EXECUTING JUVENILES : PAUL MAGILL pdf

1: Deathwork : defending the condemned | Search Results | IUCAT

Jul 19, Â· For 11 years and 11 days, Paul Magill lived in a maximum-security locked-down cell on Florida's death row. He was sentenced to death for a rape and murder he committed near Ocala, Fla., two months.

All were sentenced for murder, usually in connection with another crime, such as rape or robbery. About two-thirds of these inmates were 17 when their crimes were committed. Slightly more than half are black. Most of their victims were white. Most are from the South and Southwest. They represent only about 2 percent of the total death row population. Following is a state-by-state list of the inmates as of December, provided by Victor Streib, a law professor at Cleveland State University. It includes the inmate, age when the crime was committed, the offense and when it happened. Timothy Davis, 17, robbery, rape and murder, Carnel Jackson, 16, rape and murder of woman and man, Frederick Lynn, 16, burglary and murder, Ronald Ward, 15, rape and murder of two women, murder of year-old boy, Cleo Douglas LeCroy, 17, robbery and murder of man and woman, Jesse James Livingston, 17, robbery and murder, Paul Edward Magill, 17, robbery, rape and murder, Morgan, 16, rape and murder, Christopher Burger, 17, robbery and murder, Janice Buttrum, 17, rape and murder with husband, Andrew Phillip Legare, 17, burglary and murder, Alexander Williams, 17, rape and murder of year-old, Paula Cooper, 15, robbery and murder, Keith Patton, 17, murder of man, rape of woman, Kevin Stanford, 17, rape and murder, Dalton Prejean, 17, murder of police officer, Lawrence Johnson, 17, robbery and murder, James Russell Trimble, 17, rape and murder, Larry Jones, 17, robbery and murder, George David Tokman, 17, robbery and murder, Frederick Lashley, 17, robbery and murder of foster mother, Wilkins, 16, robbery and murder, Marko Bey, 17, rape and murder, Leon Brown, 15, rape and murder of year-old, Freddie Lee Stokes, 17, robbery and murder, Sean Richard Sellers, 16, murder in and murder of mother and stepfather, Wayne Thompson, 15, kidnap and murder, Joseph Aulisio, 15, kidnap and murder of two children, Kevin Hughes, 16, rape and murder of 9-year-old, Joseph John Cannon, 17, robbery and murder, Robert Anthony Carter, 17, robbery and murder of teen-ager, Johnny Frank Garrett, 17, rape and murder of nun, Graham, 17, robbery and murder, Curtis Paul Harris, 17, robbery and murder, Two other juveniles have had their death sentences reversed and are undergoing resentencing by state trial courts: Thompson, 17, burglary and murder of Indiana couple,

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2: Search for Paul Magill Police Arrest Reports Online

Legal cases are stories, and some of the most compelling-and the most disturbing-are those that take place on death row: the innocent man executed, juveniles and the mentally ill condemned to die, a smoking electric chair, a napping defense attorney, a senile hit man.

Additional Information In lieu of an abstract, here is a brief excerpt of the content: The legislators who passed our current death penalty laws did not intend to force grotesque issues to the center stage of constitutional adjudication. The death penalty was supposed to be about getting even with Charles Manson and Ted Bundy, not executing teenagers and the retarded , or wrestling condemned schizophrenics to the gurney for forced doses of Haldol. But here we are. He was a really nice guy who could hold up his end of a complex conversation about the nuances of Greek philosophy. And he had been found guilty of committing a murder when he was seventeen years old. He has always maintained that he has no memory of his crimes, and I believe him. Supreme Court or the federal courts of appeal: Constitution forbids the execution of people who were minorsâ€”juvenilesâ€”at the time they committed capital murder. He was halfway through the door of the convenience store when Magill, who was already inside, turned to face him, pointed a gun at him, and told him to leave. Hall then left the store and rode his bike to the top of a nearby hill, from which he watched Magill take the clerk, Karen Young, from the store. These customers were greeted by Danny Hall, who had run back to the store to call the police. Harrison ultimately encountered the car described in the radio call and attempted to pull the driver over. The driver, however, increased his speed and headed back toward the Jiffy Food Store. Deputy Eddie Wright Jr. Deputy Wright proceeded to the area and advised Magill of his Miranda rights. Wright placed Magill in his vehicle and called for an ambulance. He asked Magill to take him to where the woman was, in hopes that she might not be dead, although Magill said that he was sure she was dead. You are not currently authenticated. View freely available titles:

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3: Interior Design | Minneapolis, St. Paul, MN | Magill Design Co.

