AMERICAN LAW PROGRAM
The Catholic University of America, Columbus School of Law
Jagiellonian University, Faculty of Law and Administration
20th year, 2019-2020

ENTRANCE EXAM 1 – ESSAY PART

Dear American Law Program Candidate!

In order to let the American Law Program staff assess your English language skills and abilities to actively participate and benefit from the regular courses, we kindly ask you to take our Entrance Exam. As the amount of students willing to join the program exceeds the amount of students who can be admitted, it serves also the selection of the best candidates in an objective manner.

To make the assessment and competition both fair and reasonable, we kindly ask you to obey the following rules:

During the exam **you are not allowed** to:
- consult anyone nor any materials, except for the texts that we distribute;
- look at other candidate's work;
- leave the room without permission;
- possess turned on cell phones or similar devices.

During the exam **you are supposed** to:
- write in a readable way, so that we are able to read your answers and grade them;
- mark your papers with your PESEL only.

The exam contains of two parts and **altogether lasts 100 minutes.**

The **first part**, is an **essay** part. Your task is to write an essay on the separate sheet of paper, on the assigned topic, which is based on the text attached in order to inspire you. You are supposed to show us that you can discuss a general legal topic in an interesting manner and proper English. Your essay must not exceed one sheet of the given paper. You have **60 minutes** to complete this part. After this time you must turn in your essay. This part is graded for 0-30 points.

The **second part**, which you are supposed to take later, is a **reading** part. You should read the text provided carefully. You may take notes on the separate sheet of paper. After **30 minutes** you must turn in the texts, but you may still keep the notes. Then you receive the questions and answers sheet. You are supposed to mark T for True and F for False on the given questions, for which you have **another 10 minutes**. This part is graded for 0-20 points.

The **results** should be available by July 15th, 2019. The results will be sent to you via e-mail and published on our website: http://www.okspo.wpia.uj.edu.pl/spa/ogloszenia as well as on our Facebook: http://www.facebook.com/szkolaprawaamerykanskiego

Good luck!

Essay Question

The NY Times article: *$2 Billion Verdict Against Monsanto Is Third to Find Roundup Caused Cancer* refers to the decision made by jury that Monsanto company should pay punitive damages in amount of $1.000.000.000 next to compensatory damages (actually in amount of about $50.000.000) to each of the Pilliod spouses who suffered from cancer after having used Roundup weed killer in their garden. The subsequent excerpt from *Black's Law Dictionary* elaborates on punitive damages as such.

A jury in Oakland, Calif., ordered Monsanto on Monday to pay a couple more than $2 billion in damages after finding that its Roundup weed killer caused their cancer — the third jury to conclude that the company failed to warn consumers of its flagship product's dangers. Thousands of additional lawsuits against Monsanto, which Bayer acquired last year, are queued up in state and federal courts.

The couple, Alva and Alberta Pilliod, used Roundup on their Northern California property for decades. In 2011, Mr. Pilliod, now 76, was given a diagnosis of non-Hodgkin's lymphoma. In 2015, his wife, who is 74, learned she had the same disease.

The jury, in state court in Alameda County, reached its verdict two months after a federal jury in San Francisco awarded $80 million to a man who claimed that Roundup had caused his non-Hodgkin's lymphoma. In August, a state court in San Francisco found that Roundup had caused the cancer of a school groundskeeper, awarding him $289 million. A judge reduced that figure to $78 million. That verdict is being appealed.

The Pilliods' lawyer, R. Brent Wisner, argued in court that a billion-dollar judgment would send a message to the chemical giant. He based the amount of punitive damages, $1 billion for each of the Pilliods, on what he said was Roundup's annual profit: $892 million in 2017.

After the verdict, Mr. Wisner said in a statement, "The jury saw for themselves internal company documents demonstrating that, from Day 1, Monsanto has never had any interest in finding out whether Roundup is safe." Another lawyer for the couple, Michael Miller, said homeowners like the Pilliods were more at risk than professional gardeners because they were never told to wear any protective gloves or clothing.

