

What's on Deck: Supreme Court May Change Execution Rules for Mentally Disabled Defendants

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The U.S. Supreme Court recently agreed to revisit the issue of whether mentally disabled criminal defendants can face the death penalty. In *Atkins v. Virginia*, the Court ruled that the execution of persons with mental disabilities constituted “cruel and unusual punishment” under the [Eighth Amendment](#). However, it allowed states to define the term “mental retardation” as it applies in capital cases.

In the wake of the decision, criminal defense and human rights groups have argued that many states, particularly those in the South, have simply changed their laws to ensure the widest group of offenders may still be executed. This term, the justices will consider whether the legal standard needs to be changed.

The latest case, *Hall v. Florida*, involves of a Florida man convicted of murdering a pregnant housewife in 1978. Freddie L. Hall and another man forced the woman into her vehicle in a grocery store parking lot and took her to a remote area, where she was sexually assaulted and shot. Hall was sentenced to death for the murder.

In the proceedings that followed, defense [attorneys](#) argued that Hall was mentally disabled and should not be put to death. In 1999, the Florida Supreme Court ruled that “there is no doubt that the defendant has serious mental difficulties, is probably somewhat retarded, and certainly has learning difficulties and a speech impediment.”

However, in the wake of the *Atkins* decision, the same court recently ruled that Hall was eligible for execution under a Florida state law that imposes an IQ cutoff of 70 for determining mental disability. Hall has scored 71, 73, and 80 during various tests.

In their opinion, several justices raised concerns about Florida's bright-line rule. “At some point in the future, the United States Supreme Court may determine that a bright-line cutoff is unconstitutional because of the risk of executing an individual who is in fact mentally retarded,” Justice Barbara J. Pariente noted in her concurrence.

Her statement may come to fruition this term.