

Nation

U.S. Supreme Court reviews Texas case of retarded killer

WASHINGTON (AP) — The Supreme Court is examining the legal significance of imposing capital punishment on a convicted murderer described as having the mind of a child.

The justices heard 60 minutes of arguments Wednesday on whether they will allow the execution of Johnny Paul Penry, 32, a convicted rapist-murderer sentenced to die in Texas. The court is expected to announce its decision in July.

Penry is said to have the mental capacity of a 7-year-old and the social development of a 9-year-old.

Assistant Attorney General Charles A. Palmer of Texas argued that executing Penry would not violate the Constitution's ban against cruel and inhuman punishment.

"He knew what he was doing," Palmer said. Penry raped Pamela Moseley Carpenter on Oct. 15, 1979, in Livingston, Texas, then stabbed her to death. She was 22. Palmer recited evidence that Penry killed the woman to prevent her from identifying him.

Ms. Carpenter's brother, retired National Football League placekicker Mark Moseley, was in the courtroom Wednesday and told reporters afterward, "It's been nine years of hell for myself and my family."

"It's not something anyone should have to go through and I feel that if anything good can come out of it, that may be we can render a decision that will make it not happen to someone else," the former Stephen F. Austin and Washington Redskins kicker said.

Some justices expressed doubts that describing someone as having the mental capacity of a child has much relevance.

"What does it mean to have the mental age of 9?" asked Justice Antonin Scalia.

Palmer said witnesses for Penry testified he functioned mentally like a 7-year-old and socially like a 9-year-old. "Beyond that I can not help the court," Palmer said.

"If it's something we don't understand, why allow (such evidence) to be introduced?" asked

Justice Anthony M. Kennedy.

Curtis C. Mason, a lawyer representing Penry, spent little time arguing that all retarded murderers should be spared. Instead, Mason challenged the Texas death penalty law on narrower grounds. Mason said the law prevented the jury from giving full consideration to evidence in Penry's favor when it determined what sentence to impose.

Penry was abused by his parents, attended school only for a few days in the first grade and was in and out of mental hospitals while growing up near Houston.

But Mason said the Texas law would let the jury conclude Penry "is not fully responsible for the way he is today" and still vote to execute him.

He argued the jury only was permitted to consider whether evidence of Penry's retardation and mistreatment showed that Penry had acted "deliberately with the reasonable expectation that death would result."

While the high court might be reluctant to ban the death penalty for all retarded killers, it still

could overturn the Texas capital punishment law.

Justice Sandra Day O'Connor, whose vote could be pivotal in the case, suggested to Palmer that the Texas law gives convicted murderers limited hope of winning reprieve from the death penalty.

She questioned whether the state law allows a juror to vote for life in prison even if the juror believed the defendant acted with diminished moral culpability because of his background.

Palmer replied, "The jury can say, 'My God, this boy's been treated so badly he didn't act deliberately.'" But he acknowledged the jury is barred from weighing such mitigating evidence to reject the death penalty.

The case has attracted considerable attention because of its potential impact for all retarded killers.

The Clearinghouse on Georgia Prisons and Jails, a group opposed to capital punishment, estimates that from 12 percent to 20 percent of the more than 2,100 inmates on death rows nationwide function at below-average intelligence.



(AP Laserphoto)

Kimball pauses before entering guilty plea.

Airlines told to check cross-wiring for 737s

WASHINGTON (AP) — U.S. airlines have three days to check for cross-wiring in 300 Boeing 737s, following speculation that faulty warnings deceived the pilot of a British 737 into shutting down his only good engine when the other one caught fire.

"We think this is not a very likely scenario, but it's a check that can be done very, very quickly without disrupting service," said Federal Aviation Administration spokesman John Leyden.

The FAA order late Wednesday applies to eight Piedmont Airlines 737-400s with U.S.-French CFM56 engines similar to the British Midland Airways 737 that crashed Sunday in England, killing 44 people. It also would cover 292 smaller Boeing 737-300s operated by 10 U.S. airlines.

No planes were grounded by the order, and other 737s and other planes using the CFM56 engines would not be affected.