A Bayer spokesman, Chris Loder, said in an interview, "Bayer believes the punitive verdict is excessive and unjustifiable."

The active ingredient in the herbicide, glyphosate, is the world's most widely used weed killer. Bayer has repeatedly declared that the chemical is safe, saying health regulators worldwide have come to the same conclusion.

Punitive damages. The costs that are awarded to a person due to negligence that has caused personal injury or damage to personal property. It is more than the item is worth but considerably so. It is a payment by the person to the injured party as a punishment for reckless behavior.

Do you find it proper that damages grossly exceeding the loss suffered by the injured party may be awarded? If so, what kind of behavior should (only) lead to punitive damages? Also, if so, should it be admissible regarding sums of such extraordinary value from the perspective of the injured party, as $1 billion? Consider various interests – of the company, of the injured party, of society, of shareholders of the company or of consumers of the company products - who may eventually bear the burden of claims against the company.

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ENTRANCE EXAM 2 – READING PART (TEXT)

Read the text of the U.S. Supreme Court judgment in: *Atkins v. Virginia*, 536 U.S. 304 (2002), in which the Court elaborated against the constitutionality of the death penalty against mentally disabled criminals. This text also includes the dissenting opinion in which J. Scalia disagrees with the judgment. When reading you may take notes. After 30 minutes you will have to turn in the text and answer the questions with a use of your notes as well as your understanding only.

"**JUSTICE STEVENS delivered the opinion of the Court.**

Those mentally retarded persons who meet the law's requirements for criminal responsibility should be tried and punished when they commit crimes. Because of their disabilities in areas of reasoning, judgment, and control of their impulses, however, they do not act with the level of moral culpability that characterizes the most serious adult criminal conduct. Moreover, their impairments can jeopardize the reliability and fairness of capital proceedings against mentally retarded defendants. Presumably for these reasons, in the 13 years since we decided *Penry v. Lynaugh*, 492 U. S. 302 (1989), the American public, legislators, scholars, and judges have deliberated over the question whether the death penalty should ever be imposed on a mentally retarded criminal. […]

I Petitioner, Daryl Renard Atkins, was convicted of abduction, armed robbery, and capital murder, and sentenced to death. At approximately midnight on August 16, 1996, Atkins and William Jones, armed with a semiautomatic handgun, abducted Eric Nesbitt, robbed him of the money on his person, drove him to an automated teller machine in his pickup truck where cameras recorded their withdrawal of additional cash, then took him to an isolated location where he was shot eight times and killed.

Jones and Atkins both testified in the guilt phase of Atkins' trial. Each confirmed most of the details in the other's account of the incident, with the important exception that each stated that the other had actually shot and killed Nesbitt. Jones' testimony, which was both more coherent and credible than Atkins', was obviously credited by the jury and was sufficient to establish Atkins' guilt. At the penalty phase of the trial, the State introduced victim impact evidence and proved two aggravating circumstances: future dangerousness and "vileness of the offense." To prove future dangerousness, the State relied on Atkins' prior felony convictions as well as the testimony of four victims of earlier robberies and assaults. To prove the second aggravator, the prosecution relied upon the trial record, including pictures of the deceased's body and the autopsy report.

In the penalty phase, the defense relied on one witness, Dr. Evan Nelson, a forensic psychologist who had evaluated Atkins before trial and concluded that he was "mildly mentally retarded." His conclusion was based on interviews with people who knew Atkins, a review of school and court records, and the administration of a standard intelligence test which indicated that Atkins had a full scale IQ of 59.

The jury sentenced Atkins to death, but the Virginia Supreme Court ordered a second sentencing hearing because the trial court had used a misleading verdict form. 257 Va. 160,510 S. E. 2d 445 (1999). At the resentencing, Dr. Nelson again testified. The State presented an expert rebuttal witness, Dr. Stanton Samenow, who expressed the opinion that Atkins was not mentally retarded, but rather

was of "average intelligence, at least," and diagnosable as having antisocial personality disorder. App.476. The jury again sentenced Atkins to death.

