Name

Institution

Course

Date

**Case Briefing**

Coker v. Georgia

433 U.S. 584 (1977)

**Facts and Procedural History**

* While serving various sentences for murder, rape, kidnapping, and aggravated assault, the petitioner escaped from a Georgia prison and, in the course of committing an armed robbery and other offenses, raped an adult woman.
* He was convicted of rape, armed robbery, and the other offenses and sentenced to death on the rape charge, when the jury found two of the aggravating circumstances present for imposing such a sentence, viz., that the rape was committed (1) by a person with prior capital-felony convictions and (2) in the course of committing another capital felony, armed robbery.
* The Georgia Supreme Court affirmed both the conviction and sentence.

**Law**

A punishment is 'excessive' and unconstitutional if it (1) makes no measurable contribution to acceptable goals of punishment and hence is nothing more than the purposeless and needless imposition of pain and suffering; or (2) is grossly out of proportion to the severity of the crime.

**Legal Question**

Is the imposition of the death penalty for rape unconstitutional?

**Holding And Vote**: Yes

**Reasoning and Name of Judge**

Mr. Justice WHITE announced the judgment of the Court and filed an opinion in which Mr. Justice STEWART, Mr. Justice BLACKMUN, and Mr. Justice STEVENS joined.

* In sustaining the imposition of the death penalty in Gregg, however, the Court firmly embraced the holdings and dicta from prior cases, Furman v. Georgia, supra; Robinson v. California, 370 U.S. 660, 82 S.Ct. 1417, 8 L.Ed.2d 758 (1962); Trop v. Dulles, 356 U.S. 86, 78 S.Ct. 590, 2 L.Ed.2d 630 (1958); and Weems v. United States, 217 U.S. 349, 30 S.Ct. 544, 54 L.Ed. 793 (1910), to the effect that the Eighth Amendment bars not only those punishments that are 'barbaric' but also those that are 'excessive' in relation to the crime committed.
* That question, with respect to the rape of an adult woman, is now before us. We have concluded that a sentence of death is grossly disproportionate and excessive punishment for the crime of rape and is therefore forbidden by the Eighth Amendment as cruel and unusual punishment.
* As advised by recent cases, we seek guidance in history and from the objective evidence of the country's present judgment concerning the acceptability of death as a penalty for the rape of an adult woman.
* With their death penalty statutes for the most part invalidated, the States were faced with the choice of enacting modified capital punishment laws in an attempt to satisfy the requirements of Furman or of being satisfied with life imprisonment as the ultimate punishment for any offense.
* That death is a disproportionate penalty for rape is strongly indicated by the objective evidence of present public judgment, as represented by the attitude of state legislatures and sentencing juries, concerning the acceptability of such a penalty, it appearing that Georgia is currently the only State authorizing the death sentence for rape of an adult woman, that it is authorized for rape in only two other States, but only when the victim is a child, and that, in the vast majority (9 out of 10) of rape convictions in Georgia since 1973, juries have not imposed the death sentence.
* Although rape deserves serious punishment, the death penalty, which is unique in its severity and irrevocability, is an excessive penalty for the rapist who, as such and as opposed to the murderer, does not unjustifiably take human life.
* The conclusion that the death sentence imposed on the petitioner is disproportionate punishment for rape is not affected by the fact that the jury found the aggravating circumstances of prior capital felony convictions and occurrence of the rape while committing armed robbery, a felony for which the death sentence is also authorized since the prior convictions do not change the fact that the rape did not involve the taking of life, and since the jury did not deem the robbery itself deserving of the death penalty, even though accompanied by the aggravating circumstances of prior capital felony convictions.
* That, under Georgia law, a deliberate killer cannot be sentenced to death, absent aggravating circumstances, argues strongly against the notion that, with or without such circumstances, a rapist who does not take the life of his victim should be punished more severely than the deliberate killer.