FAA Administrator Allan McArdor issued the order after the British Civil Aviation Authority ordered similar checks for three types of aircraft flown by British carriers, including the same two models of the 737 and the Airbus A320.

The British agency also ordered increased inspections of CFM56 engines on the planes, a step the FAA was still considering, said a spokesman.

The FAA's "air worthiness directive" gives airlines 72 hours from official receipt of the warnings this morning to make the inspections, which officials said would take about an hour for each plane.

This could allow each plane to make one or two flights before the inspection was mandatory, and officials said it should not disrupt

airline schedules. British officials said Wednesday it was too early to conclude what caused the crash and they were still examining the possibility that both engines failed. A statement from the British Transport Department said, however, that the airliner's left engine caught fire and the right engine was shut down, and that pilot Kevin Hunt had told ground control the fire was in the right engine.

This led to the speculation that crossed wires might have caused warning lights to mislead Hunt into shutting down the right instead of the left engine. He could not see the engines from the cockpit. Hunt, who was injured in the crash, was interviewed by investigators Wednesday, but they did not disclose what he told them.

Fred Farrar, another FAA spokesman, said airlines flying the 737-300s are Aloha, America West, American, Continental, Delta, Orion, Piedmont, Southwest, United and U.S. Air. Piedmont is the only airlines using 737-400s with the CFM56 engines.

The U.S. inspections will cover fire warning systems and vibration monitoring circuitry in the aircraft, Farrar said.

He said there have been "very, very isolated incidents" of cross-wiring of warning systems in U.S. aircraft but none has led to an accident.

John Mazor, spokesman for the Air Line Pilots Association, said he could not recall a specific incident of cross-wiring, but added, "It is not unheard of for brand new aircraft to come off the assembly line with wires crossed or systems improperly configured."

Senator gets can opener

LINCOLN, Neb. (AP) — It was not the type of ceremonial presentation that a governor makes every day, but it wasn't in recognition of the kind of senatorial circumstance that arises every day, either.

Gov. Kay Orr made a special trip from her second-floor office Wednesday to call Sen. Jim McFarland from an Education Committee and present him with a can opener, bedecked with a big ribbon, "in case you ever find yourself locked in the can again." McFarland somehow managed

to break a dead-bolt lock on the door of a small bathroom on the Capitol's eighth floor last week. He was there for nearly an hour before maintenance workers got clearance to take the door apart and let him out.

"I heard that you had had some difficulty and thought this might be of some value to you if this unfortunate type of thing happens again," Mrs. Orr said.

"Governor, I accept this in the spirit in which it is given and, believe me, I won't leave home without it," McFarland said.

Olympic diver pleads guilty to manslaughter

By PAT LEISNER
Associated Press Writer

TAMPA, Fla. (AP) — Olympic diver Bruce Kimball announced a surprise guilty plea to drunken-driving manslaughter to spare grieving relatives who had just heard gruesome testimony on the carnage that killed two teenagers, his father said.

"He did it for the right reasons," a sobbing Dick Kimball, father of the 1984 silver medalist, said outside the courtroom. "He did not want to put the families of the kids through a horrible trial, or our family."

The plea came Wednesday as testimony was just beginning in the Circuit Court trial on charges that the athlete drunkenly plowed into a crowd of teen-agers with his sports car in suburban Brandon on Aug. 1.

The late night crash injured six people. Kimball and his two passengers escaped serious injury.

The case drew international attention when Kimball decided to compete for a place on the 1988 Olympic diving team less than a month after the crash. He failed to make the squad.

He pleaded guilty to two counts of driving under the influence manslaughter and three of causing great bodily harm while driving under the influence. Kimball, who was jailed pending sentencing Jan. 30, faces seven to 22 years in prison.

The plea surprised Assistant State Attorney John Skye, who was about to show jurors 43 color

photographs of the crash scene.

"Obviously the pictures were the most graphically unpleasant part of this case," Skye said later.

Before the plea, Hillsborough County Sheriff's Deputy Karen Ovitv testified about the accident scene for the prosecution.