The Supreme Court of Virginia affirmed the imposition of the death penalty. 260 Va. 375, 385, 534 S. E. 2d 312, 318 (2000). Atkins did not argue before the Virginia Supreme Court that his sentence was disproportionate to penalties imposed for similar crimes in Virginia, but he did contend "that he is mentally retarded and thus cannot be sentenced to death." *Id.*, at 386, 534 S. E. 2d, at 318. The majority of the state court rejected this contention, relying on our holding in *Penry*. 260 Va., at 387, 534 S. E. 2d, at 319. […]

Justice Hassell and Justice Koontz dissented. They rejected Dr. Samenow's opinion that Atkins possesses average intelligence as "incredulous as a matter of law," and concluded that "the imposition of the sentence of death upon a criminal defendant who has the mental age of a child between the ages of 9 and 12 is excessive." *Id.*, at 394, 395-396, 534 S. E. 2d, at 323-324. […]

Because of the gravity of the concerns expressed by the dissenters, and in light of the dramatic shift in the state legislative landscape that has occurred in the past 13 years, we granted certiorari to revisit the issue that we first addressed in the *Penry* case. 533 U. S. 976 (2001).

II The Eighth Amendment succinctly prohibits "[e]xcessive" sanctions. It provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." In *Weems v. United States*, 217 U. S. 349 (1910), we held that a punishment of 12 years jailed in irons at hard and painful labor for the crime of falsifying records was excessive. We explained "that it is a precept of justice that punishment for crime should be graduated and proportioned to [the] offense." *Id.*, at 367. We have repeatedly applied this proportionality precept in later cases interpreting the Eighth Amendment. See *Harmelin v. Michigan*, 501 U. S. 957, 997-998 (1991)

[…] As Chief Justice Warren explained in his opinion in *Trop v. Dulles*, 356 U. S. 86 (1958): "The basic concept underlying the Eighth Amendment is nothing less than the dignity of man . . . . The Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society." *Id.*, at 100-101.

Proportionality review under those evolving standards should be informed by "'objective factors to the maximum possible extent,'" see *Harmelin*, 501 U. S., at 1000 (quoting *Rummel v. Estelle*, 445 U. S. 263, 274-275 (1980)). […]

We also acknowledged in *Coker* that the objective evidence, though of great importance, did not "wholly determine" the controversy, "for the Constitution contemplates that in the end our own judgment will be brought to bear on the question of the acceptability of the death penalty under the Eighth Amendment." 433 U. S., at 597. […]

III The parties have not called our attention to any state legislative consideration of the suitability of imposing the death penalty on mentally retarded offenders prior to 1986. In that year, the public reaction to the execution of a mentally retarded murderer in Georgia apparently led to the enactment of the first state statute prohibiting such executions. In 1988, when Congress enacted legislation reinstating the federal death penalty, it expressly provided that a "sentence of death shall not be carried out upon a person who is mentally retarded." In 1989, Maryland enacted a similar prohibition. It was in that year that we decided *Penry*, and concluded that those two state enactments, "even when added to the 14 States that have rejected capital punishment completely, do not provide sufficient evidence at present of a national consensus." 492 U. S., at 334.

Much has changed since then. Responding to the national attention received by the Bowden execution and our decision in *Penry*, state legislatures across the country began to address the issue. In 1990, Kentucky and Tennessee enacted statutes similar to those in Georgia and Maryland, as did New Mexico in 1991, and Arkansas, Colorado, Washington, Indiana, and Kansas in 1993 and 1994. In 1995, when New York reinstated its death penalty, it emulated the Federal Government by expressly exempting the mentally retarded. Nebraska followed suit in 1998. There appear to have been no similar enactments during the next two years, but in 2000 and 2001 six more States--South Dakota, Arizona, Connecticut, Florida, Missouri, and North Carolina--joined the procession. The Texas Legislature unanimously adopted a similar bill, and bills have passed at least one house in other States, including Virginia and Nevada.

