

Court rejects Richard Henyard's petition for relief, clearing way for execution

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Richard Henyard, 34, is scheduled for execution this month for the murders of two Lake County girls. (ASSOCIATED PRESS / July 9, 2008)

The Florida Supreme Court rejected Richard Henyard's latest appeal today, clearing the way for the state to execute him Sept. 23 for the murders of two Eustis girls.

Henyard, 34, convicted in the killings of sisters Jamilya Lewis, 7, and Jasmine Lewis, 3, argued through state-appointed lawyers on Monday that he was wrongfully denied a hearing on alleged new evidence.

The evidence was a claim that co-defendant, Alfonza Smalls, had described himself to other juvenile offenders as a "killa." Henyard's lawyers contend that Smalls' boasting establish him as the shooter of the girls and diminished Henyard's culpability in crimes that include the carjacking, rape and attempted murder of Dorothy Lewis, the girls' mother. Smalls, 14 at the time of the killings, was ineligible for the death penalty because of his youth and is serving consecutive life terms in prison.

In its 23-page opinion, the justices backed Lake Circuit Judge Mark Hill's decision to reject Henyard's claims without an evidentiary hearing.

"At trial, the State did not rely on Henyard being the triggerman, but rather relied on his dominant role in the entire criminal episode and unrefuted evidence of his close proximity to the child victims at the time of the deaths," the justices pointed out. "Henyard planned the carjacking. Henyard raped and shot Dorothy Lewis."

Any claim that Henyard played a relatively minor role is "both unbelievable and without credibility," the court ruled.

Henyard and Smalls carjacked Lewis and the sisters Jan. 30, 1993, from the parking lot of a grocery where the mother and daughters had stopped to buy ingredients to make a strawberry salad for a church picnic. Dorothy Lewis, who was shot four times, survived and is now a pastor. The Florida Supreme Court also rejected defense arguments that Henyard has a mental impairment that bars his execution.

While the law forbids the state from executing inmates who have been diagnosed as mentally ill or mentally retarded, the justices affirmed Hill's ruling, which found no merit in Henyard's claim of an "intellectual disability."

The justices also rejected a claim that lethal injection is unconstitutional.