



JUDICIAL OVERRIDE IN ALABAMA

Alabama is one of only three states (including Florida and Delaware) that permit a trial judge to disregard a jury's sentencing verdict in a capital case. This practice, known as judicial override, plays a far greater role in death sentencing in Alabama than in any other death penalty state.

Judicial override is a major reason why Alabama sentences more people to death per capita than any other state in the country. In 2006, Alabama led the nation in the rate of new death sentences for the fifth straight year. Thirty percent of those new death sentences were imposed by judicial override.

William Bush

William Bush was convicted of capital murder and sentenced to death three times. His first two convictions were overturned by appellate courts because of prosecutorial misconduct. After his third trial and conviction, the jury unanimously determined he should be sentenced to life imprisonment without parole. But the trial judge, who had twice previously sentenced Mr. Bush to die, overrode the jury's verdict and unilaterally imposed the death penalty. Mr. Bush has spent nearly 27 years on Alabama's death row.

Shonnell Jackson

Shonnell Jackson was convicted of capital murder at age 19. Every single member of his jury agreed that he should be sentenced to life in prison without parole. At the sentencing hearing before the judge – which was held without Mr. Jackson being present – the trial judge overrode the jury's life sentence and condemned Mr. Jackson to death. In his decision, the judge said that he had weighed the jury's unanimous verdict for life imprisonment but found the effort “not helpful.”

Since the death penalty was reinstated in 1976, Alabama judges have overridden 84 cases from life to death. In the same period, judges overruled death verdicts to life sentences in only a handful of cases. Of the 198 prisoners currently on Alabama's death row, 40 (20%) were condemned to death by a judge who threw out the jury's decision that death was not the appropriate punishment.

Override and Judicial Elections

The prevalence of judicial override in Alabama is inextricably linked to the fact that all trial judges in the state are elected. Judges in Alabama's hotly contested partisan elections compete to appear “tough on crime” and campaign on their willingness to get tough by imposing the death penalty.

Several judges in Alabama routinely override jury verdicts of life imprisonment without the possibility of parole and impose the death penalty instead. Mobile County Judge Ferrell McRae has overruled jury verdicts and imposed the death penalty in five cases; never has he overruled a death verdict to life.

Anthony Stanley was sentenced to death in June 2007 by Colbert County Judge Hal Hughston. The judge overrode the jury's sentencing verdict of life imprisonment without parole, citing the brutality of the crime. But the jury knew about the nature and details of the offense at the time of their sentencing deliberations and still determined that life imprisonment without parole was the proper sentence.

Thomas Ferguson

Thomas Ferguson was convicted of capital murder at age 24. The jury heard evidence that Mr. Ferguson was a person with borderline mental retardation and a highly dysfunctional family background who had been co-opted into a criminal scheme by his father-in-law. The jury returned a sentencing verdict of life in prison without parole, but the trial judge overrode the jury's sentencing verdict and imposed the death penalty.

Of the 198 persons currently on death row in Alabama, 40 were condemned by judicial override.

Whether Alabama's capital sentencing scheme complies with constitutional requirements recently has been scrutinized in light of the United States Supreme Court's decision in *Ring v. Arizona*, 536 U.S. 584 (2002), which held that juries, not judges, must make the fact findings necessary to impose a death sentence.

Judicial override stands in stark contrast to the Sixth Amendment's requirement that the power to determine whether the death penalty can be imposed lies in the hands of juries, not judges. It likewise offends the widely-held belief that, when a jury of citizens who believe in the death penalty and have found an accused person guilty of capital murder concludes that the death penalty is not the appropriate punishment in a capital case, the jury's verdict should stand.

Bobby Waldrop

Bobby Waldrop was convicted of the capital murder of his grandparents at age 19. After hearing evidence about Mr. Waldrop's addiction to crack cocaine, his deep remorse, and the love between him and his grandparents, the jury decided that life in prison without parole was the appropriate punishment. The trial judge overrode the jury's sentencing verdict and sentenced Mr. Waldrop to death.

March 2008