It is not so much the number of these States that is significant, but the consistency of the direction of change. Given the well-known fact that anticrime legislation is far more popular than legislation providing protections for persons guilty of violent crime, the large number of States prohibiting the execution of mentally retarded persons (and the complete absence of States passing legislation reinstating the power to conduct such executions) provides powerful evidence that today our society views mentally retarded offenders as categorically less culpable than the average criminal. The evidence carries even greater force when it is noted that the legislatures that have addressed the issue have voted overwhelmingly in favor of the prohibition. Moreover, even in those States that allow the execution of mentally retarded offenders, the practice is uncommon. Some States, for example New Hampshire and New Jersey, continue to authorize executions, but none have been carried out in decades. Thus there is little need to pursue legislation barring the execution of the mentally retarded in those States. And it appears that even among those States that regularly execute offenders and that have no prohibition with regard to the mentally retarded, only five have executed offenders possessing a known IQ less than 70 since we decided *Penry*. The practice, therefore, has become truly unusual, and it is fair to say that a national consensus has developed against it.

[from the footnote] Additional evidence makes it clear that this legislative judgment reflects a much broader social and professional consensus. For example, several organizations with germane expertise have adopted official positions opposing the imposition of the death penalty upon a mentally retarded offender. See Brief for American Psychological Association et al. as *Amici Curiae;* Brief for AAMR et al. as *Amici Curiae.* In addition, representatives of widely diverse religious communities in the United States, reflecting Christian, Jewish, Muslim, and Buddhist traditions, have filed an *amicus curiae* brief explaining that even though their views about the death penalty differ, they all "share a conviction that the execution of persons with mental retardation cannot be morally justified." Brief for United States Catholic Conference et al. as *Amici Curiae* 2. Moreover, within the world community, the imposition of the death penalty for crimes committed by mentally retarded offenders is overwhelmingly disapproved. Brief for European Union as *Amicus Curiae* 4. Finally, polling data shows a widespread consensus among Americans, even those who support the death penalty, that executing the mentally retarded is wrong. Bonner & Rimer, Executing the Mentally Retarded Even as Laws Begin to Shift, N. Y. Times, Aug. 7,2000, p. AI; App. B to Brief for AAMR et al. as *Amici Curiae* (appending approximately 20 state and national polls on the issue). Although these factors are by no means dispositive, their consistency with the legislative evidence lends further support to our conclusion that there is a consensus among those who have addressed the issue. See *Thompson v. Oklahoma,* 487 U. S. 815, 830, 831, n. 31 (1988) (considering the views of "respected professional organizations, by other nations that share our Anglo-American heritage, and by the leading members of the Western European community.

To the extent there is serious disagreement about the execution of mentally retarded offenders, it is in determining which offenders are in fact retarded. […] As was our approach in *Ford v. Wainwright,* 477 U. S. 399 (1986), with regard to insanity, "we leave to the State[s] the task of developing appropriate ways to enforce the constitutional restriction upon [their] execution of sentences." *Id.,* at 405, 416-417.

IV This consensus unquestionably reflects widespread judgment about the relative culpability of mentally retarded offenders, and the relationship between mental retardation and the penological purposes served by the death penalty. Additionally, it suggests that some characteristics of mental retardation undermine the strength of the procedural protections that our capital jurisprudence steadfastly guards.

As discussed above, clinical definitions of mental retardation require not only subaverage intellectual functioning, but also significant limitations in adaptive skills such as communication, self-care, and self-direction that became manifest before age 18. Mentally retarded persons frequently know the difference between right and wrong and are competent to stand trial. Because of their impairments, however, by definition they have diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others. There is no evidence that they are more likely to engage in criminal conduct than others, but there is abundant evidence that they often act on impulse rather than pursuant to a premeditated plan, and that in group settings they are followers rather than leaders. Their deficiencies do not warrant an exemption from criminal sanctions, but they do diminish their personal culpability.

