

SUPREME COURT OF LOUISIANA

No. 15-KP-1668

STATE OF LOUISIANA

v.

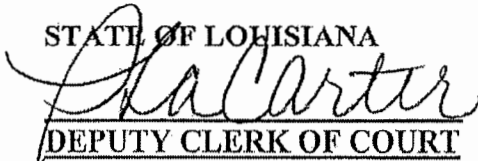
JASON M. REEVES

**On Writ of Certiorari to the Fourteenth
Judicial District Court, Parish of Calcasieu**

PER CURIAM:

Denied. Relator fails to show the district court erred in its determination that he did not prove by a preponderance of the evidence the existence of intellectual disability rendering him ineligible for execution. We attach hereto and make a part hereof the District Court's written reasons denying relator's application.

The case is remanded to the district court for a determination of whether there exist outstanding post-conviction claims and, if so, for the issuance of a ruling thereupon within 90 days of this order.

STATE OF LOUISIANA : 14TH JUDICIAL DISTRICT COURT
VS. NO. 20179-01 : PARISH OF CALCASIEU
JASON M. REEVES : STATE OF LOUISIANA
FILED: MAY 01 2015 : 
DEPUTY CLERK OF COURT

JUDGMENT

History

On December 13, 2001, Mr. Jason Reeves (Referred to hereafter as "the petitioner") was indicted for first degree murder, a violation of LSA-R.S. 14:30. The State filed its Notice of Intent to Seek the Death Penalty on January 7, 2002. The first trial began on October 27, 2003, but was declared a mistrial after the jury was unable to meet a unanimous verdict. The second trial began on October 12, 2004, and the jury found the petitioner guilty of first degree murder on November 5, 2004. The jury unanimously recommended a sentence of death on November 8, 2004. On December 10, 2004, this Court sentenced the petitioner to death by lethal injection. The sentence was affirmed by the Louisiana Supreme Court. *State v. Reeves*, 2006-2419 (La. 05/05/09), 11 So.3d 1031. The United States Supreme Court denied the petitioner's certiorari petition on November 16, 2009. *Reeves v. Louisiana*, 130 S.Ct. 637 (2009).

The petitioner filed a "Petition for Post-Conviction Relief and Request for Counsel" on December 23, 2009. The petitioner raised twelve claims, but none were briefed. In addition, none of the claims related to the petitioner's competency to stand trial or be sentenced to death. On March 19, 2010, Mr. Gary P. Clements of the Capital Post-Conviction Project of Louisiana filed a "Motion and Order to Enroll as Counsel of record," which was signed by this Court on March 24, 2010. On May 31, 2012, the State filed for a death warrant for the petitioner's execution. Petitioner filed a "Motion to Recall the Warrant and Stay the Execution." The warrant was then recalled.

On March 4, 2013, the petitioner amended his "Petition for Post-Conviction Relief," and filed a motion to enroll Mr. Alan Freedman as co-counsel. The State then timely filed its procedural objections to the petitioner's application for post-conviction relief.

A hearing was held to address the defendant's intellectual disability/mental retardation (Referred to hereafter as intellectual disability) and competency claims. The petitioner asserted that he has made a *prima facie* showing that he was intellectually disabled, and thus was entitled

to an expert panel appointed by the trial court. An expert panel was assembled, and a hearing was held on the petitioner's intellectual disability and competency claims from March 2 through March 6, 2015. The State, Defendant, and Court engaged experts who testified at the hearing. Afterwards, the State and Defense subsequently filed post-hearing briefs.

Legal Standard and Criteria

The United States Supreme Court has held that execution of a mentally retarded individual violated the Eighth Amendment's right against cruel and unusual punishment. *Atkins v. Virginia*, 122 S.Ct. 2242 (2002). Pursuant to LSA-C.Cr.P. Art. 930.3, this gives valid grounds for post-conviction relief. LSA-R.S. 15:567.1 controls the procedure to assess an intellectual disability claim in post-trial contexts. The definition of intellectual disability, however, is found in LSA-C.Cr.P. Art 905.5.1(H). In *State v. Dunn*, 2001-1635 (La. 5/11/10), 41 So.3d 454, the Louisiana Supreme Court determined that a Defendant must establish he or she is intellectually disabled by a preponderance of the evidence.

In order to establish that he or she is intellectually disabled, the petitioner must prove by a preponderance of the evidence three separate components: 1) significant limitations in intellectual functioning; 2) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skill; and 3) origination of the disability before the age of eighteen. *State v. Williams*, 831 So.2d 835 (La. 2002). American Psychiatric Association. (2000). *Diagnostic and statistical manual of mental disorders* (4th ed.).

Expert Reports

The Court notes the inherent bias that can exist when parties are allowed to retain their own experts. The Court believes this bias showed itself in both the State's and Petitioner's experts. These experts focused primarily on data that supported their party's stance, while discounting and ignoring data that contradicted their opinion, sometimes egregiously so. As such, the Court only considered the portions of the State's and Petitioner's expert opinions that were supported historically and objectively by a review of Mr. Reeves' past.

