



## OUR VIEW: The U.S. Supreme Court shouldn't allow an Alabama Death Row inmate to be executed without federal review of his case

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**N** By **Birmingham News editorial board**

Does the U.S. Supreme Court value life, albeit a deeply flawed one, as much as it does a piece of property?

That, in a manner of speaking, is at the crux of a case involving a Death Row inmate from Alabama that the high court will hear today.



(AP/Dave Martin)

Alabama's lethal injection chamber at Holman Correctional Facility in Atmore is pictured in this Oct. 7, 2002 file photo.

Here's the back story: Cory Maples, now 37, was convicted in the 1995 shooting deaths of two acquaintances as they sat in a car in his driveway after Maples had been drinking, according to prosecutors. Police found him two weeks later in Tennessee in the car of one of the victims. Maples confessed to police.

Maples appealed his conviction, which was upheld by Alabama courts. His next round of appeals were to be done by two New York lawyers handling his case for free. But both left the firm while Maples' appeal was pending, and written notice sent to them that a court had rejected his appeal was returned unopened to a court clerk in Alabama. The mix-up wasn't discovered until after Maples' deadline for appealing the order had

passed.

Maples' new attorney, Gregory Garre, argues that Maples' lawyers abandoned him, and Alabama officials took no action after receiving the unopened letters to ensure Maples was notified his appeal had been denied.

As Garre put it: "This court held that a state may not simply shrug (its) shoulders and say 'I tried' when it learns that its attempt to provide notice of the deprivation of an important property interest has failed because the letters it has mailed have been returned unclaimed.

"Due process requires no less when a life is at stake," wrote Garre, former U.S. solicitor general for President George W. Bush.

The state of Alabama counters that Maples is "unquestionably guilty of murdering two people." The state also argues that Maples' in-state lawyer received notice the appeal had been rejected; Garre contends the in-state lawyer had no role in the case other than to allow the out-of-state lawyers to appear on Maples' behalf in Alabama.

State lawyers are perfectly fine with Maples not receiving federal review of his claims, which is perfectly wrong.

Without doubt, the death penalty appeals process is long and arduous for everyone involved, especially victims' families. But the point to the process is to make sure the state gets it right -- not only ensuring that a person convicted of capital murder is actually guilty, was adequately represented and received a fair trial, but also that he was properly sentenced to death.

In Maples' case, the main question is whether his court-appointed attorneys were competent. Barre argues Maples' trial and sentencing were "tainted by gross ineffectiveness" of his lawyers, who admitted they were "stumbling around in the dark" because of their lack of experience with capital cases. They failed to investigate Maples' abusive childhood, his mental health and history of depression and suicide attempts, and alcohol and substance abuse, which could have affected the jury's decision on recommending death instead of life without parole. (The vote was 10-2, the minimum number needed, in favor of death.)

The state would have Maples do without federal review of his trial lawyers' competence because, through no fault of his own, he missed a filing deadline.

The bipartisan Constitution Project and the libertarian Cato Institute, neither of which have positions for or against the death penalty, filed a brief siding with Maples.

"This case measures our courts' basic commitment to correct what a reasonable observer would readily perceive as a miscarriage of justice," their brief said.

That sounds right to us. We'll see soon enough how many reasonable observers sit on the U.S. Supreme Court.

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