The New York Times
nytimes.com

PRINTER-FRIENDLY FORMAT
SPONSORED BY
DENCH BLANCHETT
NOTES ON A SCANDAL

January 6, 2007

Justices to Consider Impact of Mental Illness on Death Penalty

By LINDA GREENHOUSE

WASHINGTON, Jan. 5 — The Supreme Court agreed on Friday to use the case of a schizophrenic death row inmate in Texas to set the standard for determining when a mental illness is so severe that execution would be constitutionally impermissible.

The question is not a new one for the court or for the criminal justice system, but it has come to the fore recently as a growing number of legal and mental health organizations have joined a call for a moratorium on executing those whose rational judgment has been significantly impaired, including their ability to appreciate why they have been sentenced to death.

The American Psychiatric Association has expressed specific concern about the competency standard used by the United States Court of Appeals for the Fifth Circuit, which upheld the death sentence for the Texas inmate, Scott L. Panetti, in rejecting his petition for a writ of habeas corpus last May.

Mr. Panetti, convicted in 1992 of fatally shooting his in-laws in the presence of his estranged wife and their 3-year-old child, is a 48-year-old Navy veteran who was hospitalized 14 times for schizophrenia and other serious mental disorders in the decade before the crime. A jury nonetheless found him competent to stand trial, and the judge permitted him to represent himself.

The Supreme Court ruled in 1986 that the Eighth Amendment's prohibition on cruel and unusual punishment barred the execution of the mentally ill. But the justices who decided that case, Ford v. Wainwright, did not settle on a definition of mental illness for the purpose of determining competency for execution.

Most lower courts have adopted, as controlling, a separate opinion by Justice Lewis F. Powell Jr., who said that the "retributive goal of the criminal law" was satisfied as long as defendants were aware of "the punishment they are about to suffer" and "why they are to suffer it."

The Fifth Circuit, which supervises the courts in Texas, Louisiana and Mississippi, has boiled this down to what it calls an "awareness" test. In Mr. Panetti's case, Panetti v. Quarterman, No. 06-6407, the

appeals court found the test was satisfied because Mr. Panetti indicated that he understood the state's intention to execute him for killing his wife's parents. The fact that he also held the delusional belief that his execution was part of a conspiracy by which the state was trying to prevent him from preaching the Gospel was beside the point, the appeals court said.

In Mr. Panetti's appeal to the Supreme Court, his lawyers argue that the appeals court has distorted Justice Powell's meaning by failing to take the delusions into account. "The moral force of retribution is lost if an inmate believes that his execution is being carried out through a conspiracy of demonic forces rather than as a lawful punishment for a horrific crime," their brief argues.

In a brief urging the justices to accept the appeal, the National Alliance on Mental Illness, an advocacy organization, said "this case exemplifies why mere 'awareness,' the test applied by the Fifth Circuit, is not a meaningful requirement for determining whether to execute prisoners who are severely mentally ill."

The brief said the test "makes no sense when applied to a prisoner who is plagued by delusions of grand persecution."

At his trial, Mr. Panetti was often incoherent and tried to issue subpoenas to Jesus, the pope and John F. Kennedy.

The justices' decision to hear his appeal was the latest indication of the Supreme Court's concern about the administration of capital punishment. In recent years, the court has declared unconstitutional the execution of mentally retarded defendants as well as those who committed murder before the age of 18. Some opponents of the death penalty have described mental illness as the next frontier in the debate.

Mr. Panetti's case was one of seven new appeals the court granted on a busy day as the justices returned from a four-week recess. The cases will be heard on dates yet to be determined in March and April.

Among the other new cases were appeals by the Bush administration and the National Association of Home Builders in a case that lies at the intersection between the Clean Water Act and the Endangered Species Act. The question is whether the Endangered Species Act limits the government's discretion to transfer certain authority over pollution permits from federal agencies to the individual states, as the United States Court of Appeals for the Ninth Circuit found.

The twin appeals, consolidated for a single argument, are National Association of Home Builders v. Defenders of Wildlife, No. 06-340, and United States Environmental Protection Agency v. Defenders of Wildlife, No. 05-549.

With two significant environmental cases already having been argued in the last three months, the term figures to be one of the most consequential in years for environmental law.

Home

- World
- U.S.
- N.Y. / Region
- Business
- Technology
- Science
- Health
- Sports
- Opinion
- Arts
- Style
- Travel
- Jobs
- Real Estate
- Automobiles
- Back to Top

Copyright 2007 The New York Times Company

- Privacy Policy
- Search
- Corrections
- RSS
- First Book
- Help
- Contact Us
- Work for Us
- Site Map