No. 15-946

In The Supreme Court of the United States

LAMONDRE TUCKER,

Petitioner,

v.

STATE OF LOUISIANA,

Respondent.

On Petition For A Writ Of Certiorari To The Supreme Court Of Louisiana

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES – Continued

Page

INTRODUCTION

Petitioner seeks a ruling from this Honorable Court that the death penalty is a cruel and unusual punishment in contravention of the Eighth and Fourteenth Amendments without regard to the heinous nature of the offense, the depravity of the offender, or the penological purposes that may be served by its use. Contrary to Petitioner's main argument, there is no national consensus against the death penalty that would support its abandonment by this Court. Relying upon unproven assertions that society no longer views the death penalty as acceptable, Petitioner points to a reduction in imposed death sentences as evidence supporting his conclusion, yet at the same time, alleges that the death penalty is imposed in an overly wide swath of cases. In addition to its inherent contradictions, this position ignores the obvious effects of the capital punishment abolition movement on the prosecution of these cases – the burdens on a prosecutor's office that seeks a death sentence have never been greater. Excessive requests for funds by defense teams, extensive and baseless pre-trial motion practice by the same, increasingly complicated jurisprudential guidelines for conducting the trial, and post-conviction review processes that drag on for decades have made prosecutors more selective than ever about seeking a death sentence. Petitioner conflates prosecutorial discretion with societal squeamishness towards the death penalty, a position that is not borne out by any credible evidence. In this case, the death penalty has been

applied against one who is among the worst offenders – a cold-blooded, calculating, adult murderer of a young pregnant woman and her unborn child.

Should this Court see no merit in revisiting the arguments on the constitutionality of the death penalty, Petitioner seeks in the alternative a ruling that capital juries must determine beyond a reasonable doubt that death is the appropriate sentence. In unanimously finding the death sentence to be the appropriate punishment for this senseless offense and fully culpable offender, the jury found beyond a reasonable doubt the existence of statutory aggravating factors that warrant imposition of the death penalty. This determination satisfies the Constitutional requirements for a death sentence. Petitioner's argument is not supported by the jurisprudence and Petitioner fails to assert any credible basis for this Honorable Court to consider this question.

STATEMENT OF THE CASE

Petitioner Lamondre Tucker was convicted and sentenced to death for the first degree murder of Tavia Sills, a young woman he had known since middle school and with whom he had been in a brief romantic relationship. The motive for the crime was Mr. Tucker's apprehension that Ms. Sills' pregnancy, presumed to be a result of their romantic encounters,

would negatively impact his relationship with another young woman.[1] The jury heard how prior to the murder, Petitioner told a friend that he should beat up Ms. Sills so that she would lose the baby.

Petitioner lured Ms. Sills away from her home with the promise of meeting his sister. Eager to establish a friendly relationship with his family, Ms. Sills agreed to go in spite of her concerns about leaving with him. With the help of his friend Marcus Taylor, Petitioner took Ms. Sills to a secluded lake where he shot her twice and then shot her again as she fled into the water. In a recorded statement, Petitioner admitted firing the last shot to make sure that she was dead.

Ms. Sills' body was located several days later, bloated and disfigured from the lengthy time spent in the lake. The jury heard how Petitioner, attempting to avoid responsibility for the murder, lied repeatedly to police and Ms. Sills' family. Immediately after the murder, Petitioner picked up another friend and drove to Ms. Sills' home where Petitioner lied to her parents, telling them that Ms. Sills was at her sister's apartment.[2] He also told her parents that if anything happened to her, he did not want them to blame him.

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[1] Post-mortem DNA testing on the fetus revealed that Tucker was not the father.

[2] As her parents were aware, Ms. Sills' sister was hospitalized at the time with pregnancy complications and thus was not home to receive visitors.

He continued this fiction during his first two interviews with the police that were investigating Ms. Sills' disappearance. Petitioner also asked yet another friend to provide false statements corroborating Petitioner's story; however, the friend refused to do so. The defense did not call any witnesses during the penalty phase, but argued briefly during closing arguments that Petitioner was guilty only of second-degree murder and feticide, a non-responsive charge. During the State's rebuttal argument, Petitioner caused a disturbance in the courtroom that led his counsel to request that he be removed. On March 22, 2011, the jury unanimously voted to convict Petitioner of first-degree murder.