**Concurring Opinion (Justice BRENNAN, Justice MARSHALL, Justice POWELL**

* Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, Gregg v. Georgia, 428 U.S. 153, 227, 96 S.Ct. 2909, 2971, 49 L.Ed.2d 859 (1976) (dissenting opinion), I concur with the judgment of the Court setting aside the death sentence imposed under the Georgia rape statute.
* In Gregg v. Georgia, 428 U.S. 153, 231, 96 S.Ct. 2909, 2973, 49 L.Ed.2d 859 (1976) (dissenting opinion), I stated: 'In Furman v. Georgia, 408 U.S. 238, 314, 92 S.Ct. 2726, 2764, 33 L.Ed.2d 346 (1972) (concurring opinion), I set forth at some length my views on the basic issue presented to the Court in these cases. The death penalty, I concluded, is a cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments.
* I concur in the judgment of the Court on the facts of this case and also in the plurality's reasoning supporting the view that ordinarily, death is disproportionate punishment for the crime of raping an adult woman.
* The Georgia statute, sustained in Gregg v. Georgia, 428 U.S. 153, 96 S.Ct. 2909, 49 L.Ed.2d 859 (1976) specifies aggravating circumstances that may be considered by the jury when appropriate.

**Dissenting Opinion (Burger, C.J., Joined By Rehnquist, J.)**

* In a case such as this, confusion often arises as to the Court's proper role in reaching a decision. Our task is not to give effect to our individual views on capital punishment; rather, we must determine what the Constitution permits a State to do under its reserved powers. In striking down the death penalty imposed upon the petitioner in this case, the Court has overstepped the bounds of proper constitutional adjudication by substituting its policy judgment for that of the state legislature. I accept that the Eighth Amendment's concept of disproportionality bars the death penalty for minor crimes.
* On December 5, 1971, the petitioner, Ehrlich Anthony Coker, raped and then stabbed to death a young woman. Less than eight months later, Coker kidnaped and raped a second young woman.
* The Court today holds that the State of Georgia may not impose the death penalty on Coker. In so doing, it prevents the State from imposing any effective punishment upon Coker for his latest rape. The Court's holding, moreover, bars Georgia from guaranteeing its citizens that they will suffer no further attacks by this habitual rapist.
* My first disagreement with the Court's holding is its unnecessary breadth. The narrow issue here presented is whether the State of Georgia may constitutionally execute this petitioner for the particular rape which he has committed, in light of all the facts and circumstances shown by this record.

Roper v. Simmons

543 U.S. 551 (2005)

**Facts and Procedural History**

* At age 17, respondent Simmons planned and committed a capital murder. After he had turned 18, he was sentenced to death.
* His direct appeal and subsequent petitions for state and federal post-conviction relief were rejected. This Court then held, in Atkins v. Virginia, 536 U. S. 304, that the Eighth Amendment, applicable to the States through the Fourteenth Amendment, prohibits the execution of a mentally retarded person.
* Simmons filed a new petition for state post-conviction relief, arguing that Atkins’ reasoning established that the Constitution prohibits the execution of a juvenile who was under 18 when he committed his crime. The Missouri Supreme Court agreed and set aside Simmons’ death sentence in favor of life imprisonment without eligibility for release.
* It held that, although Stanford v. Kentucky, 492 U. S. 361, rejected the proposition that the Constitution bars capital punishment for juvenile offenders younger than 18, a national consensus has developed against the execution of those offenders since Stanford.

**Law**

The Eighth and Fourteenth Amendments forbid the imposition of the death penalty on offenders who were under the age of 18 when their crimes were committed. However, most states have rejected the imposition of the death penalty on juvenile offenders under 18,

**Legal Question**

Does the execution of minors violate the prohibition of "cruel and unusual punishment" found in the Eighth Amendment and applied to the states through the incorporation doctrine of the 14th Amendment?

**Holding and vote**: Yes. 5-4

**Reasoning and Name of Judge.**

Kennedy, J., delivered the opinion of the Court, in which Stevens, Souter, Ginsburg, and Breyer, JJ., joined.

