

# THE CONSTITUTION PROJECT



*Safeguarding Liberty, Justice & the Rule of Law*

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## **Court Rejects 'Bright Line' IQ Test in Death Penalty Cases**

*Sloan: Decision "addresses a truly significant concern" in capital punishment*

WASHINGTON, D.C. -- Virginia Sloan, president of The Constitution Project, a bipartisan legal watchdog group, offered the following comment on the Supreme Court's decision earlier today in *Hall v Florida* on that state's standards for determining intellectual disability in death penalty cases:

"By rejecting Florida's rigid formulation for determining intellectual disability, the Supreme Court has made clear that decency, dignity and our Constitution require a system that places fairness above all else. The Court's mandate is clear: Florida, and those few states with statutes that treat intellectual disability similarly, must use IQ tests in the manner consistent with the view of those who design, administer and interpret these tests. This means recognizing that IQ test scores represent a range and must be considered in light of other evidence to determine whether a defendant has an intellectual disability. This decision rightly acknowledges the evolving standards that we, as a nation, have come to accept when determining whether an individual should be eligible for the death penalty.

"The Court's decision addresses a truly significant concern in the application of the death penalty, but other concerns related to executing those with intellectual disability remain. States continue to execute individuals with intellectual disabilities who are unable to establish that their impairments manifested before they were 18. Even states without a rigid IQ cutoff continue to vest the final determination of intellectual disability in untrained juries who are often poorly instructed and who too often discount evidence of intellectual disability. There is much more for states, and if necessary, the Court to do to prevent the continued, unconstitutional executions of those with intellectual disabilities."

On a 5 to 4 vote, the Court ruled that Florida's use of a rigid IQ test score cutoff to determine eligibility for the death penalty violates the Eighth Amendment. The decision reversed a Florida Supreme Court decision that Hall would have to show an IQ of 70 or below before being allowed to present any additional evidence about his intellectual disability.

The Constitution Project had filed an [amicus brief](#) from former judges and law enforcement officials arguing against Florida's strict cutoff and expressing concern that Florida's procedure for determining intellectual disability subverts the Supreme Court's 2002 decision in *Atkins v. Virginia*. As the Court made clear in the *Hall* decision, "If States were to have complete autonomy to define intellectual disability as they wished... the Eighth Amendment's protection of human dignity would not become a reality."

Earlier in May, TCP released [Irreversible Error](#), a comprehensive report on the administration of capital punishment that included a [number of reforms](#) to the way states determine intellectual disability in death penalty cases. The Court's decision in Hall adds impetus to changing the "bright line" standard used by a handful of states.

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### [About The Constitution Project](#)

*Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project (TCP) brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time. TCP seeks to reform the nation's broken criminal justice system and to strengthen the rule of law through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.*