

DEATH PENALTY INFORMATION CENTER

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PRESS RELEASE

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FULL RIGHT TO A JURY WILL NOT EXTEND TO OLDER CASES

***Despite Supreme Court's Recognition of a Constitutional Right to a Jury in
Determining Eligibility for the Death Penalty, Ruling Will Only Apply to Some***

WASHINGTON, DC – By a close vote of 5-4, the U.S. Supreme Court today held in *Schiro v. Summerlin* that over 100 death row inmates in at least 5 states will not benefit from the Court's ruling in 2002 that juries, not judges, should determine the existence of aggravating factors in death sentencing. While all future cases will have the full benefit of the Sixth Amendment right to a jury, many older cases may proceed to execution despite the flaws in their trials.

“So many aspects of the death penalty are arbitrary,” said Richard Dieter, Executive Director of the Death Penalty Information Center, “and in this case, the Court is saying that constitutional rights can be deprived and you can be executed depending simply on the date you filed your appeal. In such a critical matter, this seems grossly unfair.”

The Justices heard arguments in *Schiro v. Summerlin* on April 19, 2004. Years earlier, Summerlin had first raised this jury sentencing issue in his appeals. Summerlin was sentenced to death in 1982 by Judge Philip Marquardt, who was later disbarred after admitting that he was addicted to marijuana and had presided over trials while under the influence of a controlled substance. In 2002, the Supreme Court ruled in *Ring v. Arizona* that this type of judge sentencing is unconstitutional and it required jury fact-finding in capital cases. Today's ruling by the Court determined that *Ring* will not apply to defendants like Summerlin, whose sentences were determined by a judge, but whose cases are older and not in the first stages of their appeals.

Besides Summerlin, many other death row inmates in Arizona, Idaho, Montana, Colorado and Nebraska, may now face execution without a new hearing.

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