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A SUPREME MUDDLE - HIGH COURT'S RULING IN DEATH CASE GIVES STATES LITTLE GUIDANCE

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In a decision that gives states far less guidance than the one-sided vote indicates, the U.S. Supreme Court has upheld Kentucky's method of executing condemned murderers.

The ruling featured six individual opinions within the court's 7-2 majority upholding lethal injections. One was by Justice John Paul Stevens, whose 1976 vote helped restore the death penalty after a four-year hiatus. He noted that if this case had challenged the constitutionality of the death penalty rather than the method, he would have voted against executions because they involve a "pointless and needless extinction of life with only marginal contributions to any discernible social or public purposes." He added, "the risk of executing innocent defendants can be entirely eliminated by treating any penalty more severe than life imprisonment without the possibility of parole as constitutionally excessive."

Chief Justice John Roberts' majority opinion noted, "Capital punishment is constitutional, so there must be a means of implementing it." The Constitution doesn't demand "the avoidance of all risk of pain in carrying out executions," he wrote.

While executions will resume in many states, there still are unresolved issues in North Carolina. A lawsuit challenging the N.C. Council of State's revision of execution practices without hearing arguments from inmates' lawyers is still pending. So is the state's lawsuit against the N.C. Medical Board over its 2007 ruling threatening disciplinary action against doctors who participate in executions, as state law requires.

Whatever the outcome, North Carolina should not rush to resume executions. As the case of Glen Chapman just two weeks ago showed once again, our state's criminal justice system has a disturbing history of unjust prosecutions in death penalty cases. Mr. Chapman was the seventh wrongfully convicted Death Row prisoner in North Carolina to be released in recent years. In almost every case, prosecutors and lawyers made key mistakes or omissions.

That glaring record of injustice has prompted demands for reforms to prevent such errors. While the state has improved the process, Death Row holds scores of defendants - like Mr. Chapman - who were convicted prior to the reforms.

That why it's so troubling to read the politically transparent exhortation of Charlotte Mayor Pat McCrory, a candidate for governor, for Gov. Mike Easley to resume executions and ignore a state law requiring a doctor be present for the lethal injection. Mayor McCrory has every right to believe in the death penalty, but he is wrong to demand that the state break its own laws or risk putting to death a wrongly convicted defendant.

Until the state can demonstrate its criminal justice system can convict and condemn murderers without error, North Carolina's moratorium on executions should continue.

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