SUPREME COURT OF THE UNITED STATES

No. 03–633

DONALD P. ROPER, SUPERINTENDENT, POTOSI CORRECTIONAL CENTER, PETITIONER *v.* CHRISTOPHER SIMMONS

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF MISSOURI

[March 1, 2005]

JUSTICE KENNEDY delivered the opinion of the Court.

This case requires us to address, for the second time in a decade and a half, whether it is permissible under the Eighth and Fourteenth Amendments to the Constitution of the United States to execute a juvenile offender who was older than 15 but younger than 18 when he committed a capital crime. In *Stanford* v. *Kentucky*, 492 U. S. 361 (1989), a divided Court rejected the proposition that the Constitution bars capital punishment for juvenile offenders in this age group. We reconsider the question.

I

At the age of 17, when he was still a junior in high school, Christopher Simmons, the respondent here, committed murder. About nine months later, after he had turned 18, he was tried and sentenced to death. There is little doubt that Simmons was the instigator of the crime. Before its commission Simmons said he wanted to murder someone. In chilling, callous terms he talked about his plan, discussing it for the most part with two friends, Charles Benjamin and John Tessmer, then aged 15 and 16

respectively. Simmons proposed to commit burglary and murder by breaking and entering, tying up a victim, and throwing the victim off a bridge. Simmons assured his friends they could "get away with it" because they were minors.

The three met at about 2 a.m. on the night of the murder, but Tessmer left before the other two set out. (The State later charged Tessmer with conspiracy, but dropped the charge in exchange for his testimony against Simmons.) Simmons and Benjamin entered the home of the victim, Shirley Crook, after reaching through an open window and unlocking the back door. Simmons turned on a hallway light. Awakened, Mrs. Crook called out, "Who's there?" In response Simmons entered Mrs. Crook's bedroom, where he recognized her from a previous car accident involving them both. Simmons later admitted this confirmed his resolve to murder her.

Using duct tape to cover her eyes and mouth and bind her hands, the two perpetrators put Mrs. Crook in her minivan and drove to a state park. They reinforced the bindings, covered her head with a towel, and walked her to a railroad trestle spanning the Meramec River. There they tied her hands and feet together with electrical wire, wrapped her whole face in duct tape and threw her from the bridge, drowning her in the waters below.

By the afternoon of September 9, Steven Crook had returned home from an overnight trip, found his bedroom in disarray, and reported his wife missing. On the same afternoon fishermen recovered the victim's body from the river. Simmons, meanwhile, was bragging about the killing, telling friends he had killed a woman "because the bitch seen my face."

The next day, after receiving information of Simmons' involvement, police arrested him at his high school and took him to the police station in Fenton, Missouri. They read him his *Miranda* rights. Simmons waived his right to

an attorney and agreed to answer questions. After less than two hours of interrogation, Simmons confessed to the murder and agreed to perform a videotaped reenactment at the crime scene.

The State charged Simmons with burglary, kidnaping, stealing, and murder in the first degree. As Simmons was 17 at the time of the crime, he was outside the criminal jurisdiction of Missouri's juvenile court system. See Mo. Rev. Stat. §§211.021 (2000) and 211.031 (Supp. 2003). He was tried as an adult. At trial the State introduced Simmons' confession and the videotaped reenactment of the crime, along with testimony that Simmons discussed the crime in advance and bragged about it later. The defense called no witnesses in the guilt phase. The jury having returned a verdict of murder, the trial proceeded to the penalty phase.

The State sought the death penalty. As aggravating factors, the State submitted that the murder was committed for the purpose of receiving money; was committed for the purpose of avoiding, interfering with, or preventing lawful arrest of the defendant; and involved depravity of mind and was outrageously and wantonly vile, horrible, and inhuman. The State called Shirley Crook's husband, daughter, and two sisters, who presented moving evidence of the devastation her death had brought to their lives.

In mitigation Simmons' attorneys first called an officer of the Missouri juvenile justice system, who testified that Simmons had no prior convictions and that no previous charges had been filed against him. Simmons' mother, father, two younger half brothers, a neighbor, and a friend took the stand to tell the jurors of the close relationships they had formed with Simmons and to plead for mercy on his behalf. Simmons' mother, in particular, testified to the responsibility Simmons demonstrated in taking care of his two younger half brothers and of his grandmother and to his capacity to show love for them.

During closing arguments, both the prosecutor and defense counsel addressed Simmons' age, which the trial judge had instructed the jurors they could consider as a mitigating factor. Defense counsel reminded the jurors that juveniles of Simmons' age cannot drink, serve on juries, or even see certain movies, because "the legislatures have wisely decided that individuals of a certain age aren't responsible enough." Defense counsel argued that Simmons' age should make "a huge difference to [the jurors] in deciding just exactly what sort of punishment to make." In rebuttal, the prosecutor gave the following response: "Age, he says. Think about age. Seventeen years old. Isn't that scary? Doesn't that scare you? Mitigating? Quite the contrary I submit. Quite the contrary."

The jury recommended the death penalty after finding the State had proved each of the three aggravating factors submitted to it. Accepting the jury's recommendation, the trial judge imposed the death penalty.

Simmons obtained new counsel, who moved in the trial court to set aside the conviction and sentence. One argument was that Simmons had received ineffective assistance at trial. To support this contention, the new counsel called as witnesses Simmons' trial attorney, Simmons' friends and neighbors, and clinical psychologists who had evaluated him.

Part of the submission was that Simmons was "very immature," "very impulsive," and "very susceptible to being manipulated or influenced." The experts testified about Simmons' background including a difficult home environment and dramatic changes in behavior, accompanied by poor school performance in adolescence. Simmons was absent from home for long periods, spending time using alcohol and drugs with other teenagers or young adults. The contention by Simmons' postconviction counsel was that these matters should have been established in the sentencing proceeding.

The trial court found no constitutional violation by reason of ineffective assistance of counsel and denied the motion for postconviction relief. In a consolidated appeal from Simmons' conviction and sentence, and from the denial of postconviction relief, the Missouri Supreme Court affirmed. *State* v. *Simmons*, 944 S. W. 2d 165, 169 (en banc), cert. denied, 522 U. S. 953 (1997). The federal courts denied Simmons' petition for a writ of habeas corpus. *Simmons* v. *Bowersox*, 235 F. 3d 1124, 1127 (CA8), cert. denied, 534 U. S. 924 (2001).

After these proceedings in Simmons' case had run their course, this Court held that the Eighth and Fourteenth Amendments prohibit the execution of a mentally retarded person. *Atkins* v. *Virginia*, 536 U. S. 304 (2002). Simmons filed a new petition for state postconviction relief, arguing that the reasoning of *Atkins* established that the Constitution prohibits the execution of a juvenile who was under 18 when the crime was committed.

The Missouri Supreme Court agreed. *State ex rel. Simmons* v. *Roper*, 112 S. W. 3d 397 (2003) (en banc). It held that since *Stanford*,

> "a national consensus has developed against the execution of juvenile offenders, as demonstrated by the fact that eighteen states now bar such executions for juveniles, that twelve other states bar executions altogether, that no state has lowered its age of execution below 18 since *Stanford*, that five states have legislatively or by case law raised or established the minimum age at 18, and that the imposition of the juvenile death penalty has become truly unusual over the last decade." 112 S. W. 3d, at 399.

On this reasoning it set aside Simmons' death sentence and resentenced him to "life imprisonment without eligibility for probation, parole, or release except by act of the Governor." *Id.*, at 413.