The penalty phase of his trial began the next day, wherein the State re-introduced the guilt phase evidence and elicited testimony from three victim impact witnesses. After the State rested, the defense called six witnesses to talk about Petitioner's childhood, including frequent moves and his mother's poor relationship choices, his skill in football and training horses, and his work in a civic organization aimed at providing positive influences for African-American boys. After deliberating, the jury found that the State had proven the following aggravating circumstances of: (1) the killing occurred during the perpetration or attempted perpetration of second degree kidnapping, and (2) the defendant created a risk of death or great bodily harm to more than one person. The jury unanimously voted to impose the death penalty.

Following the denial of his post-trial motions, an appeal was taken to the Louisiana Supreme Court alleging numerous errors in the trial court proceedings. Both the first-degree murder conviction and the death sentence were affirmed. *State v. Tucker*, 2013-1631 (09/01/2015), 181 So.3d 590, *rehearing denied* (10/30/2015). Petitioner now seeks a Writ of Certiorari to review the Louisiana Supreme Court's judgment, asking this court to hold that the imposition of the death penalty for a homicide offense is a cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. Alternatively, Petitioner seeks to have Louisiana's mechanism for capital sentencing held unconstitutional, claiming that the jury should be required to find that death is the appropriate penalty beyond a reasonable doubt.

ARGUMENT

In Louisiana, a death sentence is only possible after two unanimous jury verdicts, the first for a conviction for the highest of five grades of homicide and the second for the sentence. Trying a criminal defendant for a capital murder is an undertaking that the State does not take lightly; many factors must be weighed in consideration. One factor is the balancing test that every prosecutor involved in capital work must utilize – weighing the circumstances of the offense, the culpability of the offender, the wishes of the victim's family, and the possibilities of both rehabilitation and recidivism. Another is the considerable

expense and significantly increased burden on staff resources associated with a capital case. Capital trials also require an ever-increasing degree of caution and restraint on the part of the prosecutor due to jurisprudential restrictions, both present and anticipated. The deliberation required before seeking the death penalty is ironically also part of Petitioner's complaint, as he misrepresents prosecutorial discretion as a lack of support for the death penalty. Contrary to Petitioner's allegations, the people of the State of Louisiana have not retreated from the use of the death penalty when applied to the worst of offenders.

Petitioner's contention that the imposition of the death penalty is characterized by overwhelmed defense lawyers is a description of the Louisiana capital defense system that is unrecognizable to those who actually work with it on an everyday basis. Funded separately from, and more much more lavishly than, the indigent defense system for non-capital defendants, the highly-organized capital defense industry provides numerous lawyers and investigators, as well as ample expert witness funding for each capital client. According to statements attributed to Jay Dixon, the Louisiana Public Defender, 28% of the Louisiana state public defender board's budget – $9.5 million – goes to providing death penalty defense in just 30 to 40 cases per year (Appendix A – Nola.com/ The Times-Picayune). Despite the vast resources and expert counsel provided, there are times when the nature of the offender and the circumstances of the

offense are such that a unanimous jury of twelve persons will vote to impose the death penalty.

In brief, counsel ignores the facts of this case by presenting Petitioner as an intellectually disabled and possibly innocent victim of circumstance who was railroaded into a death sentence by an unjust system. This position is contradicted by the evidence presented at trial that proved that Petitioner admitted to committing the murder. The facts established by the evidence presented at trial prove that Lamondre Tucker was at one time a successful, college-bound football player, capable of instructing and leading other young men in a civic organization. His history is incompatible with intellectual disability, as are his remarkable efforts from jail to suborn perjury during his trial, leading to his subsequent conviction for jury tampering – a fact conveniently omitted by Petitioner from his brief. See *State v. Tucker*, 49,950 (La. App. 2d Cir. 2015), 170 So.3d 394. The evidence paints a picture of a selfish and hard-hearted man who saw his young victim as an inconvenient obstacle and so chose the most expeditious means of eliminating that obstacle. He granted Ms. Sills and her unborn child none of the human dignity that he now claims for himself. Twelve ordinary citizens, after hearing all the evidence both for and against him, voted unanimously both to convict him and to impose the death sentence. Fair and even-handed examination of the facts of this case leads to the conclusion that the death penalty is not a cruel or unusual punishment, but is warranted by the evidence. Petitioner fails to

make a persuasive argument for why this Honorable Court should eliminate the death penalty in the United States based on the facts before it in this case.

A. THERE IS NO NATIONAL CONSENSUS AGAINST THE DEATH PENALTY

Petitioner first argues that there is a national consensus against the death penalty and thus it should be declared unconstitutional by this Honorable Court. This argument ignores both the jurisprudence of this Court and the Fifth Amendment of the federal Constitution that explicitly acknowledge capital punishment as an accepted component of the criminal justice system. While it is true that this Court has restricted the application of the death penalty as to certain categories of offenders, Petitioner has made no showing that would warrant a sweeping pronouncement that the death penalty is entirely unconstitutional.