She described finding two bodies on the road "in pieces" and two of the injured teens, one bleeding badly and moaning, another bloody and screaming.

Killed in the accident were Robbie Bedell, 19, and Kevin Gosic, 16. A 16-year-old who survived lost a leg, which was later reattached.

Kimball met with attorneys from both sides in Judge Harry Lee Coe's chambers for half an hour, then emerged grim and glassy eyed to make his guilty plea.

"Are you pleading guilty because you are guilty and for no other reason?" Coe asked.

"Yes," replied Kimball, his voice barely audible.

Among the victims' relatives and friends at the trial was Bedell's fiancée, Dawn Berrios, who burst into tears outside the courtroom later and said, "I'm just glad it's over. I think we all know the carnage that was out there."

During opening arguments, defense attorney Lee Fugate acknowledged that Kimball had been drinking and speeding when his

car hit the teen-agers on a dark dead-end street known as a hang-out for teen-agers.

His car was traveling faster than 75 mph, and an hour after the crash his blood-alcohol level was 0.2, twice the legal definition of intoxication, prosecutors said.

Skye said another prosecution witness would have testified that

after getting out of his car Kimball beat his fist on the ground and said, "There go the Olympics."

When Kimball went to Indianapolis to try out for the 1988 team, members of Mothers Against Drunk Driving and victims' friends and relatives gathered there and staged a silent protest.

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Lifestyles

Multiple Sclerosis chapter announces survey results

AMARILLO—The Panhandle Chapter of the National Multiple Sclerosis Society recently published findings from a survey mailed to about 400 MS patients in the Panhandle area. The results were reported in the chapter's newsletter; 280 surveys, or a 70 percent return, made up the results.

Of those returned, 218 live in the Panhandle now, and 62 were filled out by persons who no longer live in the area but were born or lived here at some time during the first 14 years of their lives. Some highlights of the survey

results are:

- 75 percent of those returned are from women.
- 67.4 percent were born between 1931 and 1953 (ages now 35 to 57).
- 54.4 percent were born in Texas or Oklahoma Panhandle.
- 75.5 percent were born in either Texas, Oklahoma or Kansas.
- Over 82 percent lived in the Panhandles of Texas or Oklahoma at some time during the first 14 years of life.
- Over 63 percent had a mother

born in Texas or Oklahoma; over 60 percent had a father born in that region.

- Over 89 percent responding were white; 7.5 percent were Native Americans.
- Forebears came from other countries as follows: 32.9 percent from England; 30.7 percent, Ireland; 13.9 percent, Scotland; and 26.1 percent, Germany.
- 87.9 percent of respondents are Protestant.
- 75 percent are married.
- 13.9 percent are veterans.
- Over 90 percent are high

school graduates; 49.3 percent are college graduates.

- 29.6 percent were diagnosed between ages 21 and 30; 35.4 percent between 31 and 40; and only 4.3 percent before the age of 20.
- 63.6 percent have a definite diagnosis; 26.8 percent have a probable diagnosis.
- 59 percent had measles; 65 percent had chicken pox.
- 67.9 percent use a neurologist

regularly.

- 16.4 percent have a relative with MS; 90 percent of those relatives are brothers, sisters or cousins.
- More than 66 percent walk unassisted at all times.
- 68.2 percent drive themselves.
- 92 percent still work; 68.8 percent of those are full time and 32.2 percent are part time.

• 77.7 percent have told their employers they have MS; 25.9 percent said their jobs had been changed to accommodate them.

Because more than 80 percent of those surveyed are native to the Panhandle area, the chapter is sending a copy of the total survey results to the National MS Society for their review and possible further study of MS in the Panhandle area.

Scholarship recipient



(Staff Photo by Larry Hollis)

Jane Jacobs, left, Epsilon Sigma Alpha Sorority president, presents Betsy Chambers with her second semester check as the sorority's 1988-89 school year scholarship recipient. Betsy is a freshman at Stephen F.

Austin University in Nacogdoches, where she made the Dean's List her first semester. She is the daughter of Bob and Jan Chambers of Pampa. The scholarship is for \$500 a year.

