

Court: Gov't should pay lawyers for clemency work

The Associated Press

WASHINGTON -- The Supreme Court said Wednesday the government should pay federally appointed lawyers for working on state clemency requests for death row inmates.

Convicted murderer Edward Jerome Harbison wanted the government to pay for his federal public defender to represent him in a clemency petition to the Tennessee governor. But the 6th U.S. Circuit Court of Appeals in Cincinnati ruled against the request, saying the law "does not authorize federal compensation for legal representation in state matters."

The high court disagreed, reversing the appeals court's decision.

Federal law "authorizes federally appointed counsel to represent their clients in state clemency proceedings and entitles them to compensation for that representation," said Justice John Paul Stevens, writing for the court.

Justice Antonin Scalia dissented, saying the applicable statute "is most naturally and coherently read to provide federally funded counsel to capital defendants appealing in a federal forum." He was joined by Justice Samuel Alito.

The nation's appeals courts had split on the question, with some saying federal public defenders could get taxpayer dollars for working on state clemency petitions and others banning the practice.

Ohio Gov. Ted Strickland and the former governors of New Mexico, Ohio, North Carolina, Indiana, Arizona, Pennsylvania and Illinois joined in Harbison's request to the Supreme Court.

"The state clemency process significantly benefits when the same attorney who is funded to represent a defendant in federal habeas proceedings is allowed to continue that representation in the state clemency proceedings," they said.

Harbison was convicted in the 1983 beating death of an elderly woman in Chattanooga, Tenn.

The case is Harbison v. Bell, 07-8521.