



PANETTI v. QUARTERMAN
No. 06-6407
Supreme Court of United States
June 28, 2007
[5 to 4]

OPINION: JUSTICE KENNEDY/STEVENS/SOUTER/GINSBURG/BREYER..."The Eighth Amendment prohibits a State from carrying out a sentence of death upon a prisoner who is insane." *Ford v. Wainwright* (1986). The prohibition applies despite a prisoner's earlier competency to be held responsible for committing a crime and to be tried for it. Prior findings of competency do not foreclose a prisoner from proving he is incompetent to be executed because of his present mental condition... We find the state court failed to provide the procedures to which petitioner was entitled under the Constitution and we determine that the federal appellate court employed an improperly restrictive test when it considered petitioner's claim of incompetency on the merits. We therefore reverse the judgment of the Court of Appeals for the Fifth Circuit and remand the case for further consideration.

On a morning in 1992 petitioner awoke before dawn, dressed in camouflage, and drove to the home of his estranged wife's parents. Breaking the front-door lock, he entered the house and, in front of his wife and daughter, shot and killed his wife's mother and father. He took his wife and daughter hostage for the night before surrendering to police...

[The Petitioner asks this Court to resolve this question]: Whether the Eighth Amendment permits the execution of a prisoner whose mental illness deprives him of "the mental capacity to understand that he is being executed as a punishment for a crime."

...One [of the petitioner's experts] explained that petitioner's mental problems are indicative of "schizo-affective disorder," resulting in a "**genuine delusion**" involving his understanding of the

reason for his execution. According to the expert, this delusion has recast petitioner's execution as "part of spiritual warfare...between the demons and the forces of the darkness and God and the angels and the forces of light." As a result, the expert explained, although petitioner claims to understand "that the state is saying that it wishes to execute him for his murders," he believes in earnest that the stated reason is a "sham" and the State in truth wants to execute him "to stop him from preaching."...

While the State's expert witnesses resisted the conclusion that petitioner's stated beliefs were necessarily indicative of incompetency, particularly in light of his perceived ability to understand certain concepts and, at times, to be "clear and lucid," they acknowledged evidence of mental problems. Petitioner's rebuttal witness attempted to reconcile the experts' testimony:

"Well, first, you have to understand that when somebody is schizophrenic, it doesn't diminish their cognitive ability...Instead, you have a situation where — and why we call schizophrenia thought disorder — the logical integration and reality connection of their thoughts are disrupted, so the stimulus comes in, and instead of being analyzed and processed in a rational, logical, linear sort of way, it gets scrambled up and it comes out in a tangential, circumstantial, symbolic...not really relevant kind of way. That's the essence of somebody being schizophrenic...Now, it may be that if they're dealing with someone who's more familiar...in what may feel like a safer, more enclosed environment...those sorts of interactions may be reasonably lucid whereas a more extended conversation about more loaded material would reflect the severity of his mental illness."

...There is...much in the record to support the conclusion that petitioner suffers from severe delusions. The **legal inquiry** concerns whether these **delusions** can be said to render him **incompetent**. The Court of Appeals held that they could not. That holding, we conclude, rests on a flawed interpretation of *Ford*.

The Court of Appeals stated that competency is determined by whether a prisoner is aware "that he is going to be executed and why he is going to be executed." To this end, the Court of Appeals identified the relevant District Court findings as follows: first, petitioner is **aware** that he **committed** the murders; second, he is **aware** that he will be **executed**; and, third, he is **aware** that the **reason** the State has given for the execution is his commission of the **crimes** in question. Under Circuit precedent this ends the analysis as a matter of law; for the Court of Appeals regards these three factual findings as necessarily demonstrating that a prisoner is aware of the reason for his execution.

The Court of Appeals concluded that its standard foreclosed petitioner from establishing incompetency by the means he now seeks to employ: a showing that his mental illness obstructs a **rational understanding** of the State's reason for his execution. As the court explained, "because we hold that 'awareness,' as that term is used in *Ford*, is not necessarily synonymous with 'rational understanding,' as argued by petitioner, we conclude that the district court's findings are sufficient to establish that petitioner is competent to be executed."

