

US Supreme Court set for death row IQ appeal

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A Florida inmate is challenging the US state's use of a rigid IQ number to determine intellectual disability, in a case that spotlights the issue of the mentally ill on death row.

Nearly 12 years after banning the [death penalty](#) for the intellectually disabled, the Supreme Court on Monday will hear the appeal of Freddie Lee Hall. If he loses, the 68-year-old, who has spent 35 years on death row, is likely to be executed.

In June 2002, the US top court barred states from executing intellectually disabled inmates, but until now left what determined that to the states themselves. In Florida, a person with an IQ of 70 or more is deemed criminally competent to be executed.

Hall, convicted for the rape and murder of a pregnant woman, has been diagnosed with an IQ of 71, but was declared "mentally retarded" since childhood.

In his appeal, his lawyers argue that Hall falls within a five-percent margin of error cited by psychiatrists and experts when assessing IQ scores.

"No IQ test is a perfect measure of intellectual ability," his written appeal says.

"The best that any test can do, even when correctly administered, is to

provide a certain level of confidence, as a statistical matter, that a person's true IQ score... is within a particular range."

It adds: "The predictable consequence of Florida's rule is that persons with [mental retardation](#) will be executed. Without this Court's intervention, that will happen here."

Hall's lawyers argue that the rigid cutoff is inconsistent with the commonly agreed upon definition of mental retardation embraced by the Supreme Court in its 2002 decision, which most US states use.

John Blume, Professor of Law at Cornell University, wrote on an American Constitution Society blog: "A ruling in Hall's favor will not affect many states—or for that matter many cases."

"Nevertheless, the case is still important, not only to Hall—whose life literally hangs in the balance—and other Floridians with an [intellectual disability](#), but also to make clear that states cannot narrow a categorical ban created by the Supreme Court intended to protect a vulnerable group from wrongful execution."

In neighboring Georgia, death row inmates need to prove intellectual disability "beyond a reasonable doubt." Warren Hill, who has an IQ of 70, had his application for a stay dismissed in October by the Supreme Court.

Other similar cases include paranoid schizophrenic John Ferguson, who was executed in Florida in August.

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