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Killer With Low I.Q. Executed in Texas

By JAMES C. MCKINLEY Jr.

HOUSTON — Bobby Wayne Woods was executed Thursday evening in Texas after his lawyers lost a battle to persuade the courts that he was too mentally impaired to qualify for capital punishment.

Mr. Woods, 44, was convicted of raping and killing an 11-year-old girl in 1997. He received a lethal injection and was pronounced dead at 6:48 p.m. in the death chamber at a state prison in Huntsville, Tex., after the [United States Supreme Court](#) denied a request from his lawyers to stay his execution. His last words, at 6:40, were: "Bye. I am ready."

Tests administered to Mr. Woods over the years placed his I.Q. between 68 and 86, prompting a bitter debate between his lawyers and the state over whether he was too impaired to face execution. The state and federal courts repeatedly sided with prosecutors.

The debate reflects the gray area left by the [Supreme Court](#) in 2002, when it ruled that the mentally impaired were not eligible for the death penalty but left it up to state courts to interpret which inmates qualified as impaired.

Mr. Woods's lawyers argued that his intelligence scores were low enough that he should be spared because of the Supreme Court ban in [Atkins v. Virginia](#). Maurie Levin, a [University of Texas](#) law professor who represented Mr. Woods, said in a pleading that "his I.Q. hovers around 70, the magical cutoff point for determining whether someone is mentally retarded."

"He's transparently childlike and simple," she said before the execution. "It's a travesty."

In its 2002 ruling, the Supreme Court said that to demonstrate that someone is mentally retarded, one must prove that the person has had low I.Q. scores and a lack of fundamental skills from a young age. The court said a score on intelligence tests of "around 70" indicated mental retardation.

But that standard has been applied unevenly by state courts, according to [a study](#) by Cornell law professors. Some state courts in Alabama, Mississippi and Texas have held that inmates with scores as low as 66 are not impaired, while an inmate in California with a score of 84 was declared mentally retarded.

Courts in Texas repeatedly rejected Mr. Woods's claims of impairment, although the state's highest criminal court halted his execution last year to allow more hearings. That reprieve was lifted in October, and this week,

the [Texas Board of Pardons and Paroles](#) voted unanimously to reject a clemency request.

As a child, Mr. Woods struggled in school and dropped out in the seventh grade. He was barely literate and had to copy words from a spelling list to write the simple notes he sent his family.

His intelligence was tested twice in grade school, and he received scores of 80 and 78, but defense lawyers argued that those scores should be adjusted downward to account for the age of the tests. As an adult, he was tested just before his trial and scored 70. A second full-scale test done in prison in 2002 showed him with an I.Q. of 68. He scored higher on two short-form tests.

Still, the Texas attorney general, Greg Abbott, argued in a motion before the Supreme Court that the only times Mr. Woods had scored under 70 was when the test was administered by an expert for the defense. He also pointed out that Mr. Woods had successfully held jobs as a short order cook and a roofer.

“The only experts to ever conclude that Woods was mentally retarded did so after he had committed this murder and had motivation to underperform,” Mr. Abbott wrote in his brief.

Mr. Woods was convicted of killing his former girlfriend’s daughter. A jury determined he had abducted the 11-year-old girl, Sarah Patterson, along with her brother, Cody, from the family’s home in Granbury, Tex.. The girl was raped before her throat was slit. The boy was severely beaten and left for dead, but he survived.

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