The Court, however, does find Dr. Patrick Hayes' opinion compelling. Dr. Hayes extensively reviewed all of the factors and evaluated the totality of information before coming to his unbiased expert opinion. Dr. Hayes testified that, during his 100 hours of reviewing data, he found no evidence to suggest the petitioner was intellectually disabled. He believes the petitioner suffers from anti-social personality disorder. Conduct disorders are signs of at least some level of social acumen. Social disability is a key area of concern when determining intellectual disability.

As such, individuals rarely have both conduct disorders and intellectual disabilities. Dr. Hayes was confident in his determination that, while he has a below average intellect, the petitioner is not intellectually disabled.

Court's View of Findings and Criteria

In applying the facts of this case to the legal criteria set out above, the Court relies heavily upon the expert opinion of Dr. Hayes. As previously described, Dr. Hayes painstakingly examined all the evidence and determined that the petitioner does not establish by a preponderance of the evidence any of the components necessary to diagnose an intellectual disability. In addition prior to this claim, which occurred only after the State requested a death warrant and nearly eight years after sentencing, no individual, including experts in capital sentencing, had ever suggested, reported, or claimed the petitioner suffered from an intellectual disability. This Court has dealt with the petitioner, Mr. Reeves, since his arrest and has never observed the deficiencies alleged in this application for post-conviction relief. There were no prior findings of intellectual disability during the petitioner's trial or sentencing despite the involvement of defense expert witnesses, which included capital sentencing experts post-*Atkins*. There has also been no evidence of intellectual disability during the petitioner's incarceration.

- **No significant limitations in intellectual functioning**

The Court does not find the petitioner suffers significant limitations in intellectual functioning. While the petitioner is of low to average intelligence, he does not show significant limitations of intellectual function.

The Court's position is the petitioner's poor academic record is evidence of a behavioral disorder, not intellectual disability. No individual that had contact with the petitioner during this time saw any evidence to suggest he was intellectually disabled. Specifically, Jason Reeves' mother, who worked and had experience with intellectually disabled individuals, never suggested to anyone that her son might be intellectually disabled. His poor academic record is easily explained, however, by his truancy, chronic substance abuse, and general lack of interest in school.

While the Court notes the petitioner's inconsistent IQ scores from mid-70s to mid-80s, the Court does not feel this range leads to a finding of an intellectual disability. While at best the tests established, the petitioner may be of low to average intelligence, it does not lead one to believe that the petitioner suffers from significant limitations in intellectual functioning.

• **No significant limitations in adaptive behavior**

The Court does not find the petitioner suffers from significant limitations in adaptive behavior. While the petitioner may suffer from a conduct disorder, he does not show significant limitations in adaptive behavior. The petitioner has shown a significant level of ability to navigate the social system of prison. He's also been able to use his understanding of the prison system's rules to maximize his quality of life. The recorded telephone calls also demonstrate the sophistication of the defendant.

• **No origination of the disability before the age of eighteen**

Since there is a finding that the petitioner has never suffered from an intellectual disability, there was no evidence to prove such a disability originated prior to the age of eighteen. There has also been no mechanism of brain damage since that time as per medical testing ordered by Dr. Hayes.

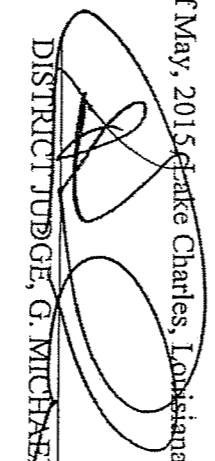
Conclusion

The petitioner has failed to establish by a preponderance of the evidence that he is intellectually disabled as defined by *Williams*, 831 So.2d 835, and the American Psychiatric Association's DSM-IV-TR. The Jury verdict of "death by lethal injection" will be maintained.

THEREFORE, IT IS HEREBY ORDERED that Petitioner, Jason Reeves, does not suffer from an intellectual disability.

IT IS FURTHER HEREBY ORDERED Jury verdict of "death by lethal injection" will be maintained.

Done and signed this 1st day of May, 2015 at Lake Charles, Louisiana.


DISTRICT JUDGE, G. MICHAEL CANADAY

PLEASE SERVE:

Carla Sigler, District Attorney's Office

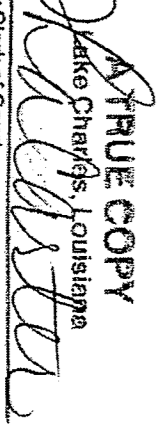
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MAY 01 2015

PLEASE NOTIFY:
Jason M. Reeves # 368232

TRUE COPY

Deputy Clerk of Court
Calcasieu Parish, Louisiana