This article reports on the capital offense and death row experiences of Paul Magill, who was convicted at age 17 for rape and murder and sentenced to death in Florida in Abstract: The article recounts the events of the crime, Magill's confession, the trial, and his sentencing and appeal.

Rehearing Denied November 26, Padovano, Tallahassee, and Patrick D. Doherty, Clearwater, for appellant. We also have before us a motion for a stay of execution. Magill was charged by indictment with the crimes of first-degree murder, sexual battery, and armed robbery. A plea of not guilty was entered and the case was tried before a jury on March 21, At the close of the guilt phase of the trial, the jury returned a verdict finding Magill guilty of each of the offenses. At the conclusion of the penalty portion of the trial, the jury returned an advisory verdict recommending the imposition of the death penalty. Consecutive life sentences were imposed for the charges of robbery and involuntary sexual battery, and the trial judge imposed a sentence of death on the charge of murder, in accordance with the recommendation of the jury. On January 26, , following the new sentencing hearing, the trial judge entered a new judgment supported by written findings of fact. The ultimate conclusion of the court was that there were insufficient mitigating circumstances to outweigh the aggravating circumstances. Accordingly, the trial judge resentenced Magill to death. On March 10, , this Court entered its opinion affirming the imposition of the sentence of death. Subsequently, the Superintendent of the Florida State Prison scheduled the execution for Tuesday, March 20, , at 7: Shortly after the warrant was signed Magill filed a motion to vacate the judgment and sentence of death and a motion for stay of execution. On March 13, , this Court entered a temporary stay of execution pending further order of this Court. Magill asserted the following fundamental errors in his collateral challenge to the conviction and sentence: Since that time the United States rendered its decision in Strickland v. However, the Supreme Court in Strickland held that, to the extent the lower court evaluated the claim according to whether the particular proceeding is unreliable because of a breakdown in the adversarial process, the standards articulated therein did not require reconsideration of ineffectiveness claims rejected under different standards. Moreover, in Jackson v. See also Downs v. At his rule 3. We find from our review of the record that those perceptions were faulty inasmuch as either the testimony contradicts the claim, or the perceived failing was not an act necessarily required of counsel, or Magill failed to demonstrate any specific prejudice to his case. Among the claims asserted is the complaint that counsel failed to interview, depose or cross-examine certain witnesses or potential witnesses. Decisions on these matters are tactical choices and are within the standard of competency expected. In order to characterize the lack of depositions as a specific omission, Magill would have to identify a specific evidentiary matter to which the failure to depose witnesses would relate. But the simple assertion that there were few or no depositions taken does not qualify as an identification of a specific omission. There is nothing in the motion or in the record to show admissible evidence that would be forthcoming from the witnesses or what material may have been brought out in cross-examination. In each of these either the record shows the motion lacked merit or Magill failed to demonstrate the merit or requisite prejudice. Testimony at the evidentiary hearing firmly established that the defense of insanity was initially a considered possibility, but when medical examination of Magill revealed this was out of the question, the goal was clearly to obtain a conviction based on a lesser offense of second-degree murder to save his life and to obtain mercy from the jury. Magill contends that his counsel was ineffective at the penalty phase of the trial because he failed to present available mitigating evidence which would likely have changed the advisory verdict and because he failed to use existing favorable evidence to rebut the aggravating circumstances. The lower court properly denied relief on the basis of this claim after allowing the defendant to present the testimony of numerous witnesses. It cannot be said that the further presentation of mitigating evidence would have been beneficial to the defendant or that such mitigating evidence even existed. It is also asserted that counsel failed to contest the ruling of the court restricting the penalty proceeding to the statutory mitigating circumstances and that counsel failed to assert any non-statutory mitigating circumstances. These assertions are belied by the record. The transcript of the penalty phase proceedings upon remand does not show any limitations imposed upon the presentation of mitigating

