

Terry Lenamon on the Death Penalty

Sidebar with a Board Certified Expert Criminal Trial Attorney



Terence M. Lenamon is a Florida Bar certified expert in the area of criminal trial law. With over 17 years experience he has built a reputation as one of Florida's most respected criminal defense lawyers. His defense has been sought by many high-profile clients and has led him through 20 first-degree murder trials and eight death penalty cases. That experience has brought him national recognition as a go-to commentator on death penalty issues. He is the force behind both deathpenaltyblog.com and Florida Capital Resource Center (floridacapitalresourcecenter.org), and can be reached at terry@lenamonlaw.com.

Will U.S. Supreme Court Reinstate Death Penalty for California's Scott Pinholster?

Posted on June 22, 2010 by [Terry Lenamon](#)

Last week, the U.S. Supreme Court announced that it will hear *Cullen v. Pinholster* (09-1088), reviewing California's federal Court of Appeals for the Ninth Circuit on [whether or not the death penalty should be reinstated for convicted murderer Scott Pinholster](#).

Importance of mitigating factor was the key to Ninth Circuit's decision.

The Ninth Circuit nixed capital punishment for Pinholster, opining that Pinholster's attorney failed to give crucial evidence of mental illness during the penalty phase of Pinholster's trial for killing two men during a burglary. ([Read the Ninth Circuit opinion here.](#))

The Ninth Circuit's reasoning? If the jury had the chance to hear this [mitigating factor](#), then Pinholster might not have been sentenced to death in the first place.

Now, the U.S. Supreme Court may reverse the federal appeals court.

Officially, the High Court will be deciding this single legal issue: *[w] hether it is appropriate under [28 USC §2254](#) for a federal court to conclude that a state court's rejection of a claim was unreasonable in light of facts that an applicant could have but never alleged in state court; and (2) what standard of review is applicable to claims of ineffective assistance of counsel.*

Unofficially, **Scott Pinholster** may still be punished with death, despite unfairness during his trial that a federal appellate court and countless others see as serious procedural harm.

Form over Substance?

Mentally ill people have already been protected by the U.S. Supreme Court from the death penalty as being cruel and unusual punishment. Now, will that same High Court allow mental illness bar to be

circumvented by a form over substance situation?

It's a sign that this may well happen – since the High Court has decided to hear the case. Scary, isn't it?