In light of these deficiencies, our death penalty jurisprudence provides two reasons consistent with the legislative consensus that the mentally retarded should be categorically excluded from execution. First, there is a serious question as to whether either justification that we have recognized as a basis for the death penalty applies to mentally retarded offenders. *Gregg v. Georgia*, 428 U. S. 153, 183 (1976) (joint opinion of Stewart, Powell, and STEVENS, JJ.), identified "retribution and deterrence of capital crimes by prospective offenders" as the social purposes served by the death penalty. Unless the imposition of the death penalty on a mentally retarded person "measurably contributes to one or both of these goals, it 'is nothing more than the purposeless and needless imposition of pain and suffering,' and hence an unconstitutional punishment." *Enmund*, 458 U. S., at 798.

With respect to retribution--the interest in seeing that the offender gets his "just deserts"--the severity of the appropriate punishment necessarily depends on the culpability of the offender. Since *Gregg*, our jurisprudence has consistently confined the imposition of the death penalty to a narrow category of the most serious crimes. For example, in *Godfrey v. Georgia*, 446 U. S. 420 (1980), we set aside a death sentence because the petitioner's crimes did not reflect "a consciousness materially more 'depraved' than that of any person guilty of murder." *Id.*, at 433. If the culpability of the average murderer is insufficient to justify the most extreme sanction available to the State, the lesser culpability of the mentally retarded offender surely does not merit that form of retribution. Thus, pursuant to our narrowing jurisprudence, which seeks to ensure that only the most deserving of execution are put to death, an exclusion for the mentally retarded is appropriate.

With respect to deterrence--the interest in preventing capital crimes by prospective offenders--"it seems likely that 'capital punishment can serve as a deterrent only when murder is the result of premeditation and deliberation,'" *Enmund*, 458 U. S., at 799. Exempting the mentally retarded from that punishment will not affect the "cold calculus that precedes the decision" of other potential murderers. *Gregg*, 428 U. S., at 186. Indeed, that sort of calculus is at the opposite end of the spectrum from behavior of mentally retarded offenders. The theory of deterrence in capital sentencing is predicated upon the notion that the increased severity of the punishment will inhibit criminal actors from carrying out murderous conduct. Yet it is the same cognitive and behavioral impairments that make these defendants less morally culpable--for example, the diminished ability to understand and process information, to learn from experience, to engage in logical reasoning, or to control impulses--that also make it less likely that they can process the information of the possibility of execution as a

penalty and, as a result, control their conduct based upon that information. Nor will exempting the mentally retarded from execution lessen the deterrent effect of the death penalty with respect to offenders who are not mentally retarded. Such individuals are unprotected by the exemption and will continue to face the threat of execution. Thus, executing the mentally retarded will not measurably further the goal of deterrence.

The reduced capacity of mentally retarded offenders provides a second justification for a categorical rule making such offenders ineligible for the death penalty. The risk "that the death penalty will be imposed in spite of factors which may call for a less severe penalty," *Lockett v. Ohio*, 438 U. S. 586, 605 (1978), is enhanced, not only by the possibility of false confessions, but also by the lesser ability of mentally retarded defendants to make a persuasive showing of mitigation in the face of prosecutorial evidence of one or more aggravating factors. Mentally retarded defendants may be less able to give meaningful assistance to their counsel and are typically poor witnesses, and their demeanor may create an unwarranted impression of lack of remorse for their crimes. As *Penry* demonstrated, moreover, reliance on mental retardation as a mitigating factor can be a two-edged sword that may enhance the likelihood that the aggravating factor of future dangerousness will be found by the jury. 492 U. S., at 323-325. Mentally retarded defendants in the aggregate face a special risk of wrongful execution.

