

# The Burger Court Opinion Writing Database

## *Eddings v. Oklahoma*

455 U.S. 104 (1982)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University in St. Louis  
Forrest Maltzman, George Washington University



To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall ✓  
Mr. Justice Blackmun  
Mr. Justice Rehnquist  
Mr. Justice Stevens

From: Mr. Justice Powell

Circulated: **MAR 25 1981**

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3-23-81

1st DRAFT

## SUPREME COURT OF THE UNITED STATES

MONTY LEE EDDINGS *v.* STATE OF OKLAHOMA

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF  
CRIMINAL APPEALS OF OKLAHOMA

No. 80-5727. Decided March —, 1981

JUSTICE POWELL, dissenting.

This case presents the extraordinary situation of a juvenile, now just 20, sentenced to death for a murder he committed when he was only 16 years of age. The trial and subsequent proceedings in the Oklahoma courts appear to have been entirely regular, and I have no doubt as to petitioner's guilt. My concern arises solely from the imposition of capital punishment for a crime committed by a 16-year-old youth. Whatever may be said about the capability of some juveniles of this age knowingly to commit shocking crimes, I think a line should be drawn somewhere with respect to the imposition of death as a permissible penalty.<sup>1</sup>

In my view, this case never should have been allowed to come this far without the most serious consideration of a grant of clemency by the appropriate state authority. But the case is here,<sup>2</sup> and I believe the question whether some age limit properly should be drawn under the Eighth Amendment, below which capital punishment would be cruel and unusual, deserves our plenary consideration. Moreover, one

<sup>1</sup> The International Covenant on Civil and Political Rights of the International Bill of Human Rights draws a line at 18 years of age. Article VI thereof provides: "Sentence of death shall not be imposed for crimes committed by persons below 18 years of age. . . ." United Nations, International Bill of Human Rights 23 (1978). To be sure, Congress has not ratified this covenant, but it reflects a judgment widely held by civilized peoples.

<sup>2</sup> Petitioner seeks review on the ground that in his case the sentence of death would constitute cruel and unusual punishment in violation of the Eighth Amendment.

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

*I. will ask  
that case  
be revisited*

March 18, 1981

MEMORANDUM TO THE CONFERENCE

Re: 80-5727 - Eddings v. Oklahoma

Because of my concern about the Court's action in this case, I have prepared the attached dissenting opinion. In all candor, however, I have not yet definitely decided that I will publish it.

Respectfully,

*John*

Attachment

For the Chief Justice:  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

From: Mr. Justice Stevens

80-5727 - Eddings v. Oklahoma

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JUSTICE STEVENS, dissenting.

In 1977, at the age of sixteen, petitioner murdered an Oklahoma State Highway Patrol Officer. Following his arrest, petitioner was charged with first-degree murder. The trial court, after a hearing, granted the State's motion to certify petitioner to stand trial as an adult. That ruling was upheld on appeal, see In re M.E., 584 P.2d 1340 (Okla. Crim. App. 1978), and this Court denied a petition for writ of certiorari. 436 U.S. 921. Petitioner then entered a plea of nolo contendere to the charge of murder in the first degree.<sup>1</sup> After a hearing on aggravating and mitigating circumstances, the trial court sentenced petitioner to death.<sup>2</sup> The Oklahoma Court of Criminal

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<sup>1</sup> Under Oklahoma law, the legal effect of a plea of nolo contendere is the same as that of a guilty plea. See Okla. Stat., Tit. 22, § 513 (Supp. 1978); see also Okla. Stat., Tit. 21, § 701.9 (Supp. 1978).

<sup>2</sup> The trial court found that three aggravating circumstances existed: (1) the murder was especially heinous, atrocious, or cruel; (2) the murder was committed for the purpose of avoiding or preventing a lawful arrest or prosecution; and (3) the defendant would constitute a continuing threat to society. These aggravating circumstances outweighed, in the trial court's

To: The Chief Justice  
Mr. Justice Brennan  
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79, 1, 3

OP57271, March 19, 1981 DRB

From: Mr. Justice Stevens

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<sup>1</sup>Under Oklahoma law, the legal effect of a plea of *nolo contendere* is the same as that of a guilty plea. See Okla. Stat., Tit. 22, § 513 (Supp. 1978); see also Okla. Stat., Tit. 21, § 701.9 (Supp. 1978).

<sup>2</sup>The trial court found that three statutory aggravating circumstances existed: (1) the murder was especially heinous, atrocious, or cruel; (2) the murder was committed for the purpose of avoiding or preventing a lawful arrest or prosecution; and (3) the defendant would constitute a continuing threat to society. These aggravating circumstances outweighed, in the trial court's judgment, the sole mitigating circumstance, petitioner's youth.

<sup>3</sup>"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U. S. Const., Amdt. 8.