In *Atkins v. Virginia*, 536 U.S. 304, 122 S.Ct. 2242, 153 L.Ed.2d 335 (2002) and *Roper v. Simmons*, 543 U.S. 551, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005), this Honorable Court based its decision, in part, on evidence of a national consensus against the death penalty for mentally disabled offenders and juvenile offenders, respectively. As discussed in *Roper*, 543 U.S. at 564, 125 S.Ct. at 1192, when it and *Atkins*, *supra*, were decided, thirty states already prohibited the death penalty for the mentally disabled and for juveniles, twelve of which had abandoned the death

penalty altogether. What the court found significant in both cases was the "consistency of direction of change," with the number of states prohibiting the death penalty for mentally disabled and juvenile offenders indicating that society considered both categories of offenders to be "less culpable than the average criminal." *Atkins*, 536 U.S. at 315-316, 122 S.Ct. at 2249; *Roper*, 543 U.S. at 566-567, 125 S.Ct. at 1193-1194.

Petitioner notes the fact that nineteen states, plus the District of Columbia, have no death penalty. More significant is that thirty-one states, plus the United States government and military, maintain the death penalty (Appendix B – Death Penalty Information Center, States with and without the Death Penalty as of July 1, 2015, at http://www.deathpenaltyinfo.org/states-and-without-death-penalty). According to Gallup historical trends, as of October, 2015, 61% of Americans favor the death penalty for a person convicted of murder. The percentage of those favoring the death penalty has remained above the 60th percentile for over a decade. Close review of the numbers shows that support for the death penalty was at its lowest in 1965 when only 45% of those polled favored it, but public support increased sharply over the years and has remained stable with a clear majority of Americans favoring the death penalty (Appendix C – Gallup Historical Trends, http://www.gallup.com/poll/1606/Death-Penalty). These numbers do not evidence a national consensus against the death penalty or a consistent direction of change

away from the death penalty as a viable sentence for an adult murderer.

Disuse or infrequent use of the death penalty in those jurisdictions where it is available should not be considered indicative of a consensus against the death penalty or as evidence of a consistent direction of change away from the death penalty. Other factors more directly impact use or disuse of the death penalty in the majority states which maintain the death penalty. These factors include such things as the expense associated with capital prosecutions, the lengthy review process, issues concerning the appropriate method of execution, questions raised by the small number of those on death row who have been exonerated by DNA evidence,[3] and unilateral decisions by governing authorities. Decisions by governors to grant reprieves or impose moratoriums on capital punishment are decisions made by those individuals based on their own beliefs. Such decisions are not necessarily reflective of the majority of their constituents' beliefs. They do not reflect a national consensus disfavoring the death penalty. In late 2015, the State of California lifted the moratorium on executions. Aside from the efforts of various special interest groups and outliers, there is no public cry against the death penalty. Considering that a majority of our citizens favor the death penalty, its disuse or infrequent use is in contravention of the general

[3] Only 20 of 337 people exonerated since 1989 served time on death row. See www.innocenceproject.org.

consensus favoring the death penalty as an appropriate sentence for adult murderers.

B. THE CONSTITUTIONALITY OF THE DEATH PENALTY IS SETTLED LAW, SERVES VALID PENOLOGICAL AND SOCIETAL PURPOSES, AND, AS PREVIOUSLY LIMITED BY DECISIONS OF THIS HONORABLE COURT, ITS APPLICATION COMPORTS WITH PREVAILING STANDARDS OF DECENCY.

In *Gregg v. Georgia*, 428 U.S. 153, 96 S.Ct. 2909, 49 L.Ed.2d 859 (1976), this Honorable Court rejected the argument that the death penalty is per se unconstitutional. The *Gregg* court recognized that the death penalty serves the dual purposes of retribution and deterrence. It recognized that retribution "though unappealing to many, . . . is essential in an ordered society that asks its citizens to rely on legal processes rather than self-help to vindicate their wrongs." *Id*., at 184, 96 S.Ct. at 2930. The *Gregg* court also recognized the complexity of evaluating the deterrent effect of capital punishment, and it wisely noted that the responsibility for making such an evaluation "properly rests with the legislatures." *Id*., at 186-187, 96 S.Ct. at 2930. This Court has cited *Gregg* with approval in recent decisions, stating in one case that: "[O]ur decisions in this area [constitutionality of methods of execution] have been animated in part by the recognition that because it is settled that capital punishment is constitutional, '[i]t necessarily follows that there must be a [constitutional] means of

carrying it out.'" *Glossip v. Gross*, 135 S.Ct. 2726 (2015), citing *Baze v. Rees*, 553 U.S. 35, 47, 128 S.Ct. 1520 (2008). In his concurring opinion, Justice Scalia summarized the state of the law on this very question.