We granted certiorari, 540 U. S. 1160 (2004), and now affirm.

II

The Eighth Amendment provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." The provision is applicable to the States through the Fourteenth Amendment. *Furman* v. *Georgia*, 408 U. S. 238, 239 (1972) *(per curiam); Robinson* v. *California*, 370 U. S. 660, 666–667 (1962); *Louisiana ex rel. Francis* v. *Resweber*, 329 U. S. 459, 463 (1947) (plurality opinion). As the Court explained in *Atkins*, the Eighth Amendment guarantees individuals the right not to be subjected to excessive sanctions. The right flows from the basic "'precept of justice that punishment for crime should be graduated and proportioned to [the] offense.'" 536 U. S., at 311 (quoting *Weems* v. *United States*, 217 U. S. 349, 367 (1910)). By protecting even those convicted of heinous crimes, the Eighth Amendment reaffirms the duty of the government to respect the dignity of all persons.

The prohibition against "cruel and unusual punishments," like other expansive language in the Constitution, must be interpreted according to its text, by considering history, tradition, and precedent, and with due regard for its purpose and function in the constitutional design. To implement this framework we have established the propriety and affirmed the necessity of referring to "the evolving standards of decency that mark the progress of a maturing society" to determine which punishments are so disproportionate as to be cruel and unusual. *Trop* v. *Dulles*, 356 U. S. 86, 100–101 (1958) (plurality opinion).

In *Thompson* v. *Oklahoma*, 487 U. S. 815 (1988), a plurality of the Court determined that our standards of decency do not permit the execution of any offender under the age of 16 at the time of the crime. *Id.*, at 818–838

(opinion of STEVENS, J., joined by Brennan, Marshall, and Blackmun, JJ.). The plurality opinion explained that no death penalty State that had given express consideration to a minimum age for the death penalty had set the age lower than 16. *Id.*, at 826–829. The plurality also observed that "[t]he conclusion that it would offend civilized standards of decency to execute a person who was less than 16 years old at the time of his or her offense is consistent with the views that have been expressed by respected professional organizations, by other nations that share our Anglo-American heritage, and by the leading members of the Western European community." *Id.*, at 830. The opinion further noted that juries imposed the death penalty on offenders under 16 with exceeding rarity; the last execution of an offender for a crime committed under the age of 16 had been carried out in 1948, 40 years prior. *Id.*, at 832–833.

Bringing its independent judgment to bear on the permissibility of the death penalty for a 15-year-old offender, the *Thompson* plurality stressed that "[t]he reasons why juveniles are not trusted with the privileges and responsibilities of an adult also explain why their irresponsible conduct is not as morally reprehensible as that of an adult." *Id.*, at 835. According to the plurality, the lesser culpability of offenders under 16 made the death penalty inappropriate as a form of retribution, while the low likelihood that offenders under 16 engaged in "the kind of cost-benefit analysis that attaches any weight to the possibility of execution" made the death penalty ineffective as a means of deterrence. *Id.*, at 836–838. With JUSTICE O'CONNOR concurring in the judgment on narrower grounds, *id.*, at 848–859, the Court set aside the death sentence that had been imposed on the 15-year-old offender.

The next year, in *Stanford* v. *Kentucky*, 492 U. S. 361 (1989), the Court, over a dissenting opinion joined by four

Justices, referred to contemporary standards of decency in this country and concluded the Eighth and Fourteenth Amendments did not proscribe the execution of juvenile offenders over 15 but under 18. The Court noted that 22 of the 37 death penalty States permitted the death penalty for 16-year-old offenders, and, among these 37 States, 25 permitted it for 17-year-old offenders. These numbers, in the Court's view, indicated there was no national consensus "sufficient to label a particular punishment cruel and unusual." *Id.*, at 370–371. A plurality of the Court also "emphatically reject[ed]" the suggestion that the Court should bring its own judgment to bear on the acceptability of the juvenile death penalty. *Id.*, at 377–378 (opinion of SCALIA, J., joined by REHNQUIST, C. J., and White and KENNEDY, JJ.); see also *id.*, at 382 (O'CONNOR, J., concurring in part and concurring in judgment) (criticizing the plurality's refusal "to judge whether the '"nexus between the punishment imposed and the defendant's blameworthiness"' is proportional").

The same day the Court decided *Stanford*, it held that the Eighth Amendment did not mandate a categorical exemption from the death penalty for the mentally retarded. *Penry* v. *Lynaugh*, 492 U. S. 302 (1989). In reaching this conclusion it stressed that only two States had enacted laws banning the imposition of the death penalty on a mentally retarded person convicted of a capital offense. *Id.*, at 334. According to the Court, "the two state statutes prohibiting execution of the mentally retarded, even when added to the 14 States that have rejected capital punishment completely, [did] not provide sufficient evidence at present of a national consensus." *Ibid.*

Three Terms ago the subject was reconsidered in *Atkins*. We held that standards of decency have evolved since *Penry* and now demonstrate that the execution of the mentally retarded is cruel and unusual punishment. The Court noted objective indicia of society's standards, as

expressed in legislative enactments and state practice with respect to executions of the mentally retarded. When *Atkins* was decided only a minority of States permitted the practice, and even in those States it was rare. 536 U. S., at 314–315. On the basis of these indicia the Court determined that executing mentally retarded offenders "has become truly unusual, and it is fair to say that a national consensus has developed against it." *Id.*, at 316.

The inquiry into our society's evolving standards of decency did not end there. The *Atkins* Court neither repeated nor relied upon the statement in *Stanford* that the Court's independent judgment has no bearing on the acceptability of a particular punishment under the Eighth Amendment. Instead we returned to the rule, established in decisions predating *Stanford*, that "'the Constitution contemplates that in the end our own judgment will be brought to bear on the question of the acceptability of the death penalty under the Eighth Amendment.'" 536 U. S., at 312 (quoting *Coker* v. *Georgia*, 433 U. S. 584, 597 (1977) (plurality opinion)). Mental retardation, the Court said, diminishes personal culpability even if the offender can distinguish right from wrong. 536 U. S., at 318. The impairments of mentally retarded offenders make it less defensible to impose the death penalty as retribution for past crimes and less likely that the death penalty will have a real deterrent effect. *Id.*, at 319–320. Based on these considerations and on the finding of national consensus against executing the mentally retarded, the Court ruled that the death penalty constitutes an excessive sanction for the entire category of mentally retarded offenders, and that the Eighth Amendment "'places a substantive restriction on the State's power to take the life' of a mentally retarded offender." *Id.*, at 321 (quoting *Ford* v. *Wainwright*, 477 U. S. 399, 405 (1986)).

Just as the *Atkins* Court reconsidered the issue decided in *Penry*, we now reconsider the issue decided in *Stanford*.

The beginning point is a review of objective indicia of consensus, as expressed in particular by the enactments of legislatures that have addressed the question. This data gives us essential instruction. We then must determine, in the exercise of our own independent judgment, whether the death penalty is a disproportionate punishment for juveniles.