circumstances and the trial court did in fact find a non-statutory mitigating circumstance, i. In any event, a claim that the trial court unduly restricted the introduction of evidence relevant to non-statutory mitigating circumstances should have been raised on direct appeal. The defendant further contends counsel failed to call any witnesses or present argument negating aggravating circumstances. However, the medical examiner and other unknown witnesses were never called to testify at the evidentiary hearing and it is not known what the substance of such testimony might be. Such a claim is speculative and is not supported by affidavit or evidence. An expert in capital cases testified that in such cases the medical examiner could testify that after the gunshot wound to the head the victim was rendered unconscious so as to show that the crime was not heinous, atrocious or cruel. While this may be true in some capital cases, there is no reason to believe it holds true in this case for this medical examiner absent something more than the fact that she was not called to testify. Next Magill argues that imposition of the death penalty upon a defendant who was seventeen years old at the time of the offense is excessive and disproportionate punishment in violation of the eighth and fourteenth amendments and that it is a violation of his equal protection rights because he is the only juvenile offender against whom a death warrant has been signed. This issue is not properly presented in a 3. Magill also argues that this Court considered a psychological screening report during the oral argument in the direct appeal from his conviction and sentence Magill II which was not provided to his appellate counsel. He contends that this is a violation of his rights under the fifth, sixth, eighth, and fourteenth amendments and relies on Gardner v. The reliance on Gardner is misplaced under these circumstances. We have previously fully discussed this issue in Brown v. In that case we stated: It is evident, once our dual roles in the capital punishment scheme are fully appreciated, that non-record information we may have seen, even though never presented to or considered by the judge, the jury, or counsel, plays no role in capital sentence "review. A remaining question is whether the reading of non-record documents would so affect members of this Court that they could not properly perform their assigned appellate functions. Plainly, it would not. Just as trial judges are aware of matters they do not consider in sentencing, Alford v. The remaining grounds asserted by Magill were not cognizable on collateral attack because they either were or could have been raised on direct appeal. It is so ordered. BOYD, Justice, concurring in part and dissenting in part. However, for the reasons stated in Magill v. The sentence of death imposed on the appellant was not the product of a proper weighing of the established aggravating and mitigating circumstances. While the facts of the murder appellant committed, seen in the abstract, seem to call for the most severe punishment available, facts pertaining to the appellant himself and his character and background should have been held to outweigh the aggravating circumstances. Of particular importance was the fact that he was an unemancipated minor at the time of the crimes. I would vacate the sentence of death and remand for imposition of a sentence of life imprisonment without eligibility for parole for twenty-five years.

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4: Death Sentence Commuted for Ky. Man Who Killed at 17 - latimes

The 14 were not identified by name in the study, but attorneys and court records confirmed that the subjects included Wayne Thompson, whose Oklahoma death sentence was overturned last month by the Supreme Court, and Paul Magill, who after 11 years on Death Row in Florida was resentenced in May to life in prison.

Monday May 16, VOL. Inmate leaves Death Row for life term By Christine Housen Review Staff Writer Since Paul Edward Magill was sentenced to death in , his lawyers have been trying to prevent him from becoming the first person in 34 years to be executed in Florida for a crime committed while a juvenile. The Florida Supreme Court twice reviewed his case, once in and again Both times Magill, who committed first-degree murder when he was 17, came out the loser. By the time he was 26, the governor had signed two death warrants against Magill, who was convicted of robbing, kidnapping, raping and murdering a store clerk in Marion County. Two weeks ago, they succeeded. The following day, the judge, William T Swingert, approved the recommendation and signed an order sentencing Magill to life, which carries a mandatory year minimum term in Florida. According to one of his attorneys, Michael A. Doherty defended Magill, he could be eligible for parole in 13 years, having already served 12 years in prison. State of Oklahoma, on the constitutionality of executing juveniles convicted of capital crimes, it has yet to rule. Court of Appeals of the 11th Circuit. Supreme Court concluded in a case, Hitchcock v. Magill also took the stand. This time, only four of the 12 jurors voted for the death penalty. To recommend death, seven of the 12 must vote for it. A psychologist who testified at the trial and had examined him when he was 12, likened Paul to a car with defective brakes rolling down a hill. He said that at age 12 Paul was troubled and predicted that it would only be compounded when Paul entered adolescence. Mello said evidence that the jury previously had been precluded from acting upon made a difference. The jury was allowed to hear how remorseful Magill felt and heard evidence establishing that he acted impulsively. Moore, Ocala State attorney and one of the prosecutors in the case. The defense spent a lot of time and money on the case.

