

## Media Advisory for March 30, 2015

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### **U.S. Supreme Court to Hold Oral Argument in Case where Man was Found Intellectually Disabled, But Continues to Face Execution**

**Court hears *Brumfield v. Cain* on Monday, March 30**

**Attorneys Representing Mr. Brumfield & Death Penalty Information Center's Robert Dunham Available for Comment**

(Washington, D.C.) The U.S. Supreme Court will hear oral argument in *Brumfield v. Cain* on Monday at 10:00 a.m., a case involving a Louisiana man who was convicted and sentenced to death before the Court ruled in *Atkins v. Virginia* (2002) that people with intellectual disability are exempt from the death penalty.

"More than a decade ago, the Court recognized that it is unconstitutional to execute a person who is intellectually disabled. A federal district court -- the only court to ever give Kevan Brumfield a hearing -- found that he is, in fact, intellectually disabled. The issue before the Court is whether to turn a blind eye to that finding, out of deference to a state court that denied Mr. Brumfield the opportunity to make his claim. The answer is no," said Amir H. Ali, an attorney at Jenner & Block, LLP, who is representing Mr. Brumfield *pro bono*.

"As death sentences and executions decline across the country, it is increasingly important that older cases such as Mr. Brumfield's be reviewed with the increased scrutiny demanded today," said Robert Dunham, Executive Director of the Death Penalty Information Center (DPIC). "We are now in a new era with respect to our understanding of intellectual disability."

The U.S. District Court for the Middle District of Louisiana found that the state court had acted unreasonably because it had denied Mr. Brumfield, who is indigent, any funding, or even a hearing, to prove that he is intellectually disabled, and instead considered only evidence from his trial, which occurred before *Atkins* was decided. The federal court granted Mr. Brumfield his first and only hearing on the issue, and found him to be intellectually disabled and therefore ineligible for execution.

The U.S. Court of Appeals for the Fifth Circuit reversed the federal district court's decision out of deference to the state court. The U.S. Supreme Court will decide whether to uphold the finding of the federal district court that Mr. Brumfield is intellectually disabled, or whether to defer to the Louisiana court, which failed to provide an evidentiary hearing or funding to explore Mr. Brumfield's status, and based its conclusion on a record assembled before the Court's ruling in *Atkins*.

Resources about *Brumfield v. Cain* can be viewed at [www.deathpenaltyinfo.org/Brumfield](http://www.deathpenaltyinfo.org/Brumfield)  
DPIC's resource page about intellectual disability and the death penalty can be viewed at

<http://deathpenaltyinfo.org/intellectual-disability-and-death-penalty>

To reach Mr. Brumfield's attorneys about his case, please contact Margot Friedman at 202-332-5550 or [mfriedman@dupontcirclecommunications.com](mailto:mfriedman@dupontcirclecommunications.com) Mr. Brumfield's attorneys include:

- Amir H. Ali, Jenner & Block, LLP, Washington, D.C. Mr. Ali practices U.S. Supreme Court and appellate law, administrative law and commercial litigation. Mr. Ali was the lead drafter of Mr. Brumfield's petition for certiorari and brief on the merits submitted to the U.S. Supreme Court.
- Susan Herrero, Herrero & Trenticosta, New Orleans. Since 1986, Ms. Herrero has defended people facing the death penalty as a mitigation investigation specialist and a forensics specialist. Ms. Herrero is deeply knowledgeable about intellectual disability in general and Mr. Brumfield's deficits in particular.
- Nicholas J. Trenticosta, Herrero & Trenticosta, New Orleans. Mr. Trenticosta represented Mr. Brumfield at his hearing before the district court and has represented people facing the death penalty for almost 30 years, including two capital defendants before the U.S. Supreme Court.

To reach Robert Dunham, DPIC's Executive Director, regarding national perspectives on the death penalty, please call 202-289-2275 or email [rdunham@deathpenaltyinfo.org](mailto:rdunham@deathpenaltyinfo.org).

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The Death Penalty Information Center ([www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org)) is a non-profit organization serving the media and the public with analysis and information on issues concerning capital punishment. DPIC was founded in 1990 and prepares in-depth reports, issues press releases, conducts briefings for the media, and serves as a resource to those working on this issue.