* The Eighth and Fourteenth Amendments forbid the imposition of the death penalty on offenders who were under the age of 18 when their crimes were committed.
* The Eighth Amendment's prohibition against "cruel and unusual punishments" must be interpreted according to its text by considering history, tradition, and precedent and with due regard for its purpose and function in the constitutional design. To implement this framework, this Court has established the propriety and affirmed the necessity of referring to "the evolving standards of decency that mark the progress of a maturing society" to determine which punishments are so disproportionate as to be "cruel and unusual."
* Both objective indicia of consensus, as expressed in particular by the enactments of legislatures that have addressed the question, and the Court’s own determination in the exercise of its independent judgment, demonstrate that the death penalty is a disproportionate punishment for juveniles.
* As in Atkins, the objective indicia of national consensus here–the rejection of the juvenile death penalty in the majority of states; the infrequency of its use even where it remains on the books; and the consistency in the trend toward abolition of the practice–provide sufficient evidence that today society views juveniles, in the words Atkins used respecting the mentally retarded, as "categorically less culpable than the average criminal," 536 U.S., at 316.
* Rejection of the imposition of the death penalty on juvenile offenders under 18 is required by the Eighth Amendment. Capital punishment must be limited to those offenders who commit “a narrow category of the most serious crimes” and whose extreme culpability makes them “the most deserving of execution.” Atkins, 536 U.S. at 319.
* The overwhelming weight of international opinion against the juvenile death penalty is not controlling here but provides respected and significant confirmation for the Court's determination that the penalty is disproportionate punishment for offenders under 18.

**Concurring Opinion (Stevens, J., joined by Ginsburg, J).**

The death penalty is disproportionate punishment for offenders under 18 finds confirmation in the stark reality that the United States is the only country in the world that continues to give official sanction to the juvenile death penalty.

**Dissenting Opinion:** (Chief Justice William Rehnquist and Justices Antonin Scalia, Sandra Day O'Connor, and Clarence Thomas)

* The Court's decision today establishes a categorical rule forbidding the execution of any offender for any crime committed before his 18th birthday, no matter how deliberate, wanton, or cruel the offense. Neither the objective evidence of contemporary societal values, nor the Court's moral proportionality analysis, nor the two in tandem suffice to justify this ruling.
* Although the Court finds support for its decision in the fact that a majority of the States now disallow capital punishment of 17-year-old offenders, it refrains from asserting that its holding is compelled by a genuine national consensus.
* In urging approval of a constitution that gave life-tenured judges the power to nullify laws enacted by the people's representatives, Alexander Hamilton assured the citizens of New York that there was little risk in this, since "the judiciary ... has neither FORCE nor WILL but merely judgment."
* In urging approval of a constitution that gave life-tenured judges the power to nullify laws enacted by the people's representatives, Alexander Hamilton assured the citizens of New York that there was little risk in this, since "[t]he judiciary ... ha[s] neither FORCE nor WILL but merely judgment."
* The Court reaches this implausible result by purporting to advert, not to the original meaning of the Eighth Amendment, but to "the evolving standards of decency," ante, at 6 (internal quotation marks omitted), of our national society. It then finds, on the flimsiest of grounds, that a national consensus which could not be perceived in our people's laws barely 15 years ago now solidly exists.

Ewing v. California

538 U.S. 11 (2003)

**Facts and Procedural History**

* On March 12, 2000, Gary Ewing, a serial offender with a long history of criminal convictions, was arrested for stealing three golf clubs, each worth $399, from a Los Angeles-area golf course.
* At the time of his arrest, Ewing was on parole from a 9-year prison term for convictions in three burglaries and one robbery.
* Under California's three-strikes law, another felony conviction would require a sentence of 25 years to life.
* Such a defendant becomes eligible for parole on a date calculated by reference to a minimum term, which, in this case, is 25 years.
* While on parole, petitioner Ewing was convicted of felony grand theft for stealing three golf clubs worth $399 apiece.
* As required by the three-strikes law, the prosecutor formally alleged, and the trial court found, that Ewing had been convicted previously of four serious or violent felonies.
* In sentencing him to 25 years to life, the Court refused to exercise its discretion to reduce the conviction to a misdemeanor-under a state law that permits certain offenses, known as "wobblers," to be classified as either misdemeanors or felonies-or to dismiss the allegations of some or all of his prior relevant convictions.
* Ewing was charged with and convicted of one count of felony grand theft for the incident at the golf course.
* During sentencing, Ewing requested the judge in the case exercise discretion permitted under California law and reduce the conviction to a misdemeanor.
* The judge declined and sentenced Ewing in accordance with the three-strikes law.
* On appeal, Ewing argued the sentence of 25 years to life was grossly disproportionate to the crime and, therefore, a violation of the Eighth Amendment protection against cruel and unusual punishments.
* Relying on Rummel v. Estelle, 445 U. S. 263, it rejected Ewing's claim that his sentence was grossly disproportionate under the Eighth Amendment and reasoned that enhanced sentences under the three-strikes law served the State's legitimate goal of deterring and incapacitating repeat offenders.
* The Court, reasoning that the three-strikes law served the State's legitimate interests, rejected this claim.
* The California Supreme Court declined to hear the case.