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5: Magill v. State, So. 2d â€“ www.enganchecubano.com

Executing Juveniles / said that he had robbed, raped, and killed the convenience store clerk. Wright placed Magill in his vehicle and called for an ambulance.

Man Who Killed at 17 As debate persists over executing juvenile offenders, a governor resolves one key case. June 22, Henry Weinstein Times Staff Writer The governor of Kentucky has commuted the death sentence of a man at the center of the controversy over whether it is appropriate to execute a person for a crime committed as a juvenile. Patton announced that he will not sign a death warrant for Kevin N. Stanford, 39, who has been on death row for more than 20 years for a rape and murder he committed when he was Supreme Court twice and both times a divided court ruled that his execution should be permitted. Patton ultimately decided it should not be. The Democratic governor, whose term ends in December, was asked at a Frankfort, Ky. That is a case, in my opinion, where the justice system perpetuated an injustice. In that ruling, issued Oct. In , the Supreme Court ruled that it was unconstitutional to execute individuals who committed murder when they were under Writing for a majority in , Justice Antonin Scalia said that there was no national consensus against those executions. Sixteen of the 38 states that have capital punishment, including California, as well as the federal government, have a minimum age of Several other states are considering elevating the minimum age, though such legislation recently failed in Kentucky. Virginia can seek the death penalty against Malvo -- who was 17 at the time of the killings -- something that is forbidden in Maryland, where murder charges were also filed against him. Since Colonial days, approximately people have been executed in the U. Supreme Court permitted states to reinstitute the death penalty after a four-year hiatus. All but one occurred in Southern or Southwestern states, with Texas having the most at A third -- 28 -- are in Texas. The only nations besides the U. Pakistan barred them in The American Bar Assn. Opponents cite scientific studies showing that juveniles do not have the same mental development or maturity as adults and that as a consequence, people under 18 are not permitted to vote, drink or serve on juries. Stanford grew up in a poor neighborhood in Louisville. By age 12, he was a drug addict and, according to a Kentucky Supreme Court decision, had committed arson, burglary and assault by the time he was In January , he and two other teens robbed a gas station where night attendant Baerbel Poore, 20, worked to support her infant daughter. Stanford and David Buchanan raped Poore in a service station bathroom while Troy Johnson waited outside. Then, Stanford drove Poore into the woods and shot her twice in the head. Stanford was convicted and sentenced to death in August A series of unsuccessful appeals ensued. Several state legislators and religious groups led by the Kentucky Catholic Conference supported the clemency bid.

EXECUTING JUVENILES : PAUL MAGILL pdf

6: Appeals ruling key to death sentence: Inmate leaves Death Row for life term Â· HIST

State of Oklahoma, on the constitutionality of executing juveniles convicted of capital crimes, it has yet to rule. Sentencing 'prejudice' Instead, Magill's resentencing was prompted by a decision of the U.S. Court of Appeals of the 11th Circuit.

