

# Baumgartner, POLI 195 Spring 2013

Judge Week's order in the Robinson  
case

Reading: Weeks' order

April 8, 2013

# Preliminaries

- Greg Taylor and Yolanda Littlejohn
- Where: Duke Divinity School, 0016 Westbrook
- Date: April 9<sup>th</sup>
- Time: 5:30PM
- Parking: Parking is available by the Bryan Student Center, 125 Science Drive

# Preliminaries

- Feedback on Tye Hunter's presentation
- DA Kenneth Honeycutt (noose lapel), DA who prosecuted Jonathan Hoffman, who was exonerated based on false testimony:
- <http://www.ncmoratorium.org/News.aspx?li=2422>
- <http://www.deathpenaltyinfo.org/node/1518>

# Marcus Robinson

- Convicted of 1991 murder of 17 year old Eric Tornblum, felony murder case
- Robinson and Roderick Williams asked for a ride from Tornblum while leaving a convenience store
- Tornblum begged for his life in the car, saying he had no money
- Williams killed Tornblum.
- Robinson not guilty of premediated murder, guilty of felony murder.
- Williams not sentenced to death because he was 17. Robinson was 18.

# Robinson

- Just released from prison before the murder
- Just recently passed his 18<sup>th</sup> birthday
- Jury ruled that the murder was especially atrocious and that mitigating factors including his age, childhood abuse, mental problems, head injuries were outweighed by the aggravating factor, the atrocious murder.

# None of that is at issue

- Issue is jury selection...
- Evidence is the MSU study of jury selection statewide, in the county, and in the judicial district (any one of the above may be used, according to the RJA).
- Also, jury in this particular trial

# Judge Weeks' Findings

- Pp. 2-3
- Review the law:
  - bias at ANY level of the system (state, district, county)
  - Jury selection procedures alone are sufficient
- “The evidence, largely unrebutted by the State, requires relief in his case and should serve as a clear signal of the need for reform in capital jury selection proceedings in the future.”

# Review of the witnesses

- O'Brien: student of David Baldus
- George Woodworth: co-author of the Baldus study (used in McCleskey)
- Prosecution expert: Joseph Katz, also a statistical expert for the state of Georgia in McCleskey



# Race may not be a “significant factor”

- Pp 30-33. What is the definition of that?
- Statistical effect
  - $p < .05$  t-test
- Practical effect
  - The 4/5 rule
- So if we find that blacks are less than 80% as likely as whites to be in juries, and that this effect is significant with  $p < .05$ , defense wins.

# Evidence of Intent is not required

- P. 34. No need to show this, under RJA
- P. 38. No need to show prejudice in individual case
- Clearly, he writes, the Gen Assembly knew of McCleskey, and explicitly revoked these requirements.

# Alternative Standards of Proof

- P 41. No need to show impact on final jury
- No need to show impact on outcome of case
- Appropriate Relief:
- Only relief in case of finding for the defense is LWOP.

# Findings of Fact

- 10,000,000,000,000,000,000,000,000,000,000,000,000
- This is statistically significant, and the rival expert did not dispute that.
- 10 nonillion to one... (p. 59)

# Robinson trial itself

- P 68
- 5/10 blacks excused (50%)
- 4/28 nonblacks excused (14.3%)
- Jury moved from 3 to 2 blacks because of this.

# Final findings

- P. 70 ff
- Statistically, practically significant
- Over different time periods
- Over different geographical areas
- In the particular case of Robinson