> "Mind you, not once in the history of the American Republic has this Court ever suggested the death penalty is categorically impermissible. The reason is obvious: it is impossible to hold unconstitutional that which the Constitution explicitly *contemplates*. The Fifth Amendment provides that '[n]o person shall be held to answer for a capital . . . crime, unless on a presentment or indictment of a Grand Jury,' and that no person shall be 'deprived of life . . . without due process of law.'" *Glossip*, *supra*, at 2747.

The relief Petitioner seeks – the complete abolition of the death penalty – would properly be achieved by an amendment to the federal Constitution. As it stands, the Petition for Writ of Certiorari ignores the Fifth Amendment, minimizes the retributive value of capital punishment, and, if granted, would usurp the legislative prerogative for determining the appropriate penalties available for the worst of offenses.

Even though infrequently imposed, the death penalty provides an appropriate avenue by which society may express its moral outrage against the depravity of murders, like the one committed by Petitioner. The death penalty also provides a means of justice for those families of the murdered who seek to have it imposed against the murderer. Certainly,

some families of murder victims do not seek capital punishment. But for those who do, it would be indecent to deprive them of this long-recognized and constitutional means of obtaining justice, regardless of any delays in the ultimate execution of the sentence. These considerations should not be lightly overlooked. That lengthy delays exist and that some jurisdictions have halted executions are not support for considering again the constitutionality of the death penalty as it exists today. Rather, they evidence the care that society is taking to ensure that death penalties are meted out to the truly deserving, like Petitioner.

By its decisions in *Atkins*, *supra*; *Roper*, *supra*; *Kennedy v. Louisiana*, 554 U.S. 407, 128 S.Ct. 2641, 171 L.Ed.2d 525 (2008), and *Coker v. Georgia*, 433 U.S. 584, 97 S.Ct. 2861, 53 L.Ed.2d 982 (1977), this Honorable Court limited the instances in which the death penalty could be imposed. Now, in line with the prevailing standards of decency in our ever evolving society, the death penalty is barred as to rapists of both adult women and children, murderers who are mentally retarded (intellectually disabled), and murderers who are under the age of 18. In holding that the death penalty is violative of the Eighth Amendment in *Coker* and *Kennedy*, the opinion distinguished between the severity and irrevocability of an intentional first degree murder as compared to a non-homicide crime such as rape. *Kennedy*, 554 U.S. at 438, 128 S.Ct. at 2660; *Coker*, 433 U.S. at 598, 97 S.Ct. at 2861. In *Atkins* and *Roper*, the court found

murderers who are "mentally retarded" and those who are under the age of 18 to be "categorically less culpable than the average criminal." *Atkins*, 536 U.S. at 316, 122 S.Ct. at 2242; *Roper*, 543 U.S. at 567, 125 S.Ct. at 1194. Here, the penalty imposed against petitioner, a fully culpable adult, is not barred by precedent confining the instances where the death penalty may be imposed and is not offensive to prevailing and evolving standards of decency in today's world.

C. THERE IS NO CONSTITUTIONAL BASIS FOR LOUISIANA TO REQUIRE THE JURY TO FIND BEYOND A REASONABLE DOUBT THAT DEATH IS THE APPROPRIATE PUNISHMENT.

Petitioner next argues that Louisiana's death penalty scheme violates the Sixth, Eighth, and Fourteenth Amendments in that the jury is not required to determine that death is the appropriate punishment beyond a reasonable doubt. More specifically, Petitioner argues that the jury should have been instructed that they must find that the death penalty is the appropriate sentence beyond a reasonable doubt. The Louisiana capital sentencing scheme mandates that the jury can determine that the death penalty is appropriate only after finding the existence of at least one aggravating factor and after considering any mitigating evidence. The aggravating factor must be proven beyond a reasonable doubt. La. C. Cr. P. Article 905.3.