Rehearing Denied November 26, Padovano, Tallahassee, and Patrick D. Doherty, Clearwater, for appellant. We also have before us a motion for a stay of execution. Magill was charged by indictment with the crimes of first-degree murder, sexual battery, and armed robbery. A plea of not guilty was entered and the case was tried before a jury on March 21, At the close of the guilt phase of the trial, the jury returned a verdict finding Magill guilty of each of the offenses. At the conclusion of the penalty portion of the trial, the jury returned an advisory verdict recommending the imposition of the death penalty. Consecutive life sentences were imposed for the charges of robbery and involuntary sexual battery, and the trial judge imposed a sentence of death on the charge of murder, in accordance with the recommendation of the jury. On January 26, , following the new sentencing hearing, the trial judge entered a new judgment supported by written findings of fact. The ultimate conclusion of the court was that there were insufficient mitigating circumstances to outweigh the aggravating circumstances. Accordingly, the trial judge resentenced Magill to death. On March 10, , this Court entered its opinion affirming the imposition of the sentence of death. Subsequently, the Superintendent of the Florida State Prison scheduled the execution for Tuesday, March 20, , at 7: Shortly after the warrant was signed Magill filed a motion to vacate the judgment and sentence of death and a motion for stay of execution. On March 13, , this Court entered a temporary stay of execution pending further order of this Court. Magill asserted the following fundamental errors in his collateral challenge to the conviction and sentence: Since that time the United States rendered its decision in Strickland v. However, the Supreme Court in Strickland held that, to the extent the lower court evaluated the claim according to whether the particular proceeding is unreliable because of a breakdown in the adversarial process, the standards articulated therein did not require reconsideration of ineffectiveness claims rejected under different standards. Moreover, in Jackson v. See also Downs v. At his rule 3. We find from our review of the record that those perceptions were faulty inasmuch as either the testimony contradicts the claim, or the perceived failing was not an act necessarily required of counsel, or Magill failed to demonstrate any specific prejudice to his case. Among the claims asserted is the complaint that counsel failed to interview, depose or cross-examine certain witnesses or potential witnesses. Decisions on these matters are tactical choices and are within the standard of competency expected. In order to characterize the lack of depositions as a specific omission, Magill would have to identify a specific evidentiary matter to which the failure to depose witnesses would relate. But the simple assertion that there were few or no depositions taken does not qualify as an identification of a specific omission. There is nothing in the motion or in the record to show admissible evidence that would be forthcoming from the witnesses or what material may have been brought out in cross-examination. In each of these either the record shows the motion lacked merit or Magill failed to demonstrate the merit or requisite prejudice. Testimony at the evidentiary hearing firmly established that the defense of insanity was initially a considered possibility, but when medical examination of Magill revealed this was out of the question, the goal was clearly to obtain a conviction based on a lesser offense of second-degree murder to save his life and to obtain mercy from the jury. Magill contends that his counsel was ineffective at the penalty phase of the trial because he failed to present available mitigating evidence which would likely have changed the advisory verdict and because he failed to use existing favorable evidence to rebut the aggravating circumstances. The lower court properly denied relief on the basis of this claim after allowing the defendant to present the testimony of numerous witnesses. It cannot be said that the further presentation of mitigating evidence would have been beneficial to the defendant or that such mitigating evidence even existed. It is also asserted that counsel failed to contest the ruling of the court restricting the penalty proceeding to the statutory mitigating circumstances and that counsel failed to assert any non-statutory mitigating circumstances. These assertions are belied by the record. The transcript of the penalty phase proceedings upon remand does not show any limitations imposed upon the presentation of mitigating

circumstances and the trial court did in fact find a non-statutory mitigating circumstance, i. In any event, a claim that the trial court unduly restricted the introduction of evidence relevant to non-statutory mitigating circumstances should have been raised on direct appeal. The defendant further contends counsel failed to call any witnesses or present argument negating aggravating circumstances. However, the medical examiner and other unknown witnesses were never called to testify at the evidentiary hearing and it is not known what the substance of such testimony might be. Such a claim is speculative and is not supported by affidavit or evidence. An expert in capital cases testified that in such cases the medical examiner could testify that after the gunshot wound to the head the victim was rendered unconscious so as to show that the crime was not heinous, atrocious or cruel. While this may be true in some capital cases, there is no reason to believe it holds true in this case for this medical examiner absent something more than the fact that she was not called to testify. Next Magill argues that imposition of the death penalty upon a defendant who was seventeen years old at the time of the offense is excessive and disproportionate punishment in violation of the eighth and fourteenth amendments and that it is a violation of his equal protection rights because he is the only juvenile offender against whom a death warrant has been signed. This issue is not properly presented in a 3. Magill also argues that this Court considered a psychological screening report during the oral argument in the direct appeal from his conviction and sentence Magill II which was not provided to his appellate counsel. He contends that this is a violation of his rights under the fifth, sixth, eighth, and fourteenth amendments and relies on Gardner v. The reliance on Gardner is misplaced under these circumstances. We have previously fully discussed this issue in Brown v. In that case we stated: It is evident, once our dual roles in the capital punishment scheme are fully appreciated, that non-record information we may have seen, even though never presented to or considered by the judge, the jury, or counsel, plays no role in capital sentence "review. A remaining question is whether the reading of non-record documents would so affect members of this Court that they could not properly perform their assigned appellate functions. Plainly, it would not. Just as trial judges are aware of matters they do not consider in sentencing, Alford v. The remaining grounds asserted by Magill were not cognizable on collateral attack because they either were or could have been raised on direct appeal. It is so ordered. BOYD, Justice, concurring in part and dissenting in part. However, for the reasons stated in Magill v. The sentence of death imposed on the appellant was not the product of a proper weighing of the established aggravating and mitigating circumstances. While the facts of the murder appellant committed, seen in the abstract, seem to call for the most severe punishment available, facts pertaining to the appellant himself and his character and background should have been held to outweigh the aggravating circumstances. Of particular importance was the fact that he was an unemancipated minor at the time of the crimes. I would vacate the sentence of death and remand for imposition of a sentence of life imprisonment without eligibility for parole for twenty-five years. Newsletter Sign up to receive the Free Law Project newsletter with tips and announcements.