Hirsch to discuss non-traditional processes at PFAA photography workshop Saturday

Robert Hirsch, an instructor at Amarillo College, will be featured speaker at a free photography workshop sponsored by Pampa Fine Arts Association. The workshop will be held from 9 a.m. to noon Saturday, Jan. 14 in Pampa Community Building, 200 N. Ballard.

Among the topics Hirsch will discuss are the revival of interest in the non-silver process and other non-traditional processes, including the use of computers. The workshop will also include a session on metering for correct exposure of various types of film.

Hirsch holds a bachelor's degree from Rochester Institute and a master's degree from Arizona

State University.

He is author of the book *Exploring Color Photography* and is presently working on a book to be published by Focal Press. The book in progress deals with black and white photography and non-silver processes.

Some of Hirsch's most recent work was recently featured in *Darkroom Photography Magazine*.

"Hirsch's style is on the cutting edge. Photography has grown from its infancy stage as a medium with the help of photographers like Robert Hirsch. Photography is 150 years old this year," said Michael Hartsock of Pampa Fine Arts Association.

One dog's family tree can grow at an alarming rate

DEAR ABBY: I am a volunteer for the Society for the Prevention of Cruelty to Animals, and my job is to talk to schoolchildren. I show them a chart that shows one female dog with a litter of four. In a year, if only half the pups themselves have litters of four, and the mother does likewise, there will be 12 pups. This goes on and on until the seventh year, at which point there are nearly 4,000 pups!

Nine out of 10 of these dogs will die either at an animal control facility or from some kind of neglect.

I think if most people were aware of these facts, they would have their dogs and cats spayed or altered. Many S.P.C.A. or Humane Society organizations offer financial help for this process.

Abby, by publishing this message, you could save countless unwanted dogs and cats from being born to die tragic deaths.

SHIRLEY BEEDY, S.P.C.A., AUBURN, CALIF.

DEAR SHIRLEY: Thank you for reminding us of something that most people already know, but need to be reminded of.

...

DEAR ABBY: Will you please do every pediatric office in the country a favor and print this:

One of the most common requests we get — especially at the onset of the school year — is for information about immunization shots. This creates extra work for our busy medical clinic staff. Why don't parents keep a record of the shots their children have taken? We must get at least two dozen calls a day from parents who say, "I misplaced Johnny's shot records when we moved." Or, "I know they're around here somewhere, but it's quicker to call you."

Abby, we have more to do in this clinic than look up information and call back to tell the mother when her child had his last shots and what



Dear Abby
Abigail Van Buren

kind of shots they were. Right now I am trying to get back to someone for the fourth time. Her line is either busy, or she's not home yet. Talk about frustrating!

Please tell people that for more than one reason — trips to the

emergency room, college enrollment, moving to another city — they should keep a running record of their children's immunization shots.

HAD IT IN OHIO

DEAR HAD IT: Your point is well-taken and parents would be well-advised to heed it. Continually having to dig into your records for information can be a bigger pain in the behind than the booster shot.

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DEAR ABBY: Thought you would like to know that there is more alcohol in vanilla flavoring (35 percent) than there is in sherry — but all the alcohol evaporates at 140 degrees.

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Smoking report claims women and minorities slower to quit

By DEBORAH MESCE
Associated Press Writer

WASHINGTON (AP) — Anti-smoking campaigns have been most successful in getting white men to put out their cigarettes, and a new government report calls for more efforts aimed at women, children, minorities and high school dropouts who are not quitting as quickly.

The annual report, issued by Surgeon General C. Everett Koop on the 25th anniversary of the government's first such report, says the proportion of American smokers has declined from 40 percent of the population in 1965 to 29 percent in 1987.

"These changes represent nothing less than a revolution in behavior," Koop said in the report. "Thanks to the remarkable progress of the past 25 years, we can dare to envision a smoke-free

society." However, he said, "smokers are disproportionately found in groups that are harder to reach, and this disparity may increase over time. Greater effort and resources will need to be devoted to achieve equivalent reductions in smoking among those whose behavior has survived strong, countervailing pressures."