In an unpublished appendix, the Louisiana Supreme Court rejected the arguments put forth here by Petitioner. Nevertheless, Petitioner alleges that this Honorable Court's jurisprudence supports his claim. He relies upon *Apprendi v. New Jersey*, 530 U.S. 466, 476 (2000); *Ring v. Arizona*, 536 U.S. 584, 602 (2002); and *United States v. Booker*, 543 U.S. 220, 125 S.Ct. 738, 752, 160 L.Ed.2d 621 (2005), to buttress his claim that the jury's decision in favor of the death penalty is subject to the requirement of proof beyond a reasonable doubt. In *Apprendi*, this Honorable Court held: "Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt." *Apprendi*, *supra* at 490. In *Ring*, this Honorable Court ruled that a statutory provision that stated that a trial judge, sitting alone, determined the presence or absence of aggravating factors required for imposition of the death penalty was a violation of the defendant's Sixth Amendment rights. *Ring*, *supra* at 609. In those cases, the Sixth Amendment violation occurred when a factual determination was made as to elements of sentencing by a judge instead of the jury. *Booker* applied the *Apprendi-Ring* rule to provisions of the federal sentencing guidelines that required enhanced penalties based upon factual determinations made by the judge. *Booker*, *supra* at 244. These cases do not stand for the proposition that Petitioner now argues. Rather, they stand for the principle that any **fact** (other than a prior conviction) that increases the penalty for a crime beyond the prescribed statutory

maximum must be submitted to a jury and proved beyond a reasonable doubt. Petitioner seeks to extend this line of cases to a moral-based decision that is not susceptible to a beyond-a-reasonable-doubt evaluation.

This Court considered a related question in 2015, when the case of *Kansas v. Carr*, 136 S.Ct. 633 (2015) was decided. In *Carr*, the issue before this Court was whether the Eighth Amendment requires capital sentencing courts to instruct the jury that mitigating circumstances need not be proven beyond a reasonable doubt. Finding that there was no such requirement, the Court wrote:

> "Whether mitigation exists, however, is largely a judgment call (or perhaps a value call); what one juror might consider mitigating another might not. And of course, the ultimate question whether mitigating circumstances outweigh aggravating circumstances is mostly a question of mercy – the quality of which, as we know, is not strained. It would mean nothing, we think, to tell the jury that the defendants must deserve mercy beyond a reasonable doubt; or must more-likely-than-not deserve it. . . . In the last analysis, jurors will accord mercy if they deem it appropriate, and withhold mercy if they do not, which is what our case law is designed to achieve." *Carr*, at 642.

The Court's reasoning in *Carr* applies equally to Petitioner's argument here, which conflates the requirement of proof beyond a reasonable doubt for

evidentiary findings such as the existence of aggravating factors with the moral, ethical, and philosophical questions posed by the decision to impose a capital sentence. In this case, the decision to impose the death penalty was made by a jury after the requisite aggravating factors were found beyond a reasonable doubt. The Sixth Amendment requires no more than this.

CONCLUSION

The petition for writ of certiorari should be denied.

Respectfully submitted,

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APPENDIX A

Greater New Orleans

Lawmakers look to shift money to public defenders – from death penalty appeals

The Louisiana House will take up a bill to provide more funding to public defenders – at the expense of the death penalty defense budget.

By Julia O'Donoghue, NOLA.com | The Times-Picayune
Email the author | Follow on Twitter
on April 07. 2016 at 2:40 PM, updated April 07, 2016 at 6:35 PM

The Louisiana House will take up legislation that seeks to get more money into the hands of local public defender offices – primarily by taking it from the defense teams representing people facing the death penalty.

The House Committee on the Administration of Criminal Justice passed House Bill 818 Thursday (April 7) to require the Louisiana Public Defender Board spend more of its budget on local public defender districts than it does now. It would also change the makeup of the board to make it more favorable to local public defender districts.

People on both sides of legislation agree that shifting more of the public defender board budget toward local districts would probably come at the expense of the capital crime defense budget. The board would have nowhere else to take the money.

The legislation would require 65 percent of the state public defenders board funding go to local districts. About 50 percent of the budget – which would be about $15 million in the current year – now goes to the local offices.

About 28 percent of the state public defender board's budget – $9.5 million – is currently devoted to providing death penalty defense, according to Jay Dixon, the state's public defender.

The public defenders board is paying for the defense in about 30 to 40 capital cases this year. The board contracts with private lawyers – many of whom work at nonprofit agencies – to provide the death penalty legal services. The legal work is notoriously time-consuming and expensive.

"I understand the bill does not take away money [from capital defense], but it practically does," said Sean Collins, a Baton Rouge lawyer who works on capital cases with a nonprofit entity.

Dixon and others warned that providing less money for death penalty defense would slow those legal proceedings. It would not necessarily mean the cases are wrapped up more cheaply.

Several of Louisiana's local public defender districts are struggling to provide basic services. In January, the New Orleans public defenders office announced it would refuse to accept new felony cases involving lengthy or life sentences, due to lack of money. And it's not the only Louisiana district taking such drastic action.