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7: Deathwork â€" University of Minnesota Press

Executing Juveniles Paul Magill. Holdman inmate innocent insane issue Jorandby Judge Vance Judge Vance's jury instruction Justice killed lawyers litigation.

All had serious psychiatric problems, and most had brain abnormalities, low IQs and poor mental test scores. Reported in Journal The study was conducted by Dr. Her team included Dr. Findings were reported in the May issue of the American Journal of Psychiatry. All 14 had serious head injuries as children--eight of them serious enough to require hospitalization. One was hit by a truck at age 4, went into a coma and was in the hospital for 11 months. Another was hit by a car at age 6 and hospitalized for six months. Nine of the 14 showed serious neurological abnormalities, including brain damage, seizures or unusual brain-wave pattern. Four others had a history of severe mood disorder. The other three had periodic paranoid ideation--suspicions of being harassed and persecuted--during which they often assaulted perceived enemies. Only two of the 14 had IQ scores above 90 is average. On a test for abstract reasoning, nine scored at a level indicating significant brain damage. Only three were reading at grade level. Three did not learn to read at all until they reached Death Row. All but two had been brutally beaten, whipped or otherwise physically abused, and five had been sodomized by older male relatives. Alcoholism, drug abuse and psychiatric treatment and hospitalization were prevalent in the history of their parents. Perhaps the most striking finding was that few of these vulnerabilities--all of which are potential mitigating factors against imposition of a death sentence--were brought to light during their trials. Only five of the 14 subjects had received any psychiatric evaluation before their trials. Not Aware of Significance The defendants themselves often are too embarrassed or frightened to describe the abuse they suffered or the problems they have, researchers said, and few are aware of the legal implications of such details. Nor do relatives who have beaten or sexually abused the defendant have any incentive to bring that up in court. In many cases, the family sides with the prosecution out of fear of disclosure or embarrassment over the crime. Tracing histories of abuse and diagnosing psychological impairment require time-consuming and persistent research. But juveniles who end up on Death Row are often represented by inexperienced lawyers with little time or stake in the case. Streib, author of "Death Penalty for Juveniles. The 14 inmates in the study included all the juvenile offenders on Death Row in four states. Each had been sentenced to death for a murder committed before age They included six blacks, seven whites and one Latino. Inmates in the study were interviewed extensively about their backgrounds, family and medical histories, schooling and crimes. Each received a detailed psychiatric, neurological and educational examination. Interviews and tests were conducted during and Not Identified by Name The 14 were not identified by name in the study, but attorneys and court records confirmed that the subjects included Wayne Thompson, whose Oklahoma death sentence was overturned last month by the Supreme Court, and Paul Magill, who after 11 years on Death Row in Florida was resentenced in May to life in prison. Experts said the findings support the conclusion that violence begets violence--and abuse, abuse.

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8: Deathwork: Defending the Condemned - Michael Mello - Google Books

For 11 years and 11 days, Paul Magill lived in a maximum-security locked-down cell on Florida's death row. He was sentenced to death for a rape and murder he committed near Ocala, Fla., two months before his 18th birthday. He has been at the Florida State Prison ever since. He wore the yellow T.