III

A

The evidence of national consensus against the death penalty for juveniles is similar, and in some respects parallel, to the evidence *Atkins* held sufficient to demonstrate a national consensus against the death penalty for the mentally retarded. When *Atkins* was decided, 30 States prohibited the death penalty for the mentally retarded. This number comprised 12 that had abandoned the death penalty altogether, and 18 that maintained it but excluded the mentally retarded from its reach. 536 U. S., at 313–315. By a similar calculation in this case, 30 States prohibit the juvenile death penalty, comprising 12 that have rejected the death penalty altogether and 18 that maintain it but, by express provision or judicial interpretation, exclude juveniles from its reach. See Appendix A, *infra*. *Atkins* emphasized that even in the 20 States without formal prohibition, the practice of executing the mentally retarded was infrequent. Since *Penry*, only five States had executed offenders known to have an IQ under 70. 536 U. S., at 316. In the present case, too, even in the 20 States without a formal prohibition on executing juveniles, the practice is infrequent. Since *Stanford*, six States have executed prisoners for crimes committed as juveniles. In the past 10 years, only three have done so: Oklahoma, Texas, and Virginia. See V. Streib, The Juvenile Death Penalty Today: Death Sentences and Executions for Juvenile Crimes, January 1, 1973–December 31,

2004, No. 76, p. 4 (2005), available at http://www.law.onu.edu/faculty/streib/documents/JuvDeathDec2004.pdf (last updated Jan. 31, 2005) (as visited Feb. 25, 2005, and available in the Clerk of Court's case file). In December 2003 the Governor of Kentucky decided to spare the life of Kevin Stanford, and commuted his sentence to one of life imprisonment without parole, with the declaration that "'[w]e ought not be executing people who, legally, were children.'" Lexington Herald Leader, Dec. 9, 2003, p. B3, 2003 WL 65043346. By this act the Governor ensured Kentucky would not add itself to the list of States that have executed juveniles within the last 10 years even by the execution of the very defendant whose death sentence the Court had upheld in *Stanford* v. *Kentucky*.

There is, to be sure, at least one difference between the evidence of consensus in *Atkins* and in this case. Impressive in *Atkins* was the rate of abolition of the death penalty for the mentally retarded. Sixteen States that permitted the execution of the mentally retarded at the time of *Penry* had prohibited the practice by the time we heard *Atkins*. By contrast, the rate of change in reducing the incidence of the juvenile death penalty, or in taking specific steps to abolish it, has been slower. Five States that allowed the juvenile death penalty at the time of *Stanford* have abandoned it in the intervening 15 years—four through legislative enactments and one through judicial decision. Streib, *supra*, at 5, 7; *State* v. *Furman*, 122 Wash. 2d 400, 858 P. 2d 1092 (1993) (en banc).

Though less dramatic than the change from *Penry* to *Atkins* ("telling," to borrow the word *Atkins* used to describe this difference, 536 U. S., at 315, n. 18), we still consider the change from *Stanford* to this case to be significant. As noted in *Atkins*, with respect to the States that had abandoned the death penalty for the mentally retarded since *Penry*, "[i]t is not so much the number of these States that is significant, but the consistency of the

direction of change." 536 U. S., at 315. In particular we found it significant that, in the wake of *Penry*, no State that had already prohibited the execution of the mentally retarded had passed legislation to reinstate the penalty. 536 U. S., at 315–316. The number of States that have abandoned capital punishment for juvenile offenders since *Stanford* is smaller than the number of States that abandoned capital punishment for the mentally retarded after *Penry;* yet we think the same consistency of direction of change has been demonstrated. Since *Stanford*, no State that previously prohibited capital punishment for juveniles has reinstated it. This fact, coupled with the trend toward abolition of the juvenile death penalty, carries special force in light of the general popularity of anticrime legislation, *Atkins*, *supra*, at 315, and in light of the particular trend in recent years toward cracking down on juvenile crime in other respects, see H. Snyder & M. Sickmund, National Center for Juvenile Justice, Juvenile Offenders and Victims: 1999 National Report 89, 133 (Sept. 1999); Scott & Grisso, The Evolution of Adolescence: A Developmental Perspective on Juvenile Justice Reform, 88 J. Crim. L. & C. 137, 148 (1997). Any difference between this case and *Atkins* with respect to the pace of abolition is thus counterbalanced by the consistent direction of the change.

The slower pace of abolition of the juvenile death penalty over the past 15 years, moreover, may have a simple explanation. When we heard *Penry*, only two death penalty States had already prohibited the execution of the mentally retarded. When we heard *Stanford*, by contrast, 12 death penalty States had already prohibited the execution of any juvenile under 18, and 15 had prohibited the execution of any juvenile under 17. If anything, this shows that the impropriety of executing juveniles between 16 and 18 years of age gained wide recognition earlier than the impropriety of executing the mentally retarded.

In the words of the Missouri Supreme Court: "It would be the ultimate in irony if the very fact that the inappropriateness of the death penalty for juveniles was broadly recognized sooner than it was recognized for the mentally retarded were to become a reason to continue the execution of juveniles now that the execution of the mentally retarded has been barred." 112 S. W. 3d, at 408, n. 10.

Petitioner cannot show national consensus in favor of capital punishment for juveniles but still resists the conclusion that any consensus exists against it. Petitioner supports this position with, in particular, the observation that when the Senate ratified the International Covenant on Civil and Political Rights (ICCPR), Dec. 19, 1966, 999 U. N. T. S. 171 (entered into force Mar. 23, 1976), it did so subject to the President's proposed reservation regarding Article 6(5) of that treaty, which prohibits capital punishment for juveniles. Brief for Petitioner 27. This reservation at best provides only faint support for petitioner's argument. First, the reservation was passed in 1992; since then, five States have abandoned capital punishment for juveniles. Second, Congress considered the issue when enacting the Federal Death Penalty Act in 1994, and determined that the death penalty should not extend to juveniles. See 18 U. S. C. §3591. The reservation to Article 6(5) of the ICCPR provides minimal evidence that there is not now a national consensus against juvenile executions.

As in *Atkins*, the objective indicia of consensus in this case—the rejection of the juvenile death penalty in the majority of States; the infrequency of its use even where it remains on the books; and the consistency in the trend toward abolition of the practice—provide sufficient evidence that today our society views juveniles, in the words *Atkins* used respecting the mentally retarded, as "categorically less culpable than the average criminal." 536 U. S., at 316.

B

A majority of States have rejected the imposition of the death penalty on juvenile offenders under 18, and we now hold this is required by the Eighth Amendment.

Because the death penalty is the most severe punishment, the Eighth Amendment applies to it with special force. *Thompson*, 487 U. S., at 856 (O'CONNOR, J., concurring in judgment). Capital punishment must be limited to those offenders who commit "a narrow category of the most serious crimes" and whose extreme culpability makes them "the most deserving of execution." *Atkins*, *supra*, at 319. This principle is implemented throughout the capital sentencing process. States must give narrow and precise definition to the aggravating factors that can result in a capital sentence. *Godfrey* v. *Georgia*, 446 U. S. 420, 428–429 (1980) (plurality opinion). In any capital case a defendant has wide latitude to raise as a mitigating factor "any aspect of [his or her] character or record and any of the circumstances of the offense that the defendant proffers as a basis for a sentence less than death." *Lockett* v. *Ohio*, 438 U. S. 586, 604 (1978) (plurality opinion); *Eddings* v. *Oklahoma*, 455 U. S. 104, 110–112 (1982); see also *Johnson* v. *Texas*, 509 U. S. 350, 359–362 (1993) (summarizing the Court's jurisprudence after *Furman* v. *Georgia*, 408 U. S. 238 (1972) *(per curiam)*, with respect to a sentencer's consideration of aggravating and mitigating factors). There are a number of crimes that beyond question are severe in absolute terms, yet the death penalty may not be imposed for their commission. *Coker* v. *Georgia*, 433 U. S. 584 (1977) (rape of an adult woman); *Enmund* v. *Florida*, 458 U. S. 782 (1982) (felony murder where defendant did not kill, attempt to kill, or intend to kill). The death penalty may not be imposed on certain classes of offenders, such as juveniles under 16, the insane, and the mentally retarded, no matter how heinous the crime. *Thompson* v. *Oklahoma*, *supra*; *Ford* v. *Wainwright*, 477

U. S. 399 (1986); *Atkins, supra.* These rules vindicate the underlying principle that the death penalty is reserved for a narrow category of crimes and offenders.