Our independent evaluation of the issue reveals no reason to disagree with the judgment of "the legislatures that have recently addressed the matter" and concluded that death is not a suitable punishment for a mentally retarded criminal. We are not persuaded that the execution of mentally retarded criminals will measurably advance the deterrent or the retributive purpose of the death penalty. Construing and applying the Eighth Amendment in the light of our "evolving standards of decency," we therefore conclude that such punishment is excessive and that the Constitution "places a substantive restriction on the State's power to take the life" of a mentally retarded offender. *Ford*, 477 U. S., at 405.

The judgment of the Virginia Supreme Court is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

JUSTICE SCALIA, with whom THE CHIEF JUSTICE and JUSTICE THOMAS join, **dissenting.**

II […] The Court makes no pretense that execution of the mildly mentally retarded would have been considered "cruel and unusual" in 1791. Only the *severely* or *profoundly* mentally retarded, commonly known as "idiots," enjoyed any special status under the law at that time. They, like lunatics, suffered a "deficiency in will" rendering them unable to tell right from wrong. 4 W. Blackstone, Commentaries on the Laws of England 24 (1769) (hereinafter Blackstone); see also *Penry*, 492 U. S., at 331-332

[…] The Court pays lipservice to these precedents as it miraculously extracts a "national consensus" forbidding execution of the mentally retarded, *ante*, at 316, from the fact that 18 States--less than *half* (47%) of the 38 States that permit capital punishment (for whom the issue exists)--have very recently enacted legislation barring execution of the mentally retarded. Even that 47% figure is a distorted one. If one is to say, as the Court does today, that *all* executions of the mentally retarded are so morally repugnant as to violate our national "standards of decency," surely the "consensus" it points to must be one that has set its righteous face against *all* such executions. Not 18 States, but only 7--18% of death penalty jurisdictions--have legislation of that scope.

[…] That bare number of States alone--18--should be enough to convince any reasonable person that no "national consensus" exists. How is it possible that agreement among 47% of the death penalty jurisdictions amounts to "consensus"? Our prior cases have generally required a much higher degree of agreement before finding a punishment cruel and unusual on "evolving standards" grounds. In *Coker, supra,* at 595-596, we proscribed the death penalty for rape of an adult woman after finding that only one jurisdiction, Georgia, authorized such a punishment.

[…] But the Prize for the Court's Most Feeble Effort to fabricate "national consensus" must go to its appeal (deservedly relegated to a footnote) to the views of assorted professional and religious organizations, members of the so-called "world community," and respondents to opinion polls. *Ante,* at 316-317, n. 21. […] views of professional and religious organizations and the results of opinion polls are irrelevant. Equally irrelevant are the practices of the "world community," whose notions of justice are (thankfully) not always those of our people. […]

III Beyond the empty talk of a "national consensus," the Court gives us a brief glimpse of what really underlies today's decision: pretension to a power confined *neither* by the moral sentiments originally enshrined in the Eighth Amendment (its original meaning) *nor even* by the current moral sentiments of the American people. "'[T]he Constitution,'" the Court says, "contemplates that in the end *our own judgment* will be brought to bear on the question of the acceptability of the death penalty under the Eighth Amendment.'" *Ante,* at 312 (quoting *Coker,* 433 U. S., at 597) (emphasis added). (The unexpressed reason for this unexpressed "contemplation" of the Constitution is presumably that really good lawyers have moral sentiments superior to those of the common herd, whether in 1791 or today.) The arrogance of this assumption of power takes one's breath away. And it explains, of course, why the Court can be so cavalier about the evidence of consensus. It is just a game, after all. "'[I]n the end,'" *Thompson, supra,* at 823, n. 8 (plurality opinion (quoting *Coker, supra,* at 597 (plurality opinion))), it is the *feelings* and *intuition* of a majority of the Justices that count-"the perceptions of decency, or of penology, or of mercy, entertained . . . by a majority of the small and unrepresentative segment of our society that sits on this Court." *Thompson, supra,* at 873 (SCALIA, J., dissenting).