Dugger, As Secretary of the Department Ofcor Receive free daily summaries of new opinions from the U. Court of Appeals for the Eleventh Circuit. Subscribe Paul Edward Magill, Petitioner-appellant, v. Court of Appeals for the Eleventh Circuit - F. Steve Forester, Miami, Fla. Paul Magill appeals from an order of the district court denying habeas corpus relief from his murder conviction and death sentence. Magill was a seventeen year old high school student when, on December 23, , he robbed a convenience store near his home in Belleview, Florida. At gunpoint, he forced the store clerk, Karen Sue Young, to give him all the cash on hand. Realizing the clerk would call the police as soon as he left, Magill decided to take her away from the store so she would not have access to a telephone. Young to a wooded area, but instead of abandoning her as originally intended, he forced her from the car and raped her. While returning to the car, Magill again realized that Ms. Young would be able to identify him as the robber. As they were walking back to the car, Magill shot Ms. Young in the side of the head at point-blank range. After she fell, Magill shot at her head but missed, and then shot her in the chest. He dragged her body into some bushes and drove off. Magill pled not guilty and was tried for armed robbery, involuntary sexual battery, and first degree murder. Barnard to determine whether he was competent to stand trial and to determine whether he was insane at the time of the crime. Both psychiatrists found Magill was competent and that he was not legally insane at the time of the crime. Counsel then abandoned the insanity defense and instead attempted to convince the jury that Magill was guilty of second degree murder. The jury rejected this argument and convicted Magill on all counts. In , at the age of thirteen, Magill was arrested in New Jersey for indecent exposure. Pursuant to a court order, he started seeing Dr. Martinez-Monfort, who was not contacted to testify at trial, testified at a post-conviction hearing that Magill was "extremely poorly equipped to enter adolescence," had no capacity to handle his sexual drives, and had very little inner control over his aggression. Martinez-Monfort claimed he was not surprised when told that Magill had committed crimes of violence in After moving with his family to Florida, Magill then 15 years old again was arrested for exposing himself. Trial Transcript at He would, on occasion, run away from home. After being arrested for retail theft, Magill began to see Terry Wagner, a probation counselor with the Division of Youth Services. Wagner saw Magill from September, until December, when the homicide was committed. She testified that Magill had great difficulty expressing emotion, and that his antisocial behavior likely was a result of repressed emotion. Well, on stealing things and exposing himself. This analysis was concurred in by Dr. Magill testified that he robbed the convenience store because he was angry with his mother and needed money to run away from home. He testified that he "saw no indication of a major psychotic illness or a major neurotic illness or of a hard core character disorder. On cross-examination, he explained that Magill felt remorse for his actions but offered his opinion that Magill was not under the influence of extreme mental or emotional disturbance at the time he committed the crime, thus negating the presence of a statutory mitigating circumstance. The final witness in mitigation was Magill. He testified, as he had during the guilt phase, that he planned the robbery ten minutes before it happened and that he did not plan to rape and murder the victim until just before he committed those acts. The trial court did not permit him, however, to express his feelings regarding his crimes nor did the court permit him to make a general statement to the advisory jury. The jury recommended that Magill be given the death sentence. In its findings of fact, the court found the following statutory aggravating factors: The court also noted that Magill committed three felonies during this criminal episode. The court found that these aggravating factors outweighed any mitigating circumstances. Appellant was then resentenced by the trial court sitting without a jury. Along with the aggravating factors found at trial, the court found three mitigating circumstances: Thereafter, Magill moved for post-conviction relief pursuant to Fla. Magill then filed a petition for a writ of habeas corpus in the district court pursuant to 28 U. Appellant advances five claims of constitutional error with respect to his

