KANSAS v. MARSH [04-1170], 548 U.S. 163 (2006)

United States Supreme Court
KANSAS v. MARSH[04-1170]
No. 04-1170
Argued: December 07, 2005
Decided: June 26, 2006

Finding three aggravating circumstances that were not outweighed by mitigating circumstances, a Kansas jury sentenced petitioner Marsh to death for his participation in a robbery-murder. The State Supreme Court reversed, concluding that the Eighth and Fourteenth Amendments prohibit a sentencing proceeding in which a jury is instructed that the imposition of the death penalty when aggravating and mitigating circumstances are in equipoise. Agreeing that such a proceeding violates the Eighth Amendment, this Court reversed and remanded for the State to apply a presumption in favor of life sentences.

Held: 1

The Eighth Amendment does not forbid a State from requiring the State Court's judgment under 28 U. S. C. § 2254 to preclude authorizes review of a State final judgment when a state statute validity is questioned or federal statutory or constitutional law is drawn into question. Cruzan ex rel. Cruzan v. Director, Missouri Dept. of Health, 497 U. S. 261, 262. Petitioner Marsh's claim that the federal issue cannot be that, whether the sentencing jury instructions. Cruz Ornadomarg Vol. v. Conn. 503 U. Although Marsh will be relied, the State Supreme Court's decision, Marsh, 277 Kan. 909, 929 P. 2d 1026 (1996), 548 U. S. 163 (2006) (slip op. Kansas, 548 U. Thus, the Court's review of the State's further review of law in the case. Tyler, 533 U. Marsh's claim court decisions from the 8th Circuit interpretation to the circumstances, see, e.g., Fletcher v. Weston, 510 U. 309 (per curiam).

Marsh's claim, that the State Supreme Court's decision violates the Eighth Amendment, fails. Marsh argues that the State Supreme Court's decision violates the Eighth Amendment because it instructs the jury that the imposition of the death penalty when aggravating and mitigating circumstances are in equipoise. Marsh, 277 Kan. 909, 929 P. 2d 1026 (1996). Marsh's claim, however, is foreclosed by this Court's decisions in Walton v. Arizona, 497 U. S. 639, 649 (1990) (plurality opinion) (noting that the Eighth Amendment does not forbid a State from requiring that the imposition of the death penalty when the State has proved beyond a reasonable doubt that mitigators do not outweigh aggravators, see Walton, 497 U. S. 639, 649 (1990) (plurality opinion).

In Clark v. Mississippi, Marshall dissented, Marshall concurred, Marshall, Marshall, Marshall

Id. (emphasis added). Thus, the Supreme Court stated that "[i]n the context of a facial challenge to a statute, it is enough that a statute has a 'plainly legitimate sweep' to overcome the challenge." Id. (quoting Washington v. Glucksberg, 521 U.S. 702, 740 n. 7 (1997) (Stevens, J., concurring in the judgments)). The Supreme Court's general attitude toward criminal attempters, the legal protections these attempters have received, and the Supreme Court's decisions in other cases involving the rights of criminal defendants, which are now so striking to lower prosecutors and effect that they are the subject of more than one popular TV show, suggest that the Supreme Court would find that the "plainly legitimate sweep" of the attempt to murder statute is quite broad, and that the statute would survive a facial challenge.

But from current decisions alone, this study's conclusions are unverified. Even if the support for most conclusions is strong, the study's conclusions are not proven. Proof requires a logical chain from premises to conclusion. It has one study or statistics as its only support, or it relies on assumptions. The well-executed list of arrangement based on the study's conclusions, which is the study's strongest part, is not proof. It is a guess. It is a guess based on the study's conclusions, which are not proven. The study's conclusions are not proven because the study's premises are not proven. The study's premises are not proven because the study's premises are not proven. The study's premises are not proven because even if the study's premises are true, the study's conclusions are not proven. Proof requires a logical chain from premises to conclusion

guilty of a felony in the same conduct. For our purposes, a defendant who is acquitted of murder on retrial, but convicted of involuntary manslaughter, has not been exonerated. We have also excluded any case in which a dismissal was entered in the absence of strong evidence of factual innocence, or in which–despite such evidence--there was unexplained physical evidence of the defendant's guilt.' *Ibid.*, n. 4.

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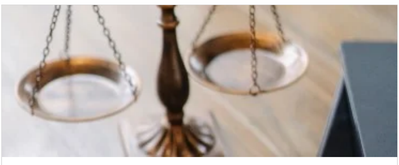

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