Three general differences between juveniles under 18 and adults demonstrate that juvenile offenders cannot with reliability be classified among the worst offenders. First, as any parent knows and as the scientific and sociological studies respondent and his *amici* cite tend to confirm, "[a] lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults and are more understandable among the young. These qualities often result in impetuous and ill-considered actions and decisions." *Johnson, supra,* at 367; see also *Eddings, supra,* at 115–116 ("Even the normal 16-year-old customarily lacks the maturity of an adult"). It has been noted that "adolescents are overrepresented statistically in virtually every category of reckless behavior." Arnett, Reckless Behavior in Adolescence: A Developmental Perspective, 12 Developmental Review 339 (1992). In recognition of the comparative immaturity and irresponsibility of juveniles, almost every State prohibits those under 18 years of age from voting, serving on juries, or marrying without parental consent. See Appendixes B–D, *infra.*

The second area of difference is that juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure. *Eddings, supra,* at 115 ("[Y]outh is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage"). This is explained in part by the prevailing circumstance that juveniles have less control, or less experience with control, over their own environment. See Steinberg & Scott, Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty, 58 Am. Psychologist 1009, 1014 (2003) (hereinafter Steinberg & Scott) ("[A]s legal minors, [juve-

niles] lack the freedom that adults have to extricate themselves from a criminogenic setting").

The third broad difference is that the character of a juvenile is not as well formed as that of an adult. The personality traits of juveniles are more transitory, less fixed. See generally E. Erikson, Identity: Youth and Crisis (1968).

These differences render suspect any conclusion that a juvenile falls among the worst offenders. The susceptibility of juveniles to immature and irresponsible behavior means "their irresponsible conduct is not as morally reprehensible as that of an adult." *Thompson*, *supra,* at 835 (plurality opinion). Their own vulnerability and comparative lack of control over their immediate surroundings mean juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment. See *Stanford*, 492 U. S., at 395 (Brennan, J., dissenting). The reality that juveniles still struggle to define their identity means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character. From a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed. Indeed, "[t]he relevance of youth as a mitigating factor derives from the fact that the signature qualities of youth are transient; as individuals mature, the impetuousness and recklessness that may dominate in younger years can subside." *Johnson*, *supra,* at 368; see also Steinberg & Scott 1014 ("For most teens, [risky or antisocial] behaviors are fleeting; they cease with maturity as individual identity becomes settled. Only a relatively small proportion of adolescents who experiment in risky or illegal activities develop entrenched patterns of problem behavior that persist into adulthood").

In *Thompson*, a plurality of the Court recognized the

import of these characteristics with respect to juveniles under 16, and relied on them to hold that the Eighth Amendment prohibited the imposition of the death penalty on juveniles below that age. 487 U. S., at 833–838. We conclude the same reasoning applies to all juvenile offenders under 18.

Once the diminished culpability of juveniles is recognized, it is evident that the penological justifications for the death penalty apply to them with lesser force than to adults. We have held there are two distinct social purposes served by the death penalty: "'retribution and deterrence of capital crimes by prospective offenders.'" *Atkins*, 536 U. S., at 319 (quoting *Gregg* v. *Georgia*, 428 U. S. 153, 183 (1976) (joint opinion of Stewart, Powell, and STEVENS, JJ.)). As for retribution, we remarked in *Atkins* that "[i]f the culpability of the average murderer is insufficient to justify the most extreme sanction available to the State, the lesser culpability of the mentally retarded offender surely does not merit that form of retribution." 536 U. S., at 319. The same conclusions follow from the lesser culpability of the juvenile offender. Whether viewed as an attempt to express the community's moral outrage or as an attempt to right the balance for the wrong to the victim, the case for retribution is not as strong with a minor as with an adult. Retribution is not proportional if the law's most severe penalty is imposed on one whose culpability or blameworthiness is diminished, to a substantial degree, by reason of youth and immaturity.

As for deterrence, it is unclear whether the death penalty has a significant or even measurable deterrent effect on juveniles, as counsel for the petitioner acknowledged at oral argument. Tr. of Oral Arg. 48. In general we leave to legislatures the assessment of the efficacy of various criminal penalty schemes, see *Harmelin* v. *Michigan*, 501 U. S. 957, 998–999 (1991) (KENNEDY, J., concurring in part and concurring in judgment). Here, however, the

absence of evidence of deterrent effect is of special concern because the same characteristics that render juveniles less culpable than adults suggest as well that juveniles will be less susceptible to deterrence. In particular, as the plurality observed in *Thompson*, "[t]he likelihood that the teenage offender has made the kind of cost-benefit analysis that attaches any weight to the possibility of execution is so remote as to be virtually nonexistent." 487 U. S., at 837. To the extent the juvenile death penalty might have residual deterrent effect, it is worth noting that the punishment of life imprisonment without the possibility of parole is itself a severe sanction, in particular for a young person.

In concluding that neither retribution nor deterrence provides adequate justification for imposing the death penalty on juvenile offenders, we cannot deny or overlook the brutal crimes too many juvenile offenders have committed. See Brief for Alabama et al. as *Amici Curiae*. Certainly it can be argued, although we by no means concede the point, that a rare case might arise in which a juvenile offender has sufficient psychological maturity, and at the same time demonstrates sufficient depravity, to merit a sentence of death. Indeed, this possibility is the linchpin of one contention pressed by petitioner and his *amici*. They assert that even assuming the truth of the observations we have made about juveniles' diminished culpability in general, jurors nonetheless should be allowed to consider mitigating arguments related to youth on a case-by-case basis, and in some cases to impose the death penalty if justified. A central feature of death penalty sentencing is a particular assessment of the circumstances of the crime and the characteristics of the offender. The system is designed to consider both aggravating and mitigating circumstances, including youth, in every case. Given this Court's own insistence on individualized consideration, petitioner maintains that it

is both arbitrary and unnecessary to adopt a categorical rule barring imposition of the death penalty on any offender under 18 years of age.

We disagree. The differences between juvenile and adult offenders are too marked and well understood to risk allowing a youthful person to receive the death penalty despite insufficient culpability. An unacceptable likelihood exists that the brutality or cold-blooded nature of any particular crime would overpower mitigating arguments based on youth as a matter of course, even where the juvenile offender's objective immaturity, vulnerability, and lack of true depravity should require a sentence less severe than death. In some cases a defendant's youth may even be counted against him. In this very case, as we noted above, the prosecutor argued Simmons' youth was aggravating rather than mitigating. *Supra*, at 4. While this sort of overreaching could be corrected by a particular rule to ensure that the mitigating force of youth is not overlooked, that would not address our larger concerns.