The 700-page report documents changes in the 25 years since the surgeon general's initial declaration that cigarette smoking leads to cancer and other serious diseases.

The most significant shift has come among men — half of whom smoked in 1965, according to the report. By 1987, less than a third were lighting up.

Women smokers declined from 32 percent to 27 percent over the period, the report said.

The figures also show a slow

decline among blacks, 43 percent to 34 percent, and virtually no change among those who never graduated from high school, 37 percent to 36 percent.

Among high school seniors, daily cigarette smoking dropped from 29 percent in 1976 to 21 percent in 1980 and then leveled off in the 18-21 percent range for the seven years after that.

Since 1977, prevalence of smoking among high school senior girls has been greater than that among boys of that age.

Among the other findings of the report:

- Nearly 45 percent of American adults who ever smoked have quit, though the "quit ratio" does not take into account the length of a quitter's abstinence.
- Smoking is responsible for more than one of every six deaths in the United States and "re-

mains the single most important preventable cause of death in our society."

• Between 1964 and 1987, some 789,000 smoking-related deaths were avoided or postponed as a result of decisions to quit smoking or not to start, which the report attributes to the anti-smoking campaign.

• Four-fifths of smokers born since 1935 started smoking before age 21, and the proportion of people who begin smoking during adolescence has been increasing, particularly among women.

A quarter of high school seniors who have ever smoked had their first cigarette by sixth grade and half by eighth grade.

• The number of legal restrictions on children's access to tobacco products has decreased over the past 24 years, and "vendor compliance with minimum-age-of-purchase laws is the exception rather than the rule."

The first surgeon general's report concluded narrowly that smoking increases deaths among men and causes lung and laryngeal cancer in men and

chronic bronchitis in men and women.

Surgeon general reports since then have concluded that smoking increases deaths among men and women and causes lung and laryngeal cancer in both.

The reports over the years also have tied smoking to heart disease, atherosclerotic peripheral vascular disease, chronic obstructive pulmonary disease and low birthweight babies as well as cancers of the mouth, esophagus, bladder, kidney and stomach, cervix and pancreas.

Welfare worker fired after boy's death

EL PASO (AP) — A child-welfare supervisor who dismissed a child-abuse report as untrue and motivated by a custody battle has been fired following the 2-year-old boy's beating death, an official said.

The supervisor, Ernesto Gonzalez, should have assigned an investigator to determine whether Andres Avalos was being beaten by his stepfather, said Joe Tarin, regional administrator of the state Department of Human Services in El Paso.

Gonzalez admitted lying about contacting the Andres' father to tell him the report would not be

investigated, Tarin said.

The non-custodial father, Jesus Ricardo Avalos Sr., called Gonzalez Nov. 28 to report that Andres was being beaten by his stepfather, Jesus Alvarez, 24.

But Avalos and the Alvarezes were involved in a custody dispute over Andres and his 5-year-old brother, Jesus Jr. Gonzalez wrote "custody dispute" on the report and closed the case, according to testimony last month in a custody hearing for Jesus Jr.

"An investigator should have been sent out," Tarin said.

Less than three weeks after Avalos' call — Dec. 17 — Andres died of injuries he received in a beating.

Alvarez is in El Paso County's jail without bail on a murder charge. The boy's mother, Linda Alvarez, 22, is in jail in lieu of \$50,000 bail on a charge of endangering a child. She is accused of watching Alvarez beat Andres and not stopping him.

The boy was thrown to the floor and kicked because he spit up his food, police said.

Gonzalez was fired Friday, Tarin said.