**Law**

Under California's three-strikes law, a defendant who is convicted of a felony and has previously been convicted of two or more serious or violent felonies must receive an indeterminate life imprisonment term.

The Eighth Amendment forbids "cruel and unusual punishments.”

**Legal Question**

Did Ewing's sentence of 25 years to life, in accordance with California's three-strikes law, violate the Eighth Amendment protection against cruel and unusual punishment?

**Holding and vote**: No 5-4 Plurality decision

Reasoning and Name of Judge

* Ewing's sentence is not grossly disproportionate and therefore does not violate the Eighth Amendment's prohibition on cruel and unusual punishments.
* California's three-strikes law reflects a shift in the State's sentencing policies toward incapacitating and deterring repeat offenders who threaten public safety. The law was designed "to ensure longer prison sentences and greater punishment for those who commit a felony and have been previously convicted of serious and/or violent felony offenses."
* Ewing is no stranger to the criminal justice system. In 1984, at the age of 22, he pleaded guilty to theft. The Court sentenced him to six months in jail (suspended), three years' probation, and a $300 fine.
* In 1988, he was convicted of felony grand theft auto and sentenced to one year in jail and three years' probation. After Ewing completed probation, however, the sentencing court reduced the crime to a misdemeanor, permitted Ewing to withdraw his guilty plea, and dismissed the case.
* In 1990, he was convicted of petty theft with a prior and sentenced to 60 days in the county jail and three years' probation.
* In 1992, Ewing was convicted of battery and sentenced to 30 days in the county jail and two years' summary probation. One month later, he was convicted of theft and sentenced to 10 days in the county jail and 12 months probation.
* In January 1993, Ewing was convicted of burglary and sentenced to 60 days in the county jail and one year's summary probation.
* In February 1993, he was convicted of possessing drug paraphernalia and sentenced to six months in the county jail and three years' probation.
* In July 1993, he was convicted of appropriating lost property and sentenced to 10 days in the county jail and two years' summary probation.
* In September 1993, he was convicted of unlawfully possessing a firearm and trespassing and sentenced to 30 days in the county jail and one year's probation.
* In October and November 1993, Ewing committed three burglaries and one robbery at a Long Beach, California, apartment complex over a 5-week period.
* On December 9, 1993, Ewing was arrested on the premises of the apartment complex for trespassing and lying to a police officer. The knife used in the robbery and a glass cocaine pipe were later found in the back seat of the patrol car used to transport Ewing to the police station. A jury convicted Ewing of first-degree robbery and three counts of residential burglary. Sentenced to nine years and eight months in prison, Ewing was paroled in 1999.
* 10 months later, Ewing stole the golf clubs at issue in this case. He was charged with, and ultimately convicted of, one count of felony grand theft of personal property in excess of $400.
* As required by the three-strikes law, the prosecutor formally alleged, and the trial court later found, that Ewing had been convicted previously of four serious or violent felonies for the three burglaries and the robbery in the Long Beach apartment complex.
* The Eighth Amendment has a "narrow proportionality principle" that "applies to noncapital sentences." Harmelin v. Michigan, 501 U. S. 957, 996-997 (KENNEDY, J., concurring in part and concurring in judgment). The Amendment's application in this context is guided by the principles distilled in JUSTICE KENNEDY'S concurrence in Harmelin: "The primacy of the legislature, the variety of legitimate penological schemes, the nature of our federal system, and the requirement that proportionality review be guided by objective factors" inform the final principle that the "Eighth Amendment does not require strict proportionality between crime and sentence but forbids only extreme sentences that are 'grossly disproportionate to the crime."
* State legislatures enacting three strikes laws made a deliberate policy choice that individuals who have repeatedly engaged in serious or violent criminal behavior and whose conduct has not been deterred by more conventional punishment approaches must be isolated from society to protect public safety.
* Though these laws are relatively new, this Court has a longstanding tradition of deferring to state legislatures in making and implementing such important policy decisions. The Constitution "does not mandate adoption of any one penological theory," 501 U. S., at 999, and nothing in the Eighth Amendment prohibits California from choosing to incapacitate criminals who have already been convicted of at least one serious or violent crime.
* Recidivism has long been recognized as a legitimate basis for increased punishment and is a serious public safety concern in California and the Nation. Any criticism of the law is appropriately directed at the legislature, which is primarily responsible for making the policy choices underlying any criminal sentencing scheme.
* In examining Ewing's claim that his sentence is grossly disproportionate, the gravity of the offense must be compared to the harshness of the penalty. Even standing alone, his grand theft should not be taken lightly. The California Supreme Court has noted that crime's seriousness in the context of proportionality review; that it is a "wobbler" is of no moment, for it remains a felony unless the trial court imposes a misdemeanor sentence.
* The trial judge justifiably exercised her discretion not to extend lenient treatment given Ewing's long criminal history. In weighing the offense's gravity, both his current felony and his long history Of Felony Recidivism Must Be Placed on the Scales.