It is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption. See Steinberg & Scott 1014–1016. As we understand it, this difficulty underlies the rule forbidding psychiatrists from diagnosing any patient under 18 as having antisocial personality disorder, a disorder also referred to as psychopathy or sociopathy, and which is characterized by callousness, cynicism, and contempt for the feelings, rights, and suffering of others. American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders 701–706 (4th ed. text rev. 2000); see also Steinberg & Scott 1015. If trained psychiatrists with the advantage of clinical testing and observation refrain, despite diagnostic expertise, from assessing any juvenile under 18 as having antisocial personality disorder, we conclude that States

should refrain from asking jurors to issue a far graver condemnation—that a juvenile offender merits the death penalty. When a juvenile offender commits a heinous crime, the State can exact forfeiture of some of the most basic liberties, but the State cannot extinguish his life and his potential to attain a mature understanding of his own humanity.

Drawing the line at 18 years of age is subject, of course, to the objections always raised against categorical rules. The qualities that distinguish juveniles from adults do not disappear when an individual turns 18. By the same token, some under 18 have already attained a level of maturity some adults will never reach. For the reasons we have discussed, however, a line must be drawn. The plurality opinion in *Thompson* drew the line at 16. In the intervening years the *Thompson* plurality's conclusion that offenders under 16 may not be executed has not been challenged. The logic of *Thompson* extends to those who are under 18. The age of 18 is the point where society draws the line for many purposes between childhood and adulthood. It is, we conclude, the age at which the line for death eligibility ought to rest.

These considerations mean *Stanford* v. *Kentucky* should be deemed no longer controlling on this issue. To the extent *Stanford* was based on review of the objective indicia of consensus that obtained in 1989, 492 U. S., at 370–371, it suffices to note that those indicia have changed. *Supra*, at 10–13. It should be observed, furthermore, that the *Stanford* Court should have considered those States that had abandoned the death penalty altogether as part of the consensus against the juvenile death penalty, 492 U. S., at 370, n. 2; a State's decision to bar the death penalty altogether of necessity demonstrates a judgment that the death penalty is inappropriate for all offenders, including juveniles. Last, to the extent *Stanford* was based on a rejection of the idea that this Court is

required to bring its independent judgment to bear on the proportionality of the death penalty for a particular class of crimes or offenders, *id.*, at 377–378 (plurality opinion), it suffices to note that this rejection was inconsistent with prior Eighth Amendment decisions, *Thompson*, 487 U. S., at 833–838 (plurality opinion); *Enmund*, 458 U. S., at 797; *Coker*, 433 U. S., at 597 (plurality opinion). It is also inconsistent with the premises of our recent decision in *Atkins*. 536 U. S., at 312–313, 317–321.

In holding that the death penalty cannot be imposed upon juvenile offenders, we take into account the circumstance that some States have relied on *Stanford* in seeking the death penalty against juvenile offenders. This consideration, however, does not outweigh our conclusion that *Stanford* should no longer control in those few pending cases or in those yet to arise.

IV

Our determination that the death penalty is disproportionate punishment for offenders under 18 finds confirmation in the stark reality that the United States is the only country in the world that continues to give official sanction to the juvenile death penalty. This reality does not become controlling, for the task of interpreting the Eighth Amendment remains our responsibility. Yet at least from the time of the Court's decision in *Trop*, the Court has referred to the laws of other countries and to international authorities as instructive for its interpretation of the Eighth Amendment's prohibition of "cruel and unusual punishments." 356 U. S., at 102–103 (plurality opinion) ("The civilized nations of the world are in virtual unanimity that statelessness is not to be imposed as punishment for crime"); see also *Atkins, supra,* at 317, n. 21 (recognizing that "within the world community, the imposition of the death penalty for crimes committed by mentally retarded offenders is overwhelmingly disapproved"); *Thomp-*

son, *supra*, at 830–831, and n. 31 (plurality opinion) (noting the abolition of the juvenile death penalty "by other nations that share our Anglo-American heritage, and by the leading members of the Western European community," and observing that "[w]e have previously recognized the relevance of the views of the international community in determining whether a punishment is cruel and unusual"); *Enmund*, *supra*, at 796–797, n. 22 (observing that "the doctrine of felony murder has been abolished in England and India, severely restricted in Canada and a number of other Commonwealth countries, and is unknown in continental Europe"); *Coker*, *supra*, at 596, n. 10 (plurality opinion) ("It is . . . not irrelevant here that out of 60 major nations in the world surveyed in 1965, only 3 retained the death penalty for rape where death did not ensue").

As respondent and a number of *amici* emphasize, Article 37 of the United Nations Convention on the Rights of the Child, which every country in the world has ratified save for the United States and Somalia, contains an express prohibition on capital punishment for crimes committed by juveniles under 18. United Nations Convention on the Rights of the Child, Art. 37, Nov. 20, 1989, 1577 U. N. T. S. 3, 28 I. L. M. 1448, 1468–1470 (entered into force Sept. 2, 1990); Brief for Respondent 48; Brief for European Union et al. as *Amici Curiae* 12–13; Brief for President James Earl Carter, Jr., et al. as *Amici Curiae* 9; Brief for Former U. S. Diplomats Morton Abramowitz et al. as *Amici Curiae* 7; Brief for Human Rights Committee of the Bar of England and Wales et al. as *Amici Curiae* 13–14. No ratifying country has entered a reservation to the provision prohibiting the execution of juvenile offenders. Parallel prohibitions are contained in other significant international covenants. See ICCPR, Art. 6(5), 999 U. N. T. S., at 175 (prohibiting capital punishment for anyone under 18 at the time of offense) (signed and ratified by the United States subject to a reservation regard-

ing Article 6(5), as noted, *supra*, at 13); American Convention on Human Rights: Pact of San José, Costa Rica, Art. 4(5), Nov. 22, 1969, 1144 U. N. T. S. 146 (entered into force July 19, 1978) (same); African Charter on the Rights and Welfare of the Child, Art. 5(3), OAU Doc. CAB/LEG/24.9/49 (1990) (entered into force Nov. 29, 1999) (same).

Respondent and his *amici* have submitted, and petitioner does not contest, that only seven countries other than the United States have executed juvenile offenders since 1990: Iran, Pakistan, Saudi Arabia, Yemen, Nigeria, the Democratic Republic of Congo, and China. Since then each of these countries has either abolished capital punishment for juveniles or made public disavowal of the practice. Brief for Respondent 49–50. In sum, it is fair to say that the United States now stands alone in a world that has turned its face against the juvenile death penalty.

Though the international covenants prohibiting the juvenile death penalty are of more recent date, it is instructive to note that the United Kingdom abolished the juvenile death penalty before these covenants came into being. The United Kingdom's experience bears particular relevance here in light of the historic ties between our countries and in light of the Eighth Amendment's own origins. The Amendment was modeled on a parallel provision in the English Declaration of Rights of 1689, which provided: "[E]xcessive Bail ought not to be required nor excessive Fines imposed; nor cruel and unusuall Punishments inflicted." 1 W. & M., ch. 2, §10, in 3 Eng. Stat. at Large 441 (1770); see also *Trop*, *supra*, at 100 (plurality opinion). As of now, the United Kingdom has abolished the death penalty in its entirety; but, decades before it took this step, it recognized the disproportionate nature of the juvenile death penalty; and it abolished that penalty as a separate matter. In 1930 an official committee recommended that the minimum age for execution be raised to 21. House of Commons Report from the Select Commit-

tee on Capital Punishment (1930), 193, p. 44. Parliament then enacted the Children and Young Person's Act of 1933, 23 Geo. 5, ch. 12, which prevented execution of those aged 18 at the date of the sentence. And in 1948, Parliament enacted the Criminal Justice Act, 11 & 12 Geo. 6, ch. 58, prohibiting the execution of any person under 18 at the time of the offense. In the 56 years that have passed since the United Kingdom abolished the juvenile death penalty, the weight of authority against it there, and in the international community, has become well established.

