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COURT DISMISSES EFFORT TO INVOKE INTERNATIONAL LAW TO TRUMP U.S. CRIMINAL LAWS

(Medellin v. Dretke, No. 04-5928)

The U.S. Supreme Court today dismissed as improvidently granted a case in which a criminal defendant, properly convicted of murder and sentenced to death, was attempting to invoke international law as a basis for overturning his conviction. The decision was a victory for the Washington Legal Foundation (WLF), which filed a brief in the case, *Medellin v. Dretke*, on behalf of Randy and Sandy Ertman, the parents of one of the murder victims: 14-year-old Jenny Ertman. Other WLF clients include U.S. Representatives Steve Chabot and Walter B. Jones and the Allied Educational Foundation.

“The defendant is attempting to delay his execution by invoking the ruling of an international court. But U.S. courts are supposed to base their decisions on American law, not international law,” said WLF Chief Counsel Richard Samp after reviewing the Supreme Court’s decision. “Where, as here, a defendant was convicted of a gruesome murder more than a decade ago and every appellate court has concluded that he received a fair trial, he should not be permitted to continue to delay his sentence by invoking a new, international-law issue that he failed to raise until years after his initial conviction,” Samp said. “The Supreme Court’s decision to dismiss the case brings the Ertman family one step closer to the justice it deserves,” Samp said.

The case now returns to the Texas state courts, where the convicted murderer has filed yet another petition to have his sentence overturned. In light of an International Court of Justice ruling that questions the sentence, the Bush Administration has directed the Texas courts to consider the merits of the defendants’ claims. Indeed, that directive was a major factor in the Supreme Court’s decision to dismiss the case. One issue that the Texas courts will have to decide is whether the Bush Administration has the authority to direct state courts to disregard their own procedural rules in order to consider claims that, according to previous state court rulings, have been procedurally defaulted.

The case involves Jose Ernesto Medellin, who is a Mexican citizen but has lived virtually all his life in Houston. In June 1993, 14-year-old Jenny Ertman and 16-year-old Elizabeth Pena had the misfortune of encountering Medellin’s gang while walking home. Gang members brutally raped both girls for more than an hour before strangling them with their shoelaces.

Medellin was arrested for the crimes after boasting about his acts to numerous acquaintances. He was read his *Miranda* rights and then confessed to involvement in the crimes. A jury convicted him of capital murder and sentenced him to death in October 1994. Every court that has reviewed his case since then has determined that he received a fair trial.

Medellin never mentioned at trial that he was not a U.S. citizen. He first raised that issue in 1998, when he sought to overturn his conviction based on alleged violation of his rights under the Vienna Convention, which provides that anyone arrested outside of his native country must be informed of his right to communicate with consular officials representing his native country. Because Medellin was not told when arrested that he had a right to communicate with Mexican officials, he claimed that his subsequent conviction could not stand. Both the Texas and lower federal courts refused to consider his claims, ruling that he had waived them by waiting four years to raise them. By dismissing Medellin's case, the Supreme Court leaves those lower court decisions in place.

While Medellin's appeals were on-going, Mexico filed suit against the United States before the International Court of Justice (ICJ), claiming that American police had failed to inform arrested Mexicans in 54 capital cases (including Medellin's case) of their rights under the Vienna Convention. Despite claims by the U.S. that the ICJ lacked jurisdiction over the matter and had no power to interfere with the internal workings of American criminal courts, the ICJ ruled in favor of Mexico. It ruled that the federal courts must give each of the Mexicans a full hearing on their claims that they were prejudiced in some way by the failure to let them know of their right to contact Mexican consular officials. Medellin then appealed his case to the U.S. Supreme Court, arguing that the Supreme Court was bound to enforce the ICJ judgment.

In its brief filed in support of Texas, WLF argued that only American law, not international law, is enforceable in U.S. courts. WLF argued that because Congress made clear in a law adopted in 1996 (many years *after* adoption of the Vienna Convention) that arguments such as Medellin's are waived unless raised at trial, Medellin should be deemed to have waived any treaty rights he may have had -- particularly because he was represented by competent counsel and has failed to demonstrate how he was prejudiced by not learning of his consular rights.

WLF is a public interest law and policy center with supporters in all 50 states, including Texas. It devotes a significant portion of its resources to protecting the rights of crime victims and ensuring that American courts decide cases based on American law.

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For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302. A copy of WLF's brief is posted on its web site, www.wlf.org.