Bealls

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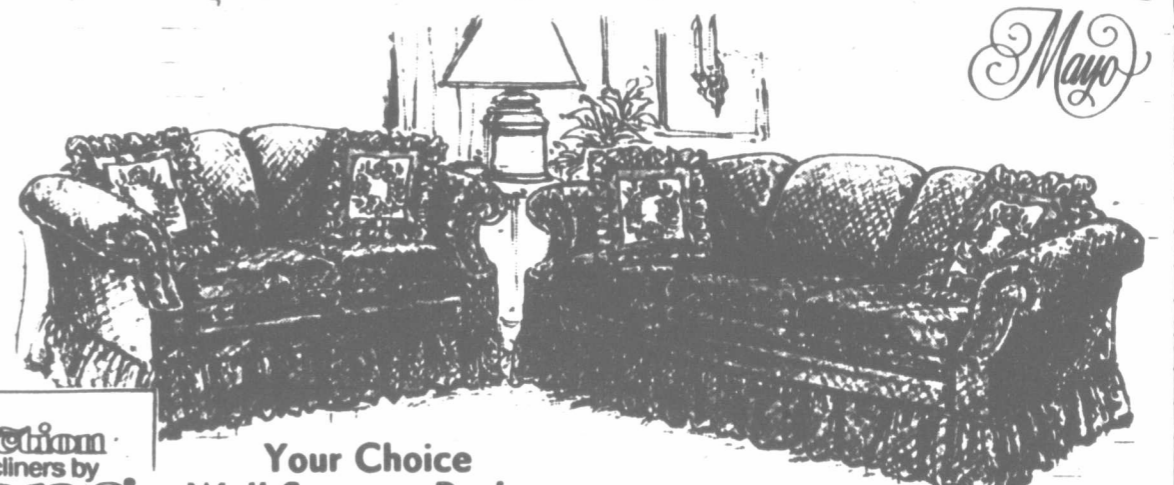
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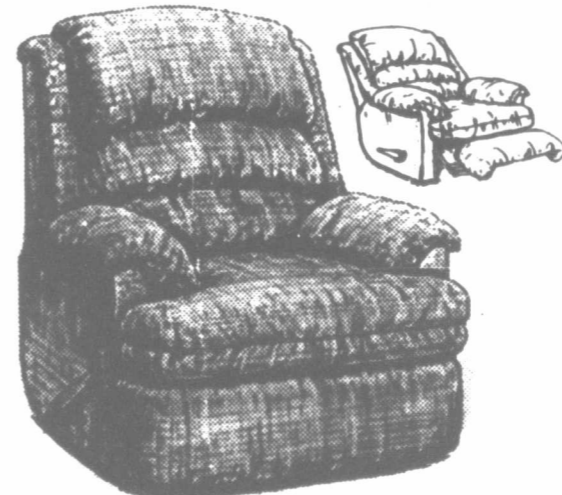
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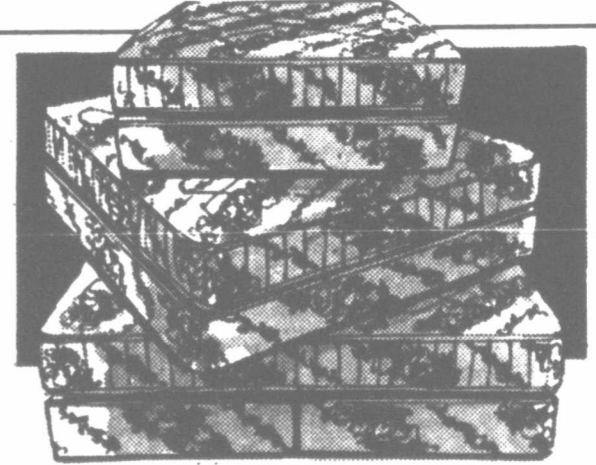
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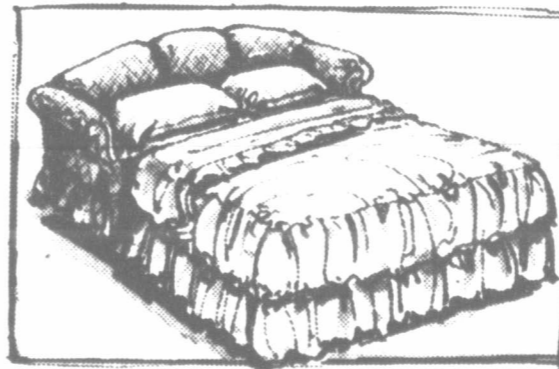


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