

Marvin Wilson Execution: Texas Puts Man With 61 IQ To Death

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NEW YORK -- Texas authorities executed Marvin Wilson, a 54-year-old death row inmate, on Tuesday night after his attorneys failed to convince state and federal courts that he was mentally retarded and ineligible for the death penalty under a 2002 Supreme Court ruling.

Wilson was declared dead at 6:27 p.m. local time. He cried out to his gathered family members as he expired, Texas officials said.

"Give mom a hug for me and tell her that I love her," Wilson said.

"Take me home, Jesus. Take me home, Lord," he continued. "I ain't left yet, must be a miracle. I am a miracle."

The Supreme Court late in the afternoon rejected without comment a last-ditch appeal by Wilson's lawyers, clearing the way for his death by lethal injection. The appeal cited a 2004 psychological exam that pegged Wilson's IQ at just 61. The Texas benchmark for mental retardation is an IQ of about 70 or less.

"We are gravely disappointed and profoundly saddened that the United States Supreme Court has refused to intervene," said Lee Kovarsky, Wilson's attorney and a law professor at the University of Maryland.

Wilson was convicted in 1994 in the shooting death of Jerry Williams, 21, who had identified him to police as a drug dealer. His accomplice in the crime, Terry Lewis, was given life in prison with the possibility of parole, after Lewis's wife testified that Wilson confessed to pulling the trigger. No forensic evidence or eyewitness testimony established the identity of the shooter.

Wilson maintained that he did not commit the murder, but his defense ultimately hinged on convincing state or federal courts that his diminished mental capacity should exempt him from execution.

School records showed Wilson fared poorly in school, earning Ds and Fs in special education classes, and failing 7th grade. Family members testified that Wilson was called "dummy" and "retard" by other children when he was a boy, and struggled with basic tasks that include tying his shoes, counting money and mowing the lawn.

Texas and federal courts, however, rejected Wilson's claim that he was mentally retarded, siding with prosecutors who argued that his actions showed him to be a street-savvy criminal. Prosecutors also declared that other intelligence tests showed Wilson's IQ was in the low- to mid-70s.

"Wilson created schemes using a decoy to screen his thefts, hustled for jobs in the community, and orchestrated the execution of the snitch, demonstrating inventiveness, drive and leadership," Edward Marshall, a Texas assistant attorney general, said in a statement.

In 2002, the Supreme Court prohibited the execution of the mentally retarded, declaring it cruel and unusual punishment forbidden under the Constitution's 8th Amendment. Those with diminished mental capacity, the court ruled, are less culpable for their crimes than those with normal intellects. The reasoning was nearly identical to the legal argument the court embraced in forbidding the execution of juvenile offenders.

The court left it up to the states to determine who qualified as mentally retarded. In response, the Texas Court for Criminal Appeals, the top state court, cited in a ruling the child-like character "Lennie," from John Steinbeck's classic novel "Of Mice and Men," as its standard of what type of offender should be exempt from execution.

"Most Texas citizens would agree that Steinbeck's Lennie should, by virtue of his lack of reasoning ability and adaptive skills, be exempt from execution," the court found.

Those with more advanced intellects should face execution, regardless of psychological tests indicating mental deficits, the ruling said. The Texas standard has been used repeatedly to justify the execution of those who by clinical benchmarks would typically be judged to suffer from mild mental retardation.

Those standards applied to Wilson, who exhibited serious mental deficits beginning in childhood, family members said.

According to his sister, Wilson sucked his thumb into his 20s. His cousin, Beverly Walters, said Wilson was constantly teased about his intelligence as a boy.

"The other kids in school would always call Marvin dummy," Walters said in 2003.

On Tuesday, the use of Steinbeck's character to support the execution of those with less profound mental deficits was criticized harshly by the author's son.

"Prior to reading about Mr. Wilson's case, I had no idea that the great state of Texas would use a fictional character that my father created to make a point about human loyalty and dedication ... as a benchmark to identify whether defendants with intellectual disability should live or die," Thomas Steinbeck said in a statement.

"I am certain that if my father, John Steinbeck, were here, he would be deeply angry and ashamed to see his work used in this way," Steinbeck said.

Wilson is the seventh person put to death in 2012 by Texas, which has nine more inmates scheduled to die by lethal injection before the end of the year.