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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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ROPER, SUPERINTENDENT, POTOSI CORRECTIONAL CENTER *v.* SIMMONS

CERTIORARI TO THE SUPREME COURT OF MISSOURI

No. 03–633. Argued October 13, 2004—Decided March 1, 2005

At age 17, respondent Simmons planned and committed a capital murder. After he had turned 18, he was sentenced to death. His direct appeal and subsequent petitions for state and federal postconviction relief were rejected. This Court then held, in *Atkins v. Virginia*, 536 U. S. 304, that the Eighth Amendment, applicable to the States through the Fourteenth Amendment, prohibits the execution of a mentally retarded person. Simmons filed a new petition for state postconviction relief, arguing that *Atkins*' reasoning established that the Constitution prohibits the execution of a juvenile who was under 18 when he committed his crime. The Missouri Supreme Court agreed and set aside Simmons' death sentence in favor of life imprisonment without eligibility for release. It held that, although *Stanford v. Kentucky*, 492 U. S. 361, rejected the proposition that the Constitution bars capital punishment for juvenile offenders younger than 18, a national consensus has developed against the execution of those offenders since *Stanford*.

Held: 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. Pp. 6–25.

(a) The Eighth Amendment's prohibition against "cruel and unusual punishments" 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 this Court has 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. In 1988, in *Thompson v. Oklahoma*, 487 U. S.

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815, 818–838, a plurality determined that national standards of decency did not permit the execution of any offender under age 16 at the time of the crime. The next year, in *Stanford*, a 5-to-4 Court referred to contemporary standards of decency, but concluded the Eighth and Fourteenth Amendments did not proscribe the execution of offenders over 15 but under 18 because 22 of 37 death penalty States permitted that penalty for 16-year-old offenders, and 25 permitted it for 17-year-olds, thereby indicating there was no national consensus. 492 U. S., at 370–371. A plurality 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. That same day the Court held, in *Penry v. Lynaugh*, 492 U. S. 302, 334, that the Eighth Amendment did not mandate a categorical exemption from the death penalty for mentally retarded persons because only two States had enacted laws banning such executions. Three Terms ago in *Atkins*, however, the Court held that standards of decency had evolved since *Penry* and now demonstrated that the execution of the mentally retarded is cruel and unusual punishment. The *Atkins* Court noted that objective indicia of society’s standards, as expressed in pertinent legislative enactments and state practice, demonstrated that such executions had become so truly unusual that it was fair to say that a national consensus has developed against them. 536 U. S., at 314–315. The Court also returned to the rule, established in decisions predating *Stanford*, that the Constitution contemplates that the Court’s own judgment be brought to bear on the question of the acceptability of the death penalty. *Id.*, at 312. After observing that mental retardation diminishes personal culpability even if the offender can distinguish right from wrong, *id.*, at 318, and that mentally retarded offenders’ impairments make it less defensible to impose the death penalty as retribution for past crimes or as a real deterrent to future crimes, *id.*, at 319–320, 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 such an offender’s life, *id.*, at 321. Just as the *Atkins* Court reconsidered the issue decided in *Penry*, the Court now reconsiders the issue decided in *Stanford*. Pp. 6–10.

(b) Both objective indicia of consensus, as expressed in particular by the enactments of legislatures that have addressed the question, and the Court’s own determination in the exercise of its independent judgment, demonstrate that the death penalty is a disproportionate punishment for juveniles. Pp. 10–21.

(1) As in *Atkins*, the objective indicia of national consensus here—the rejection of the juvenile death penalty in the majority of

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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 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. The evidence of such consensus is similar, and in some respects parallel, to the evidence in *Atkins*: 30 States prohibit the juvenile death penalty, including 12 that have rejected it altogether and 18 that maintain it but, by express provision or judicial interpretation, exclude juveniles from its reach. Moreover, even in the 20 States without a formal prohibition, the execution of juveniles is infrequent. Although, by contrast to *Atkins*, the rate of change in reducing the incidence of the juvenile death penalty, or in taking specific steps to abolish it, has been less dramatic, the difference between this case and *Atkins* in that respect is counterbalanced by the consistent direction of the change toward abolition. Indeed, the slower pace here may be explained by the simple fact that the impropriety of executing juveniles between 16 and 18 years old gained wide recognition earlier than the impropriety of executing the mentally retarded. Pp. 10–13.

(2) Rejection of the imposition of the death penalty on juvenile offenders under 18 is required by the Eighth Amendment. 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*, 536 U. S. at 319. Three general differences between juveniles under 18 and adults demonstrate that juvenile offenders cannot with reliability be classified among the worst offenders. Juveniles’ susceptibility to immature and irresponsible behavior means “their irresponsible conduct is not as morally reprehensible as that of an adult.” *Thompson v. Oklahoma*, 487 U. S. 815, 835. 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*, *supra*, at 395. 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. The *Thompson* plurality recognized the import of these characteristics with respect to juveniles under 16. 487 U. S., at 833–838. The same reasoning applies to all juvenile offenders under 18. Once juveniles’ diminished culpability is recognized, it is evident that neither of the two penological justifications for the death penalty—retribution and deterrence of capital crimes by prospective offenders, *e.g.*, *Atkins*, 536 U. S., at 319—provides adequate justification for imposing that penalty on juveniles. Although the Court cannot deny or

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overlook the brutal crimes too many juvenile offenders have committed, it disagrees with petitioner's contention that, given the Court's own insistence on individualized consideration in capital sentencing, it is arbitrary and unnecessary to adopt a categorical rule barring imposition of the death penalty on an offender under 18. 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. When a juvenile 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. While drawing the line at 18 is subject to the objections always raised against categorical rules, that is the point where society draws the line for many purposes between childhood and adulthood and the age at which the line for death eligibility ought to rest. *Stanford* should be deemed no longer controlling on this issue. Pp. 14–21.

(c) The overwhelming weight of international opinion against the juvenile death penalty is not controlling here, but provides respected and significant confirmation for the Court's determination that the penalty is disproportionate punishment for offenders under 18. See, e.g., *Thompson, supra*, at 830–831, and n. 31. The United States is the only country in the world that continues to give official sanction to the juvenile penalty. It does not lessen fidelity to the Constitution or pride in its origins to acknowledge that the express affirmation of certain fundamental rights by other nations and peoples underscores the centrality of those same rights within our own heritage of freedom. Pp. 21–25.

112 S. W. 3d 397, affirmed.

KENNEDY, J., delivered the opinion of the Court, in which STEVENS, SOUTER, GINSBURG, and Breyer, JJ., joined. STEVENS, J., filed a concurring opinion, in which GINSBURG, J., joined. O'CONNOR, J., filed a dissenting opinion. SCALIA, J., filed a dissenting opinion, in which REHNQUIST, C. J., and THOMAS, J., joined.