It is proper that we acknowledge the overwhelming weight of international opinion against the juvenile death penalty, resting in large part on the understanding that the instability and emotional imbalance of young people may often be a factor in the crime. See Brief for Human Rights Committee of the Bar of England and Wales et al. as *Amici Curiae* 10–11. The opinion of the world community, while not controlling our outcome, does provide respected and significant confirmation for our own conclusions.

Over time, from one generation to the next, the Constitution has come to earn the high respect and even, as Madison dared to hope, the veneration of the American people. See The Federalist No. 49, p. 314 (C. Rossiter ed. 1961). The document sets forth, and rests upon, innovative principles original to the American experience, such as federalism; a proven balance in political mechanisms through separation of powers; specific guarantees for the accused in criminal cases; and broad provisions to secure individual freedom and preserve human dignity. These doctrines and guarantees are central to the American experience and remain essential to our present-day self-definition and national identity. Not the least of the reasons we honor the Constitution, then, is because we know it to be our own. It does not lessen our fidelity to the Constitution or our pride in its origins to acknowledge

that the express affirmation of certain fundamental rights by other nations and peoples simply underscores the centrality of those same rights within our own heritage of freedom.

* * *

The Eighth and Fourteenth Amendments forbid imposition of the death penalty on offenders who were under the age of 18 when their crimes were committed. The judgment of the Missouri Supreme Court setting aside the sentence of death imposed upon Christopher Simmons is affirmed.

It is so ordered.

APPENDIX A TO OPINION OF THE COURT

I. STATES THAT PERMIT THE IMPOSITION OF THE DEATH PENALTY ON JUVENILES

Alabama	Ala. Code §13A–6–2(c) (West 2004) (no express minimum age)
Arizona	Ariz. Rev. Stat. Ann. §13–703(A) (West Supp. 2004) (same)
Arkansas	Ark. Code Ann. §5–4–615 (Michie 1997) (same)
Delaware	Del. Code Ann., Tit. 11, (Lexis 1995) (same)
Florida	Fla. Stat. §985.225(1) (2003) (same)
Georgia	Ga. Code Ann. §17–9–3 (Lexis 2004) (same)
Idaho	Idaho Code §18–4004 (Michie 2004) (same)
Kentucky	Ky. Rev. Stat. Ann. §640.040(1) (Lexis 1999) (minimum age of 16)
Louisiana	La. Stat. Ann. §14:30(c) (West Supp. 2004) (no express minimum age)
Mississippi	Miss. Code Ann. §97–3–21 (Lexis 2000) (same)
Missouri	Mo. Rev. Stat. Ann. §565.020 (1999) (minimum age of 16)
Nevada	Nev. Rev. Stat. §176.025 (2003) (minimum age of 16)
New Hampshire	N. H. Rev. Stat. Ann. §630:1(V) (West 1996) (minimum age of 17)
North Carolina	N. C. Gen. Stat. §14–17 (Lexis 2003) (minimum age of 17, except that those under 17 who commit murder while serving a prison sentence for a previous murder may receive the death penalty)
Oklahoma	Okla. Stat. Ann., Tit. 21, §701.10 (West 2002) (no express minimum age)
Pennsylvania	18 Pa. Cons. Stat. §1102 (2002) (same)
South Carolina	S. C. Code Ann. §16–3–20 (West Supp. 2003 and main ed.) (same)
Texas	Tex. Penal Code Ann. §8.07(c) (West 2003) (minimum age of 17)
Utah	Utah Code Ann. §76–3–206(1) (Lexis 2002) (no express minimum age)
Virginia	Va. Code Ann. §18.2–10(a) (Lexis Supp. 2003) (minimum age of 16)

Appendix A to opinion of the Court

II. STATES THAT RETAIN THE DEATH PENALTY, BUT SET THE MINIMUM AGE AT 18

California	Cal. Penal Code Ann. §190.5 (West 1999)
Colorado	Colo. Rev. Stat. §18–1.4–102(1)(a) (Lexis 2004)
Connecticut	Conn. Gen. Stat. Ann. §53a–46a(h) (West 2001)
Illinois	Ill. Comp. Stat. Ann., ch. 720, §5/9–1(b) (West Supp. 2004)
Indiana	Ind. Code Ann. §35–50–2–3 (1993)
Kansas	Kan. Stat. Ann. §21–4622 (1995)
Maryland	Md. Crim. Law Code Ann. §2–202(b)(2)(i) (Lexis 2002)
Montana	Mont. Code Ann. §45–5–102 (2003)
Nebraska	Neb. Rev. Stat. §28–105.01(1) (1995)
New Jersey	N. J. Stat. Ann. §2C:11–3(g) (West Supp. 2003)
New Mexico	N. M. Stat. Ann. §31–18–14(A) (West Supp. 2000)
New York	N. Y. Penal Law Ann. §125.27(West 2004)
Ohio	Ohio Rev. Code Ann. §2929.02(A) (Lexis 2003)
Oregon	Ore. Rev. Stat. §§161.620, 137.707(2) (1997)
South Dakota	2004 S. D. Laws ch. 166 to be codified in S. D. Codified Laws §23A–27A–42
Tennessee	Tenn. Code Ann. §37–1–134(a)(1) (Lexis 1996)
Washington	Minimum age of 18 established by judicial decision. *State* v. *Furman*, 122 Wash. 2d 440, 858 P. 2d 1092 (1993)
Wyoming	Wyo. Stat. §6–2–101(b) (Lexis 2003)

* * *

During the past year, decisions by the highest courts of Kansas and New York invalidated provisions in those States' death penalty statutes. *State* v. *Marsh*, ___ Kan. ___, 102 P. 3d 445 (2004) (invalidating provision that required imposition of the death penalty if aggravating and mitigating circumstances were found to be in equal balance); *People* v. *LaValle*, 3 N. Y. 3d 88, 817 N. E. 2d 341 (2004) (invalidating mandatory requirement to instruct the jury that, in the case of jury deadlock as to the appropriate sentence in a capital case, the defendant would receive a sentence of life imprisonment with parole eligibility after serving a minimum of 20 to 25 years). Due to these decisions, it would appear that in these States the death penalty remains on the books, but that as a practical matter it might not be imposed on anyone until there is a change of course in these decisions, or until the respec-

tive state legislatures remedy the problems the courts have identified. *Marsh*, *supra*, at ___, ___, 102 p. 3d, at 452, 464; *LaValle*, *supra*, at 99, 817 N. E 2d, at 344.

