

An Inmate Doesn't
Understand Why He Is to
Be Executed.
Should He Be Spared?

PE-3 Police English
The New York Times Editorial

The Supreme Court has rightly ordered Alabama courts to reconsider the death sentence of Vernon Madison, whose memory was damaged by strokes.

In a series of rulings over the past several decades interpreting the Eighth Amendment's prohibition on cruel and unusual punishment, the Supreme Court has prohibited the execution of some of the most helpless people in the nation, including children and people with intellectual disabilities.

On Wednesday, the court spared from execution Vernon Madison, who cannot remember the circumstances surrounding his 1985 conviction in Alabama for the murder of a police officer.

Mr. Madison suffered at least two severe strokes after his conviction, and his lawyers had told the justices that he had vascular dementia and attendant cognitive decline.

As Justice Elena Kagan explained in a 5-to-3 decision siding with Mr. Madison, a faulty memory alone does not trigger the protections of the Eighth Amendment, just as the diagnosis of a mental illness alone would not.

Instead, Justice Kagan wrote, what's relevant is whether the person possesses a "rational understanding" of why the state wants to impose the ultimate punishment.

(Justice Brett Kavanaugh, who hadn't yet been confirmed when the court first heard the dispute, did not participate in Mr. Madison's case.)

In prior cases laying the foundation for this principle, the Supreme Court justices have reasoned that executing someone who can't rationally understand his crime or punishment "simply offends humanity" and would serve no "retributive value."

Which is to say: If a man condemned to die can't comprehend the true meaning of society's judgment against him, what is the value of that condemnation?

“Do you have an independent recollection of the Civil War?” asked Justice Kagan in her opinion in *Madison v. Alabama*.

“Obviously not. But you may still be able to reach a rational — indeed, a sophisticated — understanding of that conflict and its consequences.”

The justice went on: "Do you recall your first day of school? Probably not. But if your mother told you years later that you were sent home for hitting a classmate, you would have no trouble grasping the story."

The same goes for a person who blacks out before committing a crime: She may still come to appreciate why a prosecutor seeks to punish her.

In Mr. Madison's case, the Supreme Court recognized that the Alabama court that weighed his mental capacities offered a cursory ruling, with "only one sentence of explanation" that didn't take into account the "sole question" that matters: "whether he can reach a 'rational understanding' of why the State wants to execute him."

The high court sent the case back to the lower courts for what Justice Kagan called a “do-over.”

The lower courts may again conclude, based on the Supreme Court's guidance and expert medical testimony, that executing Mr. Madison doesn't qualify as cruel and unusual.

But until then, the Supreme Court's decision — joined by the rest of the liberal bloc and Chief Justice John Roberts Jr. — provides hope that officials may yet realize that it's inhumane to put to death someone too impaired to remember the crime he committed or comprehend the punishment he is facing.