

# Baumgartner, POLI 195 Spring 2013

Background on the NC RJA

Reading: Kotch and Mosteller, pp.  
2077-2111

February 11, 2013

# NC in the years after *Furman*

- 1973 NC SC decision makes jury discretion for rape sentences unconstitutional
- 1974: NC Gen Assembly passes law making death the mandatory sentence for first degree murder.
  - Invalidated by US SC in *Woodson v. NC* (1976)

# “Wonton and Freakish”

- Desire to restrict discretion
- But US SC says mandatory is also unacceptable
- So, efforts to strike balance between discretion and mandatory, with guidelines
- The more discretion, the more bias.
  - Especially in cases that are not the most heinous

# Aggravating factors

- “Especially heinous, atrocious, or cruel”
  - Very hard to apply that evenly
- Felony murder
  - Murder during the commission of a felony
  - Actually, lots of things are felonies, so this is also hard to apply evenly
- “Pecuniary gain”
  - Includes all robberies, not just ‘murder for hire’

# Race of inmate

- Their data:
- 391 sentenced to death, 49% black, 55% minority
- 159 on death row as of July 1, 2010, 54% black, 62% minority, 38% white
- Executions (43): 30% black, 65% white, first 12 executed were all white

# Race of victims

- 1910-1961, 75 % white victims
- 1976-2010, (43 executions): 77% white victims
- Similar data for those on death row: 67% have at least one white victim
- Unconscious and conscious motivations in using discretion
  - Community outrage
  - Sense that the jury will agree
  - Higher standard or 'heinousness' if victim is black

# Jury selection

- “Bleaching the jury” – use of “peremptory challenges” (discretion of either side’s attorneys to exclude a set number of jurors, with no reason needed)
- *Batson v. Kentucky*, 1986, prosecutor must give a “reasonable, non-racial explanation” for any racial exclusions, if asked.

# Bleaching the Jury (con't)

- Jury pool: registered voters? Drivers?
- Rejections “for cause”, including “death qualification”
- Peremptory rejections, with weak Batson protections
- Result: reduce to a minimum the number of black jurors



# Statistics on Race of Victims

- <http://www.unc.edu/~fbaum/Innocence/NC/Racial-discrepancies-NC-homicides-executions.pdf>