III. STATES WITHOUT THE DEATH PENALTY

Alaska
Hawaii
Iowa
Maine
Massachusetts
Michigan
Minnesota
North Dakota
Rhode Island
Vermont
West Virginia
Wisconsin

APPENDIX B TO OPINION OF THE COURT
STATE STATUTES ESTABLISHING A MINIMUM AGE TO VOTE

STATE	AGE	STATUTE
Alabama	18	Ala. Const., Amdt. No. 579
Alaska	18	Alaska Const., Art. V, §1 Alaska Stat. §15–05–010 (Lexis 2002)
Arizona	18	Ariz. Const., Art. VII, §2 Ariz. Rev. Stat. §16–101 (West 1996)
Arkansas	18	Ark. Code Ann. §9–25–101 (Lexis 2002)
California	18	Cal. Const., Art. 2, §2
Colorado	18	Colo. Rev. Stat. §1–2–101 (Lexis 2004)
Connecticut	18	Conn. Const., Art. 6, §1 Conn. Gen. Stat. §9–12 (2003)
Delaware	18	Del. Code Ann., Tit. 15, §1701 (Michie 2002)
District of Columbia	18	D. C. Code §1–1001.02(2)(B) (West Supp. 2004)
Florida	18	Fla. Stat. ch. 97.041 (2003)
Georgia	18	Ga. Const., Art. 2, §1, ¶2 Ga. Code Ann. §21–2–216 (Lexis 2003)
Hawaii		Haw. Const., Art. II, §1 Haw. Rev. Stat. §11–12 (1995)
Idaho	18	Idaho Code §34–402 (Michie 2001)
Illinois	18	Ill. Const., Art. III, §1 Ill. Comp. Stat. Ann., ch. 10, §5/3–1 (West 2003)
Indiana	18	Ind. Code Ann. §3–7–13–1 (Lexis 1997)
Iowa	18	Iowa Code §48A.5 (2003)
Kansas	18	Kan. Const., Art. 5, §1
Kentucky	18	Ky. Const., §145
Louisiana	18	La. Const., Art. I, §10 La. Rev. Stat. Ann. §18:101 (West 2004)
Maine	18	Me. Const., Art. II, §1 Me. Rev. Stat. Ann., Tit. 21–A, §111 (West 1998 and Supp. 2004)
Maryland	18	Md. Elec. Law Code Ann. §3–102 (Lexis 2002)

Appendix B to opinion of the Court

Massachusetts	18	Mass. Gen. Laws Ann., ch. 51, §1 (West Supp. 2004)
Michigan	18	Mich. Comp. Laws Ann. §168.492 (West 1989)
Minnesota	18	Minn. Stat. §201.014(1)(a) (2002)
Mississippi	18	Miss. Const., Art. 12, §241
Missouri	18	Mo. Const., Art. VIII, §2
Montana	18	Mont. Const., Art. IV, §2 Mont. Code Ann. §13–1–111 (2003)
Nebraska	18	Neb. Const., Art. VI, §1 Neb. Rev. Stat. §32–110 (2004)
Nevada	18	Nev. Rev. Stat. §293.485 (2003)
New Hampshire	18	N. H. Const., Art., pt. 1, 11
New Jersey	18	N. J. Const., Art. II, §1, ¶3
New Mexico	18	[no provision other than U. S. Const., Amdt. XXVI]
New York	18	N. Y. Elec. Law Ann. §5–102 (West 1998)
North Carolina	18	N. C. Gen. Stat. Ann. §163–55 (Lexis 2003)
North Dakota	18	N. D. Const., Art. II, §1
Ohio	18	Ohio Const., Art. V, §1 Ohio Rev. Code Ann. §3503.01 (Anderson 1996)
Oklahoma	18	Okla. Const., Art. III, §1
Oregon	18	Ore. Const., Art. II, §2
Pennsylvania	18	25 Pa. Cons. Stat. Ann. §2811 (1994)
Rhode Island	18	R. I. Gen. Laws §17–1–3 (Lexis 2003)
South Carolina	18	S. C. Code Ann. §7–5–610 (West Supp. 2003)
South Dakota	18	S. D. Const., Art. VII, §2 S. D. Codified Laws Ann. §12–3–1 (Michie 1995)
Tennessee	18	Tenn. Code Ann. §2–2–102 (Lexis 2003)
Texas	18	Tex. Elec. Code Ann. §11.002 (West 2003)
Utah	18	Utah Const., Art. IV, §2 Utah Code Ann. §20A–2–101 (Lexis 2002)
Vermont	18	Vt. Stat. Ann., Tit. 17, §2121 (Lexis 2002)
Virginia	18	Va. Const., Art. II, §1

Appendix B to opinion of the Court

Washington	18	Wash. Const., Art. VI, §1
West Virginia	18	W. Va. Code §3–1–3 (Lexis 2002)
Wisconsin	18	Wis. Const., Art. III, §1 Wis. Stat. §6.02 (West 2004)
Wyoming	18	Wyo. Stat. Ann. §§22–1–102, 22–3–102 (West 2004)

* * *

The Twenty-Sixth Amendment to the Constitution of the United States provides that "[t]he right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age."

APPENDIX C TO OPINION OF THE COURT
STATE STATUTES ESTABLISHING A MINIMUM AGE FOR JURY SERVICE

STATE	AGE	STATUTE
Alabama	19	Ala. Code §12–16–60(a)(1) (West 2002)
Alaska	18	Alaska Stat. §09.20.010(a)(3) (Lexis 2002)
Arizona	18	Ariz. Rev. Stat. §21–301(D) (West 2002)
Arkansas	18	Ark. Code Ann. §§16–31–101, 16–32–302 (Lexis 2003)
California	18	Cal. Civ. Proc. §203(a)(2) (West Supp. 2004)
Colorado	18	Colo. Rev. Stat. §13–71–105(2)(a) (Lexis 2004)
Connecticut	18	Conn. Gen. Stat. Ann. §51–217(a) (West Supp. 2004)
Delaware	18	Del. Code Ann., Tit. 10, §4509(b)(2) (Michie 1999)
District of Columbia	18	D. C. Code §11–1906(b)(1)(C) (West 2001)
Florida	18	Fla. Stat. §40.01 (2003)
Georgia	18	Ga. Code Ann. §§15–12–60, 15–12–163 (Lexis 2001)
Hawaii	18	Haw. Rev. Stat. §612–4(a)(1) (2003)
Idaho	18	Idaho Code §2–209(2)(a) (Michie 2003)
Illinois	18	Ill. Comp. Stat. Ann., ch. 705, §305/2 (West 2002)
Indiana	18	Ind. Code Ann. §33–28–4–8 (Lexis 2004)
Iowa	18	Iowa Code §607A.4(1)(a) (2003)
Kansas	18	Kan. Stat. Ann. §43–156 (2000) (jurors must be qualified to be electors); Kan. Const., Art. 5, §1 (person must be 18 to be qualified elector)
Kentucky	18	Ky. Rev. Stat. Ann. §29A.080(2)(a) (Lexis Supp. 2004)
Louisiana	18	La. Code Crim. Proc. Ann., Art. 401(A)(2) (West 2003)
Maine	18	Me. Rev. Stat. Ann., Tit. 14, §1211 (West 1980)

