protect Christopher Simmons from execution?

## SUMMARY OF FACTS

Christopher Simmons was charged with capital murder for the death of Shirley Cook. The body of the victim was recovered from the Meremac River of Saint Louis County, Missouri, on September 9, 1993. The death was brutal; Cook's body was discovered bound with a combination of duct tape, electrical cables and leather straps. The body sustained multiple rib fractures and scattered bruises were painfully apparent. The cause of death of Ms. Cook was found to be by drowning.

At the time of the murder, Christopher Simmons was seventeen years old and had no prior criminal record. Although he was enrolled in high school, Simmons was plagued with the constant strain of living with his abusive stepfather and biological mother, who did little to stop the torture Simmons endured daily.

Although there were several mitigating circumstances, such as Simmons' age and his cooperation with police authorities, including a confession of the murder, Simmons was sentenced to a May 1, 2002 execution date.

Several court cases have since transpired which suggest that there is a national consensus against the execution of minors less than 18 years of age when the crime was committed. Because of these cases, specifically the decision of *Atkins v. Virginia (2002)*, Christopher Simmons' case has been revisited.

## SUMMARY OF JUDGMENTS

The Supreme Court of Missouri reaffirmed the original sentencing, along with the denial of post-conviction relief, in *State v. Missouri (1997)*.<sup>i</sup> Christopher Simmons sought habeas relief from this court on the basis of a national consensus against juvenile execution made evident through a number of court cases over a period of over a decade.

*Thompson v. Oklahoma (1988)*<sup>ii</sup> determined that the execution of minors aged 15 and under violated the Eighth Amendment's ban on cruel and unusual punishment. The following year, *Stanford v. Kentucky (1989)*<sup>iii</sup> determined that the time of the decision, execution of minors 16 to 17 years of age was not cruel and unusual, as no national consensus against their execution had developed within the United States at this time. On the same day, a national consensus against the execution of the mentally retarded was determined to be nonexistent in *Penry v. Lynaugh*.<sup>iv</sup> Due to the decision in *Stanford*, Simmons

did not use his age as the sole reason for a sentence commutation during 1993 proceedings, but did argue that his age was indeed a mitigating factor.

Christopher Simmons' case was revisited after an imperative decision in *Atkins v. Virginia (2002)*<sup>v</sup> when a national consensus against the execution of the mentally retarded was determined to exist. Mr. Simmons requested the further review of his proceedings and suggested the examination of a paralleled national consensus against executing juvenile offenders.

Christopher Simmons was granted a sentence commutation from death to life in prison when the Missouri Supreme Court made their decision in August 2003. Until the Governor decides to grant it, Simmons is not eligible for parole or probation.

## **SUMMARY OF ARGUMENTS**

- Christopher Simmons suffered a traumatic childhood, enclosing him in an environment which fostered severe psychological trauma
- The jury present at the 1993 trial were not informed of physical and emotional damages suffered by Simmons
- Christopher Simmons voluntarily confessed to the murder of Shirley Cook; without his plea of guilt, no other evidence could be reasonably substantiated
- Simmons has since rehabilitated himself to a respectable extent while imprisoned
- *Atkins v. Virginia (2002)* examines a national consensus that executing the mentally retarded violates the Eighth Amendment; a similar agreement has developed within the United States against executing juveniles

## **ARGUMENTS**

### **Christopher Simmons suffered a traumatic childhood**

Christopher Simmons' home life was anything but normal. Shortly after his birth, Simmons' biological parents divorced, and his mother married Bob Hayes. Hayes, a chronic alcoholic with a predatory nature, would remain a sense of hostility to Simmons throughout his life.<sup>vi</sup>

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On many occasions, Hayes would implement physical force as a means of punishment. He regularly threatened and screamed at Simmons, even when his stepson had done nothing wrong. A “whooping” with Hayes’ belt carried out discipline. After a particularly painful beating, Simmons’ ear began to bleed profusely. Further medical examination would reveal that his eardrum had been seriously damaged.<sup>vii</sup>

Bob Hayes often employed grotesque methods to gain enjoyment out of Simmons’ suffering. Simmons accompanied Hayes into a bar, where as a small child, Hayes would force him to consume alcohol for the enjoyment of the other onlookers. On fishing trips, Simmons was tied to a tree while Hayes spent time on the river.

As Simmons aged, his stepfather often encouraged, if not forced, him to join team sports, such as little league baseball. However, when Hayes learned of Simmons visiting his biological stepfather, he withdrew all privileges and severely beat his stepson into submission. When Christopher Simmons became an adolescent, Hayes developed an obsession with Simmons’ acne, often holding him down to squeeze his pimples until they bled.<sup>viii</sup>

Besides torturous corporal hardships, Simmons also led a scared existence, knowing that a non-physical punishment for breaking his curfew was to be grounded one month for every minute he was late getting home.<sup>ix</sup> It is undoubted that such turmoil turned Simmons towards mind-numbing illegal substances in order to assuage his pain.

### **The 1993 jury was not informed of physical and emotional damages**

Although there were a number of potential witnesses who volunteered to testify in Simmons’ defense, his attorney did not call upon any of them for testimony.

