

Death to life in retardation case

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YORKTOWN, Va. --

A death row inmate whose case led to the U.S. Supreme Court banning execution of the mentally retarded has had his sentence commuted to life in prison.

Circuit Judge Prentis Smiley Jr. commuted the sentence Thursday after finding that prosecutors had failed to turn over potentially favorable evidence to Daryl Atkins' lawyers during his 1998 murder trial.

Atkins, 30, spent a decade on death row for his conviction in the 1996 robbery and murder of Eric Nesbitt, 21, an Air Force mechanic. Atkins was 18 years old at the time of the robbery.

Defense lawyers argued that Atkins should not be executed because he is mentally retarded. The case was appealed to the U.S. Supreme Court, which ruled in 2002 that it was unconstitutional to execute the mentally retarded.

A new jury decided in 2003 that Atkins wasn't retarded and upheld his original death sentence, but that verdict was overturned because of errors made during the trial. While Atkins was awaiting a new trial on the retardation issue this year, allegations surfaced that prosecutors withheld evidence during the original 1998 trial.

Defense attorneys portrayed Atkins as slow, and his stepsister said that even as a teenager he could not prepare meals or "even clean out his own ears."

Prosecutors said Atkins was a drug user whose poor grades in school stemmed from a bad attitude, not the "significantly subaverage intellectual functioning" that qualifies as mental retardation under state law.

In Virginia, mental retardation is defined as an IQ of 70 or lower before the age of 18 and an inability to function well in society. Atkins scored between 59 and 76 on four IQ tests administered after he was charged in the killing.