

Two men agreed to rob a bank. In the course of the robbery, the first man shot and killed a teller. The police arrived and arrested both men as they were leaving the bank.

The men were charged with felony murder and tried separately. The first man (the actual shooter) was tried and convicted, but the jury refused to sentence him to death, so he was sentenced to life imprisonment.

The second man was also tried and convicted. The prosecution agreed, based on medical records, that he was intellectually disabled with an IQ of only 60. The jury nonetheless sentenced the second man to death.

Is the second man's death sentence constitutional?

- A. No, because it is constitutionally disproportionate in light of the lesser sentence imposed on the actual shooter.
- B. No, because of the second man's intellectual disability.
- C. No, because the second man was not the actual shooter.
- D. Yes.

Incorrect

Correct answer B

Collecting Statistics

01 min, 15 secsTime Spent

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Explanation:

Eighth Amendment cruel & unusual punishment

No death penalty for:

juveniles

intellectually deficient persons

adults convicted of nonhomicide offenses

No life-without-parole for juveniles convicted of nonhomicide offenses

No mandatory life-without-parole for juveniles convicted of homicide

The Eighth Amendment prohibits **cruel and unusual punishments**—ie, punishments that are inherently barbaric (eg, torture) and those that are disproportionate to the crime. A **punishment is disproportionate** if it:

grossly exceeds the nature of the crime (eg, defendant sentenced to life in prison for shoplifting) *or*

violates a categorical rule based on the **defendant's characteristics** (eg, intellectual disability) and/or the **nature of the crime** (eg, nonhomicide offense).

Therefore, if the defendant has an **intellectual disability**, the Eighth Amendment prohibits the imposition of the death penalty. The presence of an intellectual disability may be based on a defendant's IQ score. A defendant with an **IQ score of 70 or below** is considered to have an intellectual disability. A defendant with an IQ score between 71 and 75 (ie, within the margin of error) requires an individualized assessment to determine if he/she has an intellectual disability.

Here, the second man was convicted of felony murder and sentenced to death. However, the prosecution agreed, based on the second man's medical records, that he was intellectually disabled with an IQ of only 60 (**Choice D**). Because of this intellectual disability, the second man's death sentence is unconstitutional.

(Choice A) Although the actual shooter's sentence was less than the second man's sentence, accomplices' sentences need not be proportionate to satisfy the Eighth Amendment. Instead, the second man's death sentence is unconstitutional due to his intellectual disability.

(Choice C) The fact that the second man was not the actual shooter does not make his death sentence unconstitutional. That is because an accomplice can be sentenced to death for felony murder in [certain circumstances](#).

Educational objective:

The Eighth Amendment's prohibition against cruel and unusual punishment forbids imposing a death sentence on a defendant with an intellectual disability—eg, an IQ score of 70 or below.

References

U.S. Const. amend. VIII (prohibiting cruel and unusual punishment).

Atkins v. Virginia, 536 U.S. 304, 321 (2002) (holding that defendants with intellectual disabilities cannot be sentenced to death).

Hall v. Florida, 572 U.S. 701, 724 (2014) (holding that a defendant with an IQ test score within the margin of error, greater than 70, is entitled to an individualized assessment to determine if he/she has an intellectual disability).

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