Maryland	18	Md. Cts. & Jud. Proc. Code Ann. §8–104 (Lexis 2002)
Massachusetts	18	Mass. Gen. Laws. Ann., ch. 234, §1 (West 2000) (jurors must be qualified to vote); ch. 51, §1 (West Supp. 2004) (person must be 18 to vote)
Michigan	18	Mich. Comp. Laws Ann. §600.1307a(1)(a) (West Supp. 2004)
Minnesota	18	Minn. Dist. Ct. Rule 808(b)(2) (2002)
Mississippi	21	Miss. Code Ann. §13–5–1 (Lexis 2002)
Missouri	21	Mo. Rev. Stat. §494.425(1) (2000)
Montana	18	Mont. Code Ann. §3–15–301 (2003)
Nebraska	19	Neb. Rev. Stat. §25–1601 (Supp. 2003)
Nevada	18	Nev. Rev. Stat. §6.010 (2003) (juror must be qualified elector); §293.485 (person must be 18 to vote)
New Hampshire	18	N. H. Rev. Stat. Ann. §500–A:7–a(I) (Lexis Supp. 2004)
New Jersey	18	N. J. Stat. Ann. §2B:20–1(a) (West 2004 Pamphlet)
New Mexico	18	N. M. Stat. Ann. §38–5–1 (1998)
New York	18	N. Y. Jud. Law Ann. §510(2) (West 2003)
North Carolina	18	N. C. Gen. Stat. Ann. §9–3 (Lexis 2003)
North Dakota	18	N. D. Cent. Code §27–09.1–08(2)(b) (Supp. 2003)
Ohio	18	Ohio Rev. Code Ann. §2313.42 (Anderson 2001)
Oklahoma	18	Okla. Stat. Ann., Tit. 38, §28 (West Supp. 2005)
Rhode Island	18	R. I. Gen. Laws §9–9–1.1(a)(2) (Lexis Supp. 2004)
South Carolina	18	S. C. Code Ann. §14–7–130 (West Supp. 2003)
South Dakota	18	S. D. Codified Laws §16–13–10 (Lexis Supp. 2003)
Tennessee	18	Tenn. Code Ann. §22–1–101 (Lexis Supp. 2003)
Texas	18	Tex. Govt. Code Ann. §62.102(1) (West 1998)

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Utah	18	Utah Code Ann. §78–46–7(1)(b) (Lexis 2002)
Vermont	18	Vt. Stat. Ann., Tit. 4, §962(a)(1) (Lexis 1999); (jurors must have attained age of majority); Tit. 1, §173 (Lexis 2003) (age of majority is 18)
Virginia	18	Va. Code Ann. §8.01–337 (Lexis 2000)
Washington	18	Wash. Rev. Ann. Code §2.36.070 (West 2004)
West Virginia	18	W. Va. Code §52–1–8(b)(1) (Lexis 2000)
Wisconsin	18	Wis. Stat. §756.02 (West 2001)
Wyoming	18	Wyo. Stat. Ann. §1–11–101 (Lexis 2003) (jurors must be adults); §14–1–101 (person becomes an adult at 18)

APPENDIX D TO OPINION OF THE COURT

STATE STATUTES ESTABLISHING A MINIMUM AGE FOR MARRIAGE WITHOUT PARENTAL OR JUDICIAL CONSENT

STATE	AGE	STATUTE
Alabama	18	Ala. Code §30–1–5 (West Supp. 2004)
Alaska	18	Alaska Stat. §§25.05.011, 25.05.171 (Lexis 2002)
Arizona	18	Ariz. Rev. Stat. Ann. §25–102 (West Supp. 2004)
Arkansas	18	Ark. Code Ann. §§9–11–102, 9–11–208 (Lexis 2002)
California	18	Cal. Fam. Code Ann. §301 (West 2004)
Colorado	18	Colo. Rev. Stat. Ann. §14–2–106 (Lexis 2004)
Connecticut	18	Conn. Gen. Stat. §46b–30 (2003)
Delaware	18	Del. Code Ann., Tit. 13, §123 (Lexis 1999)
District of Columbia	18	D. C. Code §46–411 (West 2001)
Florida	18	Fla. Stat. §§741.04, 741.0405 (2003)
Georgia	16	Ga. Code Ann. §§19–3–2, 19–3–37 (Lexis 2004) (those under 18 must obtain parental consent unless female applicant is pregnant or both applicants are parents of a living child, in which case minimum age to marry without consent is 16)
Hawaii	18	Haw. Rev. Stat. §572–2 (1993)
Idaho	18	Idaho Code §32–202 (Michie 1996)
Illinois	18	Ill. Comp. Stat. Ann., ch. 750, §5/203 (West 1999)
Indiana	18	Ind. Code Ann. §§31–11–1–4, 31–11–1–5, 31–11–2–1, 31–11–2–3 (Lexis 1997)
Iowa	18	Iowa Code §595.2 (2003)
Kansas	18	Kan. Stat. Ann. §23–106 (Supp. 2003)
Kentucky	18	Ky. Rev. Stat. Ann. §§402.020, 402.210 (Lexis 1999)

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Louisiana	18	La. Children's Code Ann., Arts. 1545, 1547 (West 2004) (minors may not marry without consent); La. Civ. Code Ann., Art. 29 (West 1999) (age of majority is 18)
Maine	18	Me. Rev. Stat. Ann., Tit. 19–A, §652 (West 1998 and Supp. 2004)
Maryland	16	Md. Fam. Law Code Ann. §2–301 (Lexis 2004) (those under 18 must obtain parental consent unless female applicant can present proof of pregnancy or a child, in which case minimum age to marry without consent is 16)
Massachusetts	18	Mass. Gen. Laws Ann., ch. 207, §§7, 24, 25 (West 1998)
Michigan	18	Mich. Comp. Laws Ann. §551.103 (West 1988)
Minnesota	18	Minn. Stat. §517.02 (2002)
Mississippi	15/17	Miss. Code Ann. §93–1–5 (Lexis 2004) (female applicants must be 15; male applicants must be 17)
Missouri	18	Mo. Rev. Stat. §451.090 (2000)
Montana	18	Mont. Code Ann. §§40–1–202, 40–1–213 (2003)
Nebraska	19	Neb. Rev. Stat. §42–105 (2004) (minors must have parental consent to marry); §43–2101 (defining "minor" as a person under 19)
Nevada	18	Nev. Rev. Stat. §122.020 (2003)
New Hampshire	18	N. H. Rev. Stat. Ann. §457:5 (West 1992)
New Jersey	18	N. J. Stat. Ann. §37:1–6 (West 2002)
New Mexico	18	N. M. Stat. Ann. §40–1–6 (1999)
New York	18	N. Y. Dom. Rel. Law Ann. §15 (West Supp. 2004)
North Carolina	18	N. C. Gen. Stat. Ann. §51–2 (Lexis 2003)
North Dakota	18	N. D. Cent. Code §14–03–02 (Lexis 2004)
Ohio	18	Ohio Rev. Code Ann. §3101.01 (Lexis 2003)
Oklahoma	18	Okla. Stat. Ann., Tit. 43, §3 (West Supp. 2005)

Oregon	18	Ore. Rev. Stat. §106.060 (2003)
Pennsylvania	18	23 Pa. Cons. Stat. §1304 (1997)
Rhode Island	18	R. I. Gen. Laws §15–2–11 (Lexis Supp. 2004)
South Carolina	18	S. C. Code Ann. §20–1–250 (West Supp. 2003)
South Dakota	18	S. D. Codified Laws §25–1–9 (Lexis 1999)
Tennessee	18	Tenn. Code Ann. §36–3–106 (Lexis 1996)
Texas	18	Tex. Fam. Code Ann. §§2.101–2.103 (West 1998)
Utah	18	Utah Code Ann. §30–1–9 (Lexis Supp. 2004)
Vermont	18	Vt. Stat. Ann., Tit. 18, §5142 (Lexis 2000)
Virginia	18	Va. Code Ann. §§20–45.1, 20–48, 20–49 (Lexis 2004)
Washington	18	Wash. Rev. Code Ann. §26.04.210 (West Supp. 2005)
West Virginia	18	W. Va. Code §48–2–301 (Lexis 2004)
Wisconsin	18	Wis. Stat. §765.02 (1999–2000)
Wyoming	18	Wyo. Stat. Ann. §20–1–102 (Lexis 2003)