Public defenders from Monroe and the Florida parishes drove to Baton Rouge to speak in favor of the bill. They said a 65 percent allocation of the board's funding would provide more financial stability. They could plan for certain dollars to be available more than they can now.

"We usually don't know if we are getting our money until May or April," Reggie McIntyre, the public defender for Tangipahoa, Livingston and St. Helena parishes said. His budget cycle starts July 1.

But Dixon pointed out that about 75 percent of local public defenders' support is supposed to come from traffic tickets and court fees. And that is where the funding shortfall has mostly occurred.

Local court and ticket revenue has fallen dramatically in recent years. Dixon said shifting more of his $33 million budget from capital defense to local public defender offices won't change the primary problem. Indigent defense needs more money.

"It's not addressing the problem of funding," Dixon said of the legislation.

There are some who believe the state public defender board could spend less on death penalty cases and still provide adequate defense. Assistant District Attorney Hugo Holland, who works out of Lake Charles, said the board has an anti-death penalty bent right now, which means it is willing to fund every appeal effort.

Holland may not be alone in that belief. In addition to providing a floor for local public defender funding, the legislation also dramatically changes the makeup of the state public defender board.

If passed, the number of people on the board would change 15 to 11, and local public defenders would have much more say over who sat on it. Professors from local law schools would no longer have assigned slots on the board either. Holland believes those changes might mean that the amount of money allocated for death penalty defense could go down.

Still, some legislators are growing tired of the cost of the death penalty. It's not just that the public defenders board is spending $9.5 million on defense. Prosecutors spend a lot of time and money on their side of the cases. And it costs money to maintain death row at Angola.

Rep. Steve Pylant, a conservative Republican and retired sheriff from Winnsboro, has always been supportive of the death penalty. But he wondered aloud during the committee meeting Thursday if it was worth the expense anymore, especially when so many of the convictions get overturned.

. . . . . .

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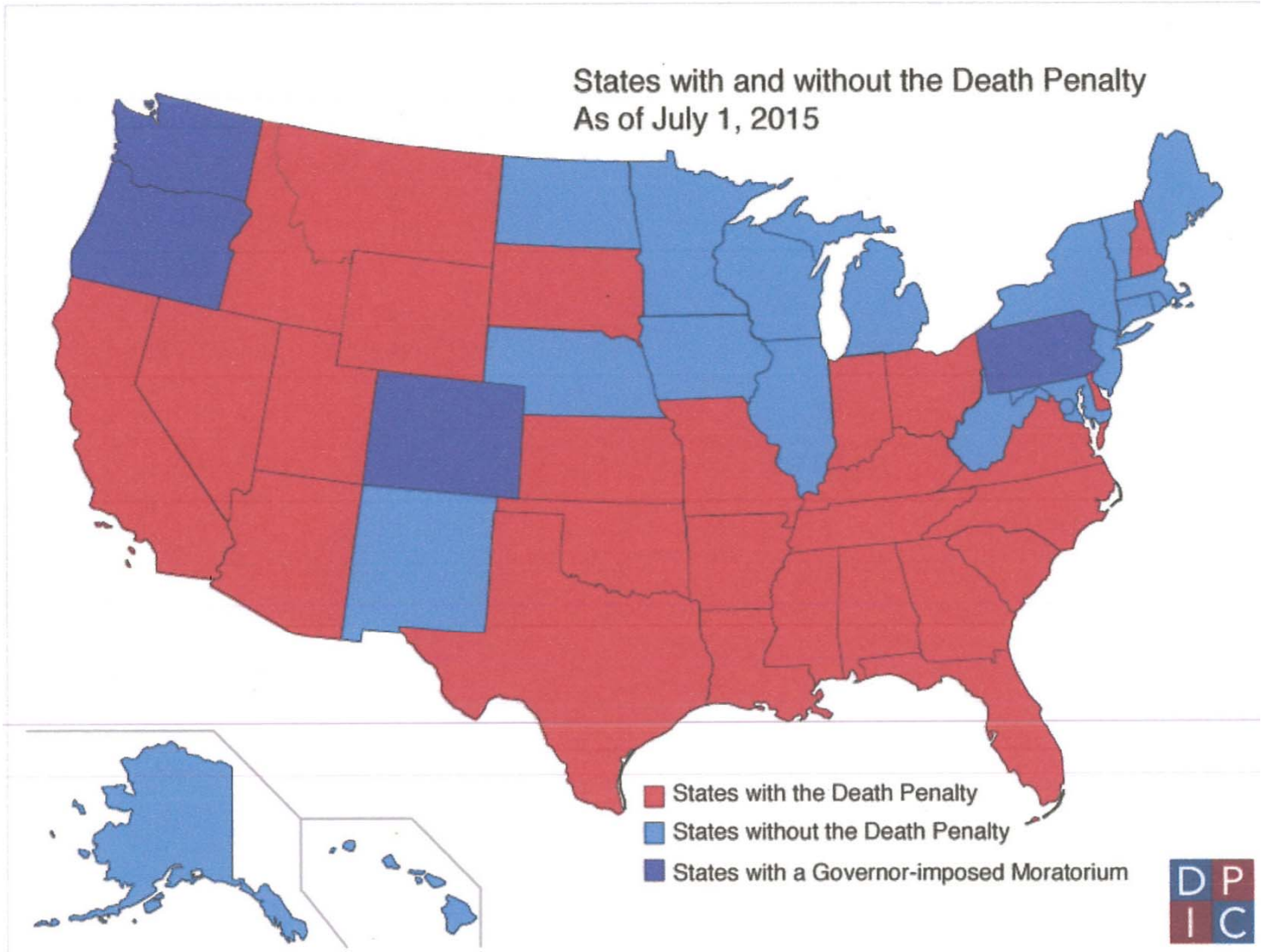
Please consider following us on Facebook at NOLA.com and NOLA.com-Baton Rouge.