conviction for first degree murder and sentence of death. The facts relevant to this issue were developed at an evidentiary hearing conducted in state court pursuant to Fla. As a result, his death sentence must be vacated. Stancil, now a Marion County Court Judge, had been lead counsel in one prior capital case. Initially, the defense strategy was to establish an insanity defense. When two court appointed psychiatrists submitted their opinions that Magill was legally sane at the time of the crime, Stancil decided to abandon the insanity defense in favor of an attempt to show that the homicide was not premeditated. On the first day of jury selection, in a move which surprised both Stancil and Magill, Pierce came into the court room and announced that he was going to try the case. Pierce had not participated in the preparation of pretrial motions, nor had he attended any of the depositions. When jury selection began, according to Stancil, " [Pierce] was aware of the factual allegations of the state and the indictment. He was aware of those facts and he was aware of basically what the case consisted of. Once the trial began, Pierce conducted the defense on his own. Stancil wanted to raise certain objections early in the trial, but was "advised" that Pierce would "handle it. The only defense witness was Magill, who testified that he had no explanation for what he had done and that he felt remorse. He also testified that he had no control over his actions after he took the victim into his car and that the killing was done on an "impulse. After the jury returned its guilty verdict, Pierce left the courtroom and did not return. Pierce, who is now retired from the practice of law, testified at the 3. He did not recognize Magill at the hearing, nor could he identify a picture of Magill taken shortly after his arrest. He was unaware that Magill had been given the death penalty. When asked to read a transcript of his opening statement in the case, he thought the defense was either insanity or second degree murder. In sum, he was unable to shed any light on the question of whether his actions at trial were the result of trial strategy. Stancil testified at the hearing and indicated that he "would have done things differently" if he were trial counsel during the guilt phase. Under Strickland, in order to establish a claim that counsel rendered constitutionally ineffective assistance, a habeas petitioner must show that: This case presents a clear example of attorney performance which is outside the wide range of reasonable professional assistance. It is without the aid of the "distorting effects of hindsight," see Strickland, U. Although two attorneys can often be considered as co-counsel, to do so in this case would be erroneous. When Stancil and Pierce discussed this case prior to trial, they did not do so with the intent that Stancil was preparing Pierce to present the case in court. Stancil was surprised when Pierce showed up on the first day of trial and took over the case. Stancil testified that all decisions regarding the guilt phase i. One of the primary duties defense counsel owes to his client is the duty to prepare himself adequately prior to trial. In a case, such as this one, where the state has made clear prior to trial its intention to seek the death penalty, the defendant certainly is entitled to more than a counsel who is "basically" aware of the underlying facts of the case. Two days prior to trial, she enlisted the aid of her husband, who was also an attorney, and asked him to try the case. The facts of House indicate the dangers which are present when counsel assumes control of a capital case shortly before trial without having been involved in pretrial investigation. Pierce, like counsel in House, failed to develop and present to the jury the defense theory that Magill committed the killing without premeditation. Pierce took this case over, even though Magill was being represented by a competent criminal defense attorney who had tried one capital case and who was adequately prepared to try this case. We need discuss only a few of these alleged errors. The decision whether to allow a criminal defendant to testify must be made by the defendant with the informed advice of counsel. Magill testified, without contradiction, that no strategy was discussed during this very short meeting and that Pierce never prepared him for his testimony. Moreover, Stancil testified that he did not personally prepare Magill for his guilt phase testimony nor did he give Pierce any advice regarding putting Magill on the witness stand. Under these circumstances, counsel simply abandoned his duty to assist Magill in the decision whether to testify in his defense. Although there was no strategic purpose in Magill taking the witness stand, counsel had the duty to minimize the dangers of his decision that Magill should testify. Magill testified, for the most part, in a narrative during which he explained that he was acting on impulse during the murder. Counsel then questioned Magill regarding his prior difficulties with the law, including his indecent exposure arrests and arrests for retail theft. The severe damage came during cross-examination. The sole defense which, at the time, still had not been explained to the jury was that the murder was not premeditated. The prosecutor then began to discuss the second and third

shots fired to the head and chest. As to these, Magill testified they were planned and that he intended these shots to kill the victim. Counsel failed to object when the prosecutor asked Magill to render his opinion whether he was guilty of the crime of first degree murder. This devastating testimony points up two crucial errors by counsel. First, counsel should have discussed with his client the possibility that the state would seek to prove premeditation during his testimony on cross-examination. As Robert Link, an expert in the field of capital defense, testified at the 3. If [Pierce] did know that his client was going to say that [he was guilty of premeditated murder], then he was ineffective for presenting this testimony and convicting him out of his own mouth

9: Death Row Juveniles Share History of Abuse in Youth - latimes

Undated (AP) _ Thirty-four people are on death row for crimes committed when they were younger than All were sentenced for murder, usually in connection with another crime, such as rape or robbery. About two-thirds of these inmates were 17 when their crimes were committed. Slightly more than.

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