Simmons was portrayed as a loving son, who had no prior criminal record, and who provided much needed support to his friends and family. However, no witnesses present testified that Simmons had long struggled with a continual drug addiction that impeded upon his mental functions and stability. The psychological strain of living with his stepfather, Bob Hayes, had worn him down to the point that he often ran away from home for large periods of time. Both Simmons’ mother and stepfather reported, “Chris stayed in a hotel frequently, although neither of them could account for the financial means required for such stays.”<sup>x</sup>

The clinical psychologist Robert L. Smith analyzed Simmons prior to his sentencing and diagnosed Christopher as “the victim of a dysfunctional home environment” and whose lack of adequate love and support had resulted in a “longstanding history of abusing alcohol and marijuana, beginning from age 13”. Most importantly, it is necessary to note that no jury member was alerted that Simmons suffered from “a schizotypal personality disorder”.<sup>xi</sup>

Had the adequate information been given during the 1993 proceedings, it is not unscrupulous to assume that the sentence of Christopher Simmons would have been drastically different.

### **Christopher Simmons voluntarily confessed to the murder**

Prior to being taken into custody, the District Attorney of Missouri offered Christopher Simmons a plea bargain for life imprisonment. Although his stepfather encouraged him to take the plea, his mother was “unable to come to grips” with the prospect of her son being sentenced to reside in a prison cell for the rest of his existence. Not wanting to disappoint her, Simmons opted out of the plea bargain and waited for the custodial hearings.

Upon being taken into custody, Simmons was denied the counsel of both an attorney and parents. When questioned, he was advised to confess to the murder, as he was falsely enlightened that a voluntary confession would assist him in escaping the capital punishment.

Christopher Simmons maintained a clean record prior to the murder of Shirley Cook; no knowledge of such was bestowed upon the jury. Police officers present at the proceedings neglected to mention that Simmons waived his Fifth Amendment right to remain silent.

Although Simmons was informed upon the initiation of custodial interrogation that his confession would grant him a sentence of life in prison in lieu of capital punishment, the jury still sentenced him to death. It is apparent that the only substantiated evidence provided at the trial was Simmons’ admission of guilt. There were no other legally qualified facts in order to present a case in Simmons favor.

### **Simmons has since rehabilitated himself while imprisoned**

Christopher Simmons, once a seemingly stable child who eagerly participated in team activities, such as recreational baseball, stumbled into not only a prison setting-but death row, no less- “a very messed up, drug addicted, 17 year old runaway that had to grow up here in the worst of prison realities.” Simmons readily admits, “I’ve had to wake up every day facing the pain and suffering I’ve caused others.”<sup>xii</sup>

True to his earnestly repentant demeanor, Simmons has not only rehabilitated himself among some of the United States’ worst offenders, he has also succeeded in helping other troubled young teenagers cope with the stress that followed them from a dysfunctional past into incarceration. He encourages other adolescent inmates to join him in a Youth Enlightenment Program (Y.E.P.), a prevention program that functions in coordination with other religious organizations within the prison walls. His repentance is evident, as he

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heartbreakingly states: "...I just wish that there was a way to make things right. I wish I could let people know how genuinely I've had to deal with it for the eight years I've been in prison and had to look in the mirror everyday."<sup>xiii</sup>

**Atkins v. Virginia (2002) parallels a similar consensus  
against the execution of juveniles**

In 2002, it was found that in *Atkins v. Virginia (2002)*, there existed a national consensus against the execution of the mentally retarded, i.e., those with an IQ of 70 or below, violated the Eighth Amendment's ban on cruel and unusual punishment.

In the fourteen years since the *Sanford* decision, a national consensus against juvenile execution in the United States had developed. This consensus was apparent through the eighteen states barring the execution of minors under 18, twelve states that outlawed executions altogether, and the important fact that no state has since lowered their age of legal execution since *Sanford*. In light of the *Atkins* decision, this consensus was again brought into light for examination.

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<sup>i</sup> Opinion: Supreme Court of Missouri ( <http://www.capitaldefenseweekly.com/StateExRelSimmons.htm> )

<sup>ii</sup> Opinion: Supreme Court of Missouri ( <http://www.capitaldefenseweekly.com/StateExRelSimmons.htm> )

<sup>iii</sup> Opinion: Supreme Court of Missouri ( <http://www.capitaldefenseweekly.com/StateExRelSimmons.htm> )

<sup>iv</sup> Opinion: Supreme Court of Missouri ( <http://www.capitaldefenseweekly.com/StateExRelSimmons.htm> )

<sup>v</sup> Opinion: Supreme Court of Missouri ( <http://www.capitaldefenseweekly.com/StateExRelSimmons.htm> )

<sup>vi</sup> Christopher Simmons: Juvenile Death Penalty ( <http://www.abanet.org/crimjust/juvjus/simmons.html> )

<sup>vii</sup> Christopher Simmons: Juvenile Death Penalty ( <http://www.abanet.org/crimjust/juvjus/simmons.html> )

<sup>viii</sup> Clemency Petition: ( <http://www.abanet.org/crimjust/juvjus/simmonsclemency.pdf> )

<sup>ix</sup> Clemency Petition: ( <http://www.abanet.org/crimjust/juvjus/simmonsclemency.pdf> )

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<sup>xii</sup> Christopher Simmons: Juvenile Death Penalty ( <http://www.abanet.org/crimjust/juvjus/simmons.html> )

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