

INFORMANT

The Law Enforcement and Public Entity newsletter of Phelps Dunbar

Mark Fijman, Editor-in-Chief

MAY 23, 2005

U.S. SUPREME COURT BARS SHACKLING OF CAPITAL MURDER DEFENDANTS

In a 7-2 decision, the United States Supreme Court ruled that convicted murderers facing the death penalty can't be forced to wear shackles in front of jurors in the absence of a heightened security risk or some other special need. *Deck v. Missouri*. The ruling extends the limits of a Supreme Court decision thirty years ago that generally barred the shackling of defendants in view of the jury during the guilt or innocence stage of the trial.

The case focused on Carman Deck, who was convicted and sentenced to death for the murder of an elderly couple during a robbery in 1996. At the time the jury decided to impose the death penalty, Deck was wearing leg irons, handcuffs and a belly chain.

Writing for the Court, Justice Stephen Breyer stated that shackling or handcuffing a capital murder defendant "almost inevitably implies to a jury, as a

matter of common sense, that court authorities consider the offender a danger to the community" and that "[t]he use of shackles can be a thumb on death's side of the scale." The majority did state that courts should view the issue on a case-by-case basis "[b]ut any determination must be case specific; that is to say, it should reflect particular concerns, say special security needs or escape risks, related to the defendant on trial."

Writing for the dissent, Justice Clarence Thomas noted that the majority's decision "all but ignores the serious security issues facing our courts." The decision comes in the wake of a March 11, 2005 incident in which a Georgia state court judge and three other people were shot to death, allegedly by a criminal defendant appearing for a hearing in front of the judge. Justice Thomas stated in the dissent that the ruling "risks the lives of courtroom personnel, with little corresponding benefit to defendants."

A MESSAGE TO ALL INFORMANT SUBSCRIBERS

Phelps Dunbar will be holding its 28th Annual Employment Law Seminar on August 18-19, 2005 at the Pearl River Resort in Philadelphia, Mississippi. In light of the interest shown by our government and law enforcement clients and *Informant* subscribers, this year we will feature a workshop on Law Enforcement Developments and Litigation Strategies. We will also offer a Public Employer's workshop to address special employment law issues faced by every Sheriff, Police Chief, Court Clerk, City Clerk and County Administrator. In addition, we will cover employment law issues affecting all employers, such as overtime issues under the Fair Labor Standards Act, the Family and Medical Leave Act, and employee benefits updates. Please be on the lookout for your invitation and be sure to register early. We look forward to seeing you there!

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