APPENDIX B

DP DEATH PENALTY
IC INFORMATION CENTER

States With and Without the Death Penalty



STATES WITH THE DEATH PENALTY (31)

Alabama
Arizona
Arkansas
California
Colorado
Delaware
Florida
Georgia
Idaho
Indiana
Kansas
Kentucky
Louisiana
Mississippi
Missouri
Montana
Nevada
New Hampshire
North Carolina
Ohio
Oklahoma
Oregon
Pennsylvania
South Carolina
South Dakota
Tennessee
Texas
Utah
Virginia
Washington
Wyoming

ALSO
– U.S. Gov't
– U.S. Military

STATES WITHOUT THE DEATH PENALTY (19)
(YEAR ABOLISHED IN PARENTHESES)

Alaska (1957)	Michigan (1846)	Vermont (1964)
Connecticut (2012)	Minnesota (1911)	West Virginia (1965)
Hawaii (1957)	Nebraska** (2015)	Wisconsin (1853)
Illinois (2011)	New Jersey (2007)	**ALSO**
Iowa (1965)	New Mexico* (2009)	Dist. of Columbia (1981)
Maine (1887)	New York (2007)#	
Maryland (2013)	North Dakota (1973)	
Massachusetts (1984)	Rhode Island (1984)^	

* In March 2009, New Mexico voted to abolish the death penalty. However, the repeal was not retroactive, leaving two people on the state's death row.

** In May 2015, Nebraska voted to abolish the death penalty. The status of the 10 inmates on death row is uncertain at this time. A petition has been submitted to suspend the repeal and put it to a voter referendum.

