U.S. Supreme Court Continues To Make Rulings Inconsistent With Basic Human Rights, Decency, And Justice

Part II

By Jeff Deskovic

Continuing on last week's theme, the United States Supreme Court made yet another ruling inconsistent with human dignity and rights, and simple justice. The Court, on April 14, refused to accept an appeal from a 12-year-old boy who had been sentenced to 30 years without parole, whose argument was that his sentence amounted to "cruel and unusual punishment."

The case was summarized by Bill Mears of ***CNN***, whose expertise I now defer to:

Christopher Pittman's defenders argued the sentence was excessive for someone that age, and claim heavy doses of antidepressants, he was taking at the time, sent his mind spinning out of control. Now 19, Pittman was convicted three years ago of killing his grandparents with a shotgun as they slept, then setting the house on fire. The county prosecutor in South Carolina argued "it was as malicious a murder as you're ever going to find." The justices, without comment, refused to intervene. At issue was whether the state properly used its discretion to try Pittman as an adult, whether the sentence was excessive, and whether mitigating factors should apply.

Outside a death-penalty context, the high court has offered little recent guidance on how to treat underaged defendants. Pittman's lawyers argued no other inmate in the United States is serving so severe a sentence for a crime committed at such an early age. The inmate's legal team, from the University of Texas Law School, expressed disappointment at the high court's refusal to accept the case.

Michele Deitch, an attorney and adjunct professor, speculated that the justices "may have recognized a growing national trend against sentencing young children to harsh mandatory terms in prison, and wants to give state legislatures the opportunity to correct this problem before it rules on the issue." Deitch and other lawyers worked on the case for free, since Pittman could not afford to pay the extensive legal costs. Pittman, now 6 feet 2 inches tall, works grounds maintenance at an adult correctional facility outside Columbia, South Carolina. He received a GED high school equivalency in 2006.

With the High Court's denial of his appeal, Pittman has few legal options to have his sentence reduced. Under his current sentence, he would be released from prison in his mid-40s. He has a separate civil lawsuit against the state, alleging his court-appointed trial lawyers were ineffective. At the time of the crime, the boy had bounced around homes for years, experiencing a half dozen family splits and divorces after his mother had twice abandoned him as a child. She has not been in Pittman's life for years. Joe Pittman, the boy's father, raised Christopher Pittman and his sister for much of their lives, but the relationship between father and son deteriorated. A state psychologist later testified this was a "young man who'd had difficulty with the adults in his life."

After threatening to harm himself and suffering other emotional incidents, the boy was diagnosed as clinically depressed. His lawyers said Pittman was then given Paxil, a mild antidepressant no longer recommended for those under 18. In the midst of these episodes, the youngster was allowed to live temporarily with his paternal grandparents in Chester County, about halfway between Columbia, South Carolina, and Charlotte, North Carolina. The family said Joe and Joy Pittman had been a source of stability for young Christopher earlier in his life.

On November 28, 2001, Pittman was sent home early for fighting in school and sent to bed by the grandparents. The boy claimed his 'Pop-Pop' also beat him with a belt as punishment. Christopher later admitted taking a pump-action shotgun and shooting his grandparents to death in their bedroom shortly before midnight. Prosecutors said he then set the house on fire to cover his tracks, took the family SUV, his golden retriever and a cache of weapons, and fled. He was arrested hours later on a remote gravel road in a nearby county. Just days before, a doctor had begun prescribing Zoloft, another antidepressant. The family contends the abrupt substitution of drugs caused a bad chemical reaction, triggering violent outbursts. At trial, a parade of psychiatrists offered conflicting testimony on whether the boy's emotional problems excused his criminal behavior. Prosecutors called the Zoloft defense a "smokescreen."

The jury took less than a day to find Pittman guilty. Because he had been transferred from juvenile to adult court, the judge was not allowed to take his age into account at sentencing. Pittman received the shortest possible term for murder, 30 years without parole. Juror Steven Platt later told CNN the crime appeared deliberate. "It always seemed like the defense was grasping at straws," he said. "Just because you take prescription medicine doesn't mean you can't be held accountable for your actions."

Pfizer, the maker of Zoloft, would not comment on the current appeal, but said after the verdict the drug "didn't cause his [Pittman's] problems, nor did the medication drive him to commit murder. On these two points, both Pfizer and the jury agree." The Food and Drug Administration in 2004 ordered Zoloft and other such medications to carry warnings of an increased risk of suicidal behavior in children. Pittman's sister, Danielle Pittman Fincher, said afterward, "I know for a fact that there is absolutely no possible way my brother in his current state of mind could have done something like that."

The Supreme Court in 2005 banned the death penalty for underage killers. The justices in that case cited evolving "national standards" as a reason to ban such executions. Attorney Michael Sturley said 41 states do not punish 12-year-olds as South Carolina does. And none has allowed as harsh a sentence as Pit-

tman was given. "There are no 12-year-old monsters," said Duprey.

