

OUT DL: deny laughing DMFB: dominant minus drink in parallel gutters DYTNDK: but what the heck do I
 chuckle & grin CID: crying in disgrace CUL: see you later **YOU DON'T KNOW WHAT YOUR KIDS ARE SAYING**
 CYO: see you online DBA: doing business as usual DL: dead link DLTBBB: don't let the bed bugs bite DIKU: do
 you? EMFBI: excuse me for butting in F2F: face to face FC: fingers crossed FISH: first in, still here FMTYEI
 more than you ever wanted to know FOMCI: falling off my chair laughing FTR0MH: from the bottom of my he

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Accused child murderer hits legal snag

Posted by [The Star-Ledger](#) October 24, 2006 10:33

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In a 5-2 decision, the state Supreme Court this morning ruled an accused child murderer, if convicted, must convince a jury that he is mentally retarded to avoid the possibility of the death penalty.

Likening a mental retardation claim to an insanity defense, the state's high court overturned an August 2005 appeals court decision that bucked the national norm and put a heavy burden of proof on the prosecution in capital murder cases involving mental retardation claims.

The state Supreme Court ruled that Porfirio Jimenez, 41, of Morristown, must prove his claims of mental retardation to a jury by a preponderance of the evidence upon a guilty conviction, and before the penalty phase of the trial begins. If the jury finds Jimenez has met his burden, he would be sentenced to a term of life imprisonment. If not, a penalty-phase trial would proceed, and the jury would have to determine whether the aggravating factors outweighed the mitigating factors, including evidence of mental retardation, beyond a reasonable doubt.

The three-judge panel had said the state constitution mandated that a jury rather than a judge decide the issue, and required the prosecution to prove beyond a reasonable doubt the absence of mental retardation for the death penalty to become a punishment option.

Jimenez is accused of luring Walter Contreras Valenzuela from a Morristown playground to a secluded spot and trying to have sex with him on May 20, 2001. Authorities say Jimenez, a day laborer who lived with his brother's family in Morristown, beat the boy with a gardening tool to keep him from telling anyone. The third-grader's body was found two days later, and Jimenez was arrested June 7, 2001, after a DNA sample linked him to the murder.

Mental health experts for both the defense and the prosecution found Jimenez's IQ to be below 70. The defense expert said his IQ was 68; the prosecution's expert put it at 69.

IQ, a measurement of intellectual functioning, is a factor used to determine mental retardation, and generally, people who are mentally retarded have IQs under 70. For a finding of mental retardation, the person's mental deficit must affect their everyday life and have existed before adulthood.

Contributed by Margaret McHugh

Comments |

Posted By: SAH (24/10/2006 12:16:27 PM)

Comment: THIS MAN HAD PRESENCE OF MIND TO LURE THE CHILD TO A SECLUDED SPOT, BEAT THE CHILD TO DEATH AND MADE SURE THE BODY WAS NOT FOUND RIGHT AWAY AND THE BURDEN OF PROOF IS ON THE PROSECUTION TO SAY THAT HE'S NOT RETARDED. I FEEL IT SHOULD BE ON THE DEFENSE TO PROVE HE IS. HE HAS A GOOD LAWYER FOR COMING UP WITH THAT DEFENSE IN THE FIRST PLACE BUT LET'S BE SERIOUS IQ'S THEY CAN GO EITHER WAY!

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