

AN ANALYSIS OF DEATH PENALTY DECISIONS FROM THE OCTOBER 2006 SUPREME COURT TERM

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The Supreme Court's death penalty jurisprudence over the last six years reflects the Court's increasing concerns about the imposition of the sentence of death. The Court has barred the death penalty for persons who were under eighteen years of age at the time of the murder,¹ overturned death sentences based on racial bias and jury selection,² reversed death sentences based on incompetence of defense counsel³ and flawed instructions from the judge to the jury.⁴ This context frames this Article's discussion of the death penalty decisions from the October 2006 Term.

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¹ *Roper v. Simmons*, 543 U.S. 551, 578, app. 579-80 (2005) (listing states that have set the minimum age for the death penalty at eighteen).

² *See Miller-El v. Dretke*, 545 U.S. 231, 266 (2005) (finding that race-based peremptory strikes constituted reversible error). *See also Turner v. Murray*, 476 U.S. 28, 37 (1986) (holding that capital defendants are entitled to question prospective jurors about racial prejudice when that defendant stands accused of an interracial crime).

³ *See Wiggins v. Smith*, 539 U.S. 510, 519-20, 535-38 (2003) (holding that counsel's failure to offer mitigating evidence constituted ineffective assistance of counsel warranting remand). *See also Williams v. Taylor*, 529 U.S. 362, 398-99 (2000).

⁴ *See Kelly v. South Carolina*, 534 U.S. 246, 257 (2002) (reversing petitioner's death sentence because he was entitled to a clearer jury instruction regarding "parole ineligibility"); *Shafer v. South Carolina*, 532 U.S. 36, 54, 55 (2001) (finding reversible error for failing to instruct the jury that a life sentence did not permit the possibility of parole).