In our view the Court of Appeals' standard is too restrictive to afford a prisoner the protections granted by the Eighth Amendment...[I]n the portion of Justice Marshall's discussion constituting the opinion of the Court [in *Ford*]...the majority did reach the express conclusion that the Constitution "places a substantive restriction on the State's power to take the life of an insane prisoner." The Court stated the foundation for this principle as follows:

"Today, no less than before, we may **seriously question the retributive value** of executing a person who has no comprehension of why he has been singled out and stripped of his fundamental right to life...Similarly, the natural abhorrence civilized societies feel at killing one who has no capacity to come to grips with his own conscience or deity is still vivid today. And the intuition that such an execution simply offends humanity is **evidently shared across this Nation**. Faced with such widespread evidence of a restriction upon sovereign power, this Court is compelled to conclude that the Eighth Amendment prohibits a State from carrying out a sentence of death upon a prisoner who is **insane**."

Writing for four Justices, Justice Marshall concluded by indicating that the Eighth Amendment prohibits execution of "one whose mental illness prevents him from comprehending the reasons for the penalty or its implications." Justice Powell, in his separate opinion, asserted that the Eighth Amendment "forbids the execution only of those who are unaware of the punishment they are about to suffer and why they are to suffer it."

The Court of Appeals' standard treats a prisoner's delusional belief system as irrelevant if the prisoner knows that the State has identified his crimes as the reason for his execution (indicating that under Circuit precedent "a petitioner's delusional beliefs — even those which may result in a fundamental failure to appreciate the connection between the petitioner's crime and his execution — do not bear on the question of whether the petitioner 'knows the reason for his execution' for the purposes of the Eighth Amendment"). Yet the *Ford* opinions nowhere indicate that delusions are irrelevant to "comprehension" or "awareness" if they so impair the prisoner's concept of reality that he cannot reach a rational understanding of the reason for the execution. If anything, the *Ford* majority suggests the opposite.

Explaining the prohibition against executing a prisoner who has lost his sanity, Justice Marshall in the controlling portion of his opinion set forth various rationales, including recognition that "the execution of an insane person simply offends humanity"; that it "provides no example to others"; that "it is uncharitable to dispatch an offender into another world, when he is not of a capacity to fit himself for it"; that "madness is its own punishment"; and that executing an insane person serves no retributive purpose.

Considering the last — whether retribution is served — it might be said that capital punishment is imposed because it has the potential to make the offender recognize at last the gravity of his crime and to allow the community as a whole, including the surviving family and friends of the victim, to affirm its own judgment that the culpability of the prisoner is so serious that the ultimate penalty must be sought and imposed. The potential for a prisoner's recognition of the severity of the offense

and the objective of community vindication are called in question, however, if the prisoner's mental state is so distorted by a mental illness that his awareness of the crime and punishment has little or no relation to the understanding of those concepts shared by the community as a whole. This problem is not necessarily overcome once the test set forth by the Court of Appeals is met. And under a similar logic the other rationales set forth by *Ford* fail to align with the distinctions drawn by the Court of Appeals.

Whether *Ford's* inquiry into competency is formulated as a question of the prisoner's ability to "comprehend the reasons" for his punishment or as a determination into whether he is "unaware of...why he is to suffer it," then, the approach taken by the Court of Appeals is inconsistent with *Ford*. The principles set forth in *Ford* are put at risk by a rule that deems delusions relevant only with respect to the State's announced reason for a punishment or the fact of an imminent execution, as opposed to the real interests the State seeks to vindicate. We likewise find no support elsewhere in *Ford*...for the proposition that a prisoner is automatically foreclosed from demonstrating incompetency once a court has found he can identify the stated reason for his execution. A prisoner's awareness of the State's rationale for an execution is not the same as a rational understanding of it. *Ford* does not foreclose inquiry into the latter.