Pittman's attorney's sought to utilize, by analogy, a previous ruling by the United States Supreme Court in ***Roper v Simmons***, which outlawed the application of the death penalty to juveniles. As reported by Wikipedia, "the appeal challenged the constitutionality of capital punishment for persons who were juveniles when their crimes were committed, citing the Eighth Amendment protection against cruel and unusual punishment.

Previously, a 1988 Supreme Court decision ***Thompson v Oklahoma*** barred execution of offenders under the age of 16. In 1989, another case, ***Stanford v Kentucky*** upheld the possibility of capital punishment for offenders who were 16 or 17 years old when they committed the capital offense. The same day in 1989, the Supreme Court ruled in the case ***Penry v Lynaugh***, that it was permissible to execute the mentally retarded. However, in 2002, that decision was overruled in ***Atkins v Virgina***, where the Court held that evolving standards of decency had made the execution of the mentally retarded cruel and unusual punishment and thus unconstitutional.

Under the "evolving standards of decency" test, the Court held that it was cruel and unusual punishment to execute a person who was under the age of 18 at the time of the murder. Writing for the majority, Justice Kennedy cited a body of sociological and scientific research that found that juveniles have a lack of maturity and sense of responsibility as compared with adults. Adolescents were found to be overrepresented statistically in virtually every category of reckless behavior. The Court noted that in recognition of the comparative immaturity and irresponsibility of juveniles, almost every state prohibited those under the age of 18 from voting, serving on juries, or marrying without parental consent. The studies also found that juveniles are more vulnerable to negative influences and outside pressures, including peer pressure. They have less control, or experience with control, over their own environment. They also lack the freedom that adults have, in escaping a setting.

The United States Supreme Court did not accept the argument that on a similar line of reasoning, life without parole, and giving such long prison sentences to juveniles, should be banned.

Analysis

While ***Roper v Simmons*** should be lauded as a good ruling in outlawing the application of the death penalty for juveniles, the Court clearly should have taken the next step and intervened in the Pittman case and disrupted the imposition of a 30-year sentence for a crime committed by a 12-year-old. While I can in no way justify the committing of a murder, what is stark to me is that the imposition of a 30-year prison sentence upon a 12-year-old, whatever the crime, is sheer brutality, defies logic and common sense. The same arguments made in ***Roper*** by the Court are also true when considering the issue of life sentences for juveniles:

- Recognition of the comparative immaturity and irresponsibility of juveniles, as evidenced by almost every state prohibited those under age 18 from voting, serving on juries, or marrying without parental consent;
- Juveniles being more vulnerable to negative influences and outside pressures, including peer pressure;
- Juveniles have less control, or experience with control, over their own environment.

How is it that children aren't regarded as mature enough to be allowed to vote, but are mature enough to be given a sentence like that? Does Pittman really require a 30-year prison sentence in order to rehabilitate him? Children are not adults. They do not have the mind to premeditate a murder in the same way that adults can. They are often not aware of what the prison sentence for a given crime may be, so there is really no deterence effect of imposing or allowing such a sentence to stand. Instead, all that it serves to accomplish is to show how brutal some states are, and how unjust the Court is.

If, indeed, the reason the Court ducked the issue was because they were waiting for state legislatures to fix the problem, I must take issue with that notion on several levels. Firstly, that doesn't prevent the injustice perpetrated on Pittman. Secondly, considering that most politicians do not do things because it is the right thing to do morally, it is indeed a steep hill to climb to get state legislatures to revoke draconian laws, because in the furtherance of their careers many want to be perceived as "tough on crime", to the point that they will support anything or uphold anything.

Thirdly, as the head steward of the judiciary, the United States Supreme Court is supposed to ensure that justice is being done. That doesn't happen when it refuses to step in and answer important questions. I also think that, taking in the world at large as a context, enabling such a policy to remain in place doesn't put our country in a good moral position to question other countries about human rights.

I think that the Court's ruling in the above-mentioned ***Atkins*** case, in which they signed off on the execution of a mentally retarded person, was a particular low moment. Does it not follow, by way of common sense, that a mentally retarded person does not fully understand what they are doing?

The perception of prisoners, and of minorities, the non-rich, many of the middle class, and more and more people are realizing, as more and more cases fail to meet with justice, that the confidence people have in the High Court, is becoming less and less.

The court's general mindset is now extreme. I think that too often, the immortal dissent of Butler, J. in the case ***Olmstead v United States***, is ignored. Justice Butler declared, "If the government becomes the lawbreaker, it breeds contempt for the law, it invites every man to become a law unto himself; it invites anarchy."

If I was totally in the right, as I was when I applied for permission to appeal to them while wrongfully incarcerated, with the facts and circumstances of a case, I would not want the U.S. Supreme Court to rule on it, because I have zero confidence in them. After reading about the previous cases in the last two issues, would you? ■