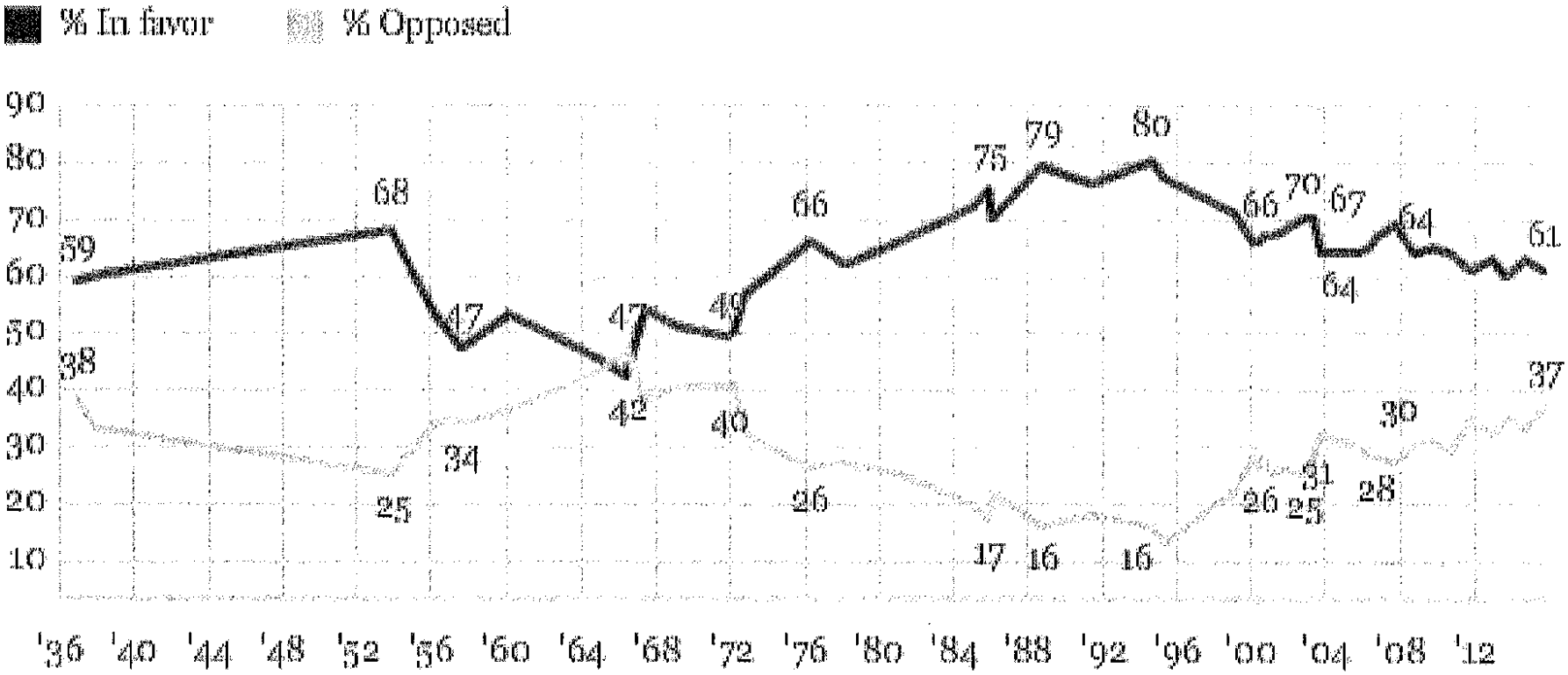
^ In 1979, the Supreme Court of Rhode Island held that a statute making a death sentence mandatory for someone who killed a fellow prisoner was unconstitutional. The legislature removed the statute in 1984.

In 2004, the New York Court of Appeals held that a portion of the state's death penalty law was unconstitutional. In 2007, they ruled that their prior holding applied to the last remaining person on the state's death row. The legislature has voted down attempts to restore the statute.

APPENDIX C

Death Penalty

Are you in favor of the death penalty for a person convicted of murder?



GALLUP

Are you in favor of the death penalty for a person convicted of murder?

	Favor	**Not in favor**	**No opinion**
	%	%	%
2015 Oct 7-11	61	37	2
2014 Oct 12-15	63	33	4
2013 Oct 3-6	60	35	5
2012 Dec 19-22	63	32	6
2011 Oct 6-9	61	35	4
2010 Oct 7-10	64	29	6
2009 Oct 1-4	65	31	5
2008 Oct 3-5	64	30	5
2007 Oct 4-7	69	27	4
2006 Oct 9-12	67	28	5
2006 May 5-7^	65	28	7
2005 Oct 13-16	64	30	6
2004 Oct 11-14	64	31	5
2003 Oct 6-8	64	32	4
2003 May 19-21	70	28	2
2002 Oct 14-17	70	25	5
2001 Oct 11-14	68	26	6
2001 Feb 19-21^	67	25	8
2000 Aug 29-Sep 5	67	28	5
2000 Jun 23-25	66	26	8
2000 Feb 14-15	66	28	6
1999 Feb 8-9	71	22	7
1995 May 11-14	77	13	10
1994 Sep 6-7	80	16	4
1991 Jun 13-16	76	18	6
1988 Sep 25-Oct 1	79	16	5

1988 Sep 9-11	79	16	5
1986 Jan 10-13	70	22	8
1985 Nov 11-18	75	17	8
1985 Jan 11-14	72	20	8
1981 Jan 30-Feb 2	66	25	9
1978 Mar 3-6	62	27	11
1976 Apr 9-12	66	26	8
1972 Nov 10-13	57	32	11
1972 Mar 3-5	50	41	9
1971 Oct 29-Nov 2	49	40	11
1969 Jan 23-28	51	40	9
1967 Jun 2-74	54	38	8
1966 May 19-24	42	47	11
1965 Jan 7-12	45	43	12
1960 Mar 2-7	53	36	11
1957 Aug 29-Sep 4	47	34	18
1956 Mar 29-Apr 3	53	34	13
1983 Nov 1-5	68	25	7
1937 Dec 1-6	60	33	7
1936 Dec 2-7	59	38	3

^ Asked of a half sample.

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http://www.gallup.com/poll/1606/death-penalty.aspx?version=print