This is not to deny the fact that a concept like rational understanding is difficult to define. And we must not ignore the concern that some prisoners, whose cases are not implicated by this decision, will fail to understand why they are to be punished on account of reasons other than those stemming from a severe mental illness. The mental state requisite for competence to suffer capital punishment neither presumes nor requires a person who would be considered "normal," or even "rational," in a layperson's understanding of those terms. Someone who is condemned to death for an atrocious murder may be so callous as to be unrepentant; so self-centered and devoid of compassion as to lack all sense of guilt; so adept in transferring blame to others as to be considered, at least in the colloquial sense, to be out of touch with reality. Those states of mind, even if extreme compared to the criminal population at large, are not what petitioner contends lie at the threshold of a competence inquiry. The beginning of doubt about competence in a case like petitioner's is not a misanthropic personality or an amoral character. It is a psychotic disorder.

Petitioner's submission is that he suffers from a severe, documented mental illness that is the source of gross delusions preventing him from comprehending the meaning and purpose of the punishment to which he has been sentenced. This argument, we hold, should have been considered.

...Gross delusions stemming from a severe mental disorder may put an awareness of a link between a crime and its punishment in a context so far removed from reality that the punishment can serve no proper purpose...The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion...

DISSENT: JUSTICE THOMAS/ROBERTS/SCALIA/ALITO... This case should be simple. Panetti brings a claim under *Ford v. Wainwright* that he is incompetent to be executed...Without

undertaking even a cursory Eighth Amendment analysis, the Court imposes a new standard for determining incompetency. I respectfully dissent.

...Because the Court quibbles over the precise meaning of *Ford's* opinions with respect to an issue that was not presented in that case, what emerges is a half-baked holding that leaves the details of the insanity standard for the District Court to work out. As its sole justification for thrusting already muddled *Ford* determinations into such disarray, the Court asserts that *Ford* itself compels such a result. It does not.

The four-Justice plurality in *Ford* did not define insanity or create a substantive standard for determining competency. Only Justice Powell's concurrence set forth a standard:

"...If the defendant perceives the connection between his crime and his punishment, the retributive goal of the criminal law is satisfied. And only if the defendant is aware that his death is approaching can he prepare himself for his passing. Accordingly, **I would hold that the Eighth Amendment forbids the execution only of those who are unaware of the punishment they are about to suffer and why they are to suffer it.**"

Because the issue before the Court in *Ford* was actual knowledge, not rational understanding, nothing in any of the *Ford* opinions addresses what to do when a prisoner knows the reason for his execution but does not "rationally understand" it.

Tracing the language of Justice Powell's concurrence, the Court of Appeals held that Panetti needed only to be "aware of" the stated reason for his execution. Implicitly, the Court of Appeals also concluded that the fact that Panetti "disbelieves the State's stated reason for executing him" does not render him "unaware" of the reason for his execution. The Court challenges this approach based on an expansive interpretation of Justice Powell's use of the word "aware." However, the Court does not and cannot deny that "awareness" is undefined in *Ford* and that *Ford* does not discuss whether "delusions that so impair the prisoner's concept of reality that he cannot reach a rational understanding of the reason for the execution" affect awareness in a constitutionally relevant manner. Nevertheless, the Court cobbles together stray language from *Ford's* multiple opinions and asserts that the Court of Appeals' test is somehow inconsistent with the spirit of *Ford*. Because that result does not follow naturally from *Ford*, today's opinion can be understood only as holding for the first time that the Eighth Amendment requires "rational understanding." Although apparently imposing a new substantive Eighth Amendment requirement, the Court assiduously avoids applying our framework for analyzing Eighth Amendment claims. See *Ford* (first analyzing whether execution of the insane was among "those modes or acts of punishment that had been considered cruel and unusual at the time that the Bill of Rights was adopted" in 1791); *Roper v. Simmons* (considering also whether the punishment is deemed cruel and unusual according to modern "standards of decency"); *Atkins v. Virginia* (looking for "objective evidence of contemporary values," the "clearest and most reliable" of which is the "legislation enacted by the country's legislatures." The Court likely avoided undertaking this analysis because there is no evidence to support its position. The Court of Appeals at least took an approach based on what *Ford* actually says, an approach that was far from

frivolous or unreasonable. By contrast, the Court's approach today — **settling upon a preferred outcome without resort to the law** — is foreign to the judicial role as I know it...I respectfully dissent.