[…] The genuinely operative portion of the opinion, then, is the Court's statement of the reasons why it agrees with the contrived consensus it has found, that the "diminished capacities" of the mentally retarded render the death penalty excessive. *Ante,* at 317-321. The Court's analysis rests on two fundamental assumptions: (1) that the Eighth Amendment prohibits excessive punishments, and (2) that sentencing juries or judges are unable to account properly for the "diminished capacities" of the retarded. The first assumption is wrong, as I explained at length in *Harmelin v. Michigan,* 501 U. S. 957, 966-990 (1991) (opinion of SCALIA, J.). The Eighth Amendment is addressed to always-andeverywhere "cruel" punishments, such as the rack and the thumbscrew. But where the punishment is in itself permissible, "[t]he Eighth Amendment is not a ratchet, whereby a temporary consensus on leniency for a particular crime fixes a permanent constitutional maximum, disabling the States from giving effect to altered beliefs and responding to changed social conditions." *Id.,* at 990. The second assumption--inability of judges or juries to take proper account of mental retardation--is not only unsubstantiated, but contradicts the immemorial belief, here and in England, that they play an *indispensable* role in such matters.

[…] Once the Court admits (as it does) that mental retardation does not render the offender morally *blameless, ante,* at 318, there is no basis for saying that the death penalty is *never* appropriate retribution, no matter *how* heinous the crime. As long as a mentally retarded offender knows "the difference between right and wrong," *ibid.,* only the sentencer can assess whether his retardation reduces his culpability enough to exempt him from the death penalty for the particular murder in question."

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ENTRANCE EXAM 1 – READING PART (QUESTIONS)

Based on the read texts of the U.S. Supreme Court judgment in: *Atkins v. Virginia*, 536 U.S. 304 (2002) together with the dissenting opinion – in particular your notes as well as your understanding to it, decide whether the statements below are True (T) or False (F). You have 10 minutes to complete this part of the exam.

PESEL:

		True	**False**
Regarding the opinion of the Court			
1.	The opinion of the Court was written by its single member we know from name.		
2.	The sentenced and punished criminal, Atkins, was convicted of attempted murder.		
3.	Atkins committed his crime alone.		
4.	It did not matter for the court in the punishment phase of the criminal proceeding that Atkins had an earlier criminal history.		
5.	In the criminal proceeding there were two forensic opinions issued, both of which confirmed mental retardation of Atkins.		
6.	The *Atkins* case is not the first case in which the Court dealt with death penalty against the mentally disabled criminal.		
7.	The Eight Amendment prohibits excessive penalties based primarily on the necessity of punishment being proportional to the crime.		
8.	The first statutory prohibition of death penalty against mentally disabled criminal was a result of public reaction to execution of such a criminal in one state.		
9.	The Court refers to a number of states which adopted statutory prohibition of death penalty against mentally disabled criminals but does not refer to states which despite lacking such prohibition do not authorize actual executions on such criminals.		
10.	The Court supports the opinion with statements of foreign organizations, doing this for the first time in its jurisprudence.		

11.	According to the clinical research referred to by the Court define mental disability as requiring not only intellectual functioning but also adaptive skills.		
12.	Mentally disabled criminals are pursuing prior plan more often than others.		
13.	There is generally lesser culpability of the mentally disabled criminal.		
14.	The mentally disabled criminals are less capable of processing information about potential death penalty, and the deterring function of the penalty will be less effective.		
15.	E.g. because mentally disabled criminals are likely to be found more dangerous by the jury, and because they proceed the evidentiary proceeding worse, they are more likely to be wrongfully executed.		
16.	The Supreme Court reached the same judgment as the previous instance court.		
Regarding the dissenting opinion of J. Scalia			
17.	The Court improperly analyzed whether it was in the original meaning of the Constitution that mentally disabled criminals should be protected under the Eight Amendment		
18.	The opinion of religious or professional organizations should be irrelevant as to the assessment of "national" consensus.		
19.	The Court should not decide according to its own feelings as e.g. unrepresentative.		
20.	If it is generally admissible in the system to impose death penalty, it should be the judge who decided on it on a case-by-case basis, including the analysis of the retardation of the criminal.		