**Concurring Opinion (Justice Scalia and Justice Thomas)**

* The Eighth Amendment proportionality principle also applies to noncapital sentences.
* The Eighth Amendment's prohibition of cruel and unusual punishment was aimed at excluding only certain modes of punishment and was not a guarantee against disproportionate sentences.
* When the California Legislature enacted the three-strikes law, it made a judgment that protecting public safety requires incapacitating criminals who have already been convicted of at least one serious or violent crime. Nothing in the Eighth Amendment prohibits California from making that choice.
* California's justification is no pretext. Recidivism is a serious public safety concern in California and throughout the Nation. According to a recent report, approximately 67 percent of former inmates released from state prisons were charged with at least one "serious" new crime within three years of their release.
* Recidivism has long been recognized as a legitimate basis for increased punishment.
* Proportionality--the notion that the punishment should fit the crime--is inherently a concept tied to the penological goal of retribution.
* It becomes difficult even to speak intelligently of 'proportionality,' once deterrence and rehabilitation are given significant weight, Harmelin, supra, at 989--not to mention giving weight to the purpose of California's three-strikes law: incapacitation.
* Certainly, in the present case, a sentence of 25 to life is not proportionate to the theft of three golf clubs.
* Petitioner’s sentence does not violate the Eighth Amendment's prohibition against cruel and unusual punishments, but on the ground that that prohibition was aimed at excluding only certain modes of punishment.
* Petitioner’s sentence does not violate the Eighth Amendment's prohibition against cruel and unusual punishments because the Amendment contains no proportionality principle.

Dissenting Opinion (Stevens, J., joined by Souter, Ginsburg, and Breyer, JJ. Breyer, J., joined by Stevens, Souter, and Ginsburg, JJ.).

* It was not unheard of for a statute to authorize a sentence ranging from one year to life, for example.
* It is clear that the Eighth Amendment's prohibition of cruel and unusual punishments expresses a broad and basic proportionality principle that takes into account all of the justifications for penal sanctions.
* The absence of a black-letter rule does not disable judges from exercising their discretion in construing the outer limits on sentencing authority that the Eighth Amendment imposes.
* Defendant’s recidivism notwithstanding, the sentence imposed is grossly disproportionate to the crime of stealing three golf clubs.
* Outside the California three strikes context, Ewing's recidivist sentence is virtually unique in its harshness for his offense of conviction and by a considerable degree.