

Psychologists as Educators in Atkins Cases: Applying Three Lessons

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Introduction

- ❶ In 2002, the Supreme Court established in *Atkins v. Virginia* that individuals with an intellectual disability (ID) cannot be subject to the death penalty, however, the term intellectual disability was not specifically defined, leaving that job to the states.
- ❷ A series of subsequent Supreme Court cases now serve to clarify elements of the broad 2002 Atkins ruling. Within these cases lies a pattern of misunderstanding of the ID diagnostic process and misinterpretation of standardized testing results
- ❸ Three cases in particular highlight how misunderstanding of the diagnostic process and relevant terminology resulted in incorrect denial of a defendant's Atkins claim. These cases provide a foundation for psychologists to help educate those involved with an Atkins case.



Future Research

We believe the area of psychologist-as-educator in Atkins cases is ripe for future research. Current research focuses heavily on the interpretation or misinterpretation of psychological assessments themselves in Atkins cases, but not the potential improved outcomes based on the psychologist's role as educator.

Blume et al., 2009; DeMatteo et al., 2007; Hagen et al., 2016; Scior, 2011; MacVaugh & Cunningham 2009; Pifer, 2016

Lesson

1 *Hall v. Florida*



When an IQ score is close to 70 in an Atkins case, we encourage psychologists to ensure all constituents have a thorough understanding of IQ and SEM.

- ✓ In *Hall v. Florida* (2014), the state of Florida denied Freddie Lee Hall's Atkins claim because his IQ score was slightly higher than the state-established firm cut-off of 70.
- ✓ The Supreme Court's ruling on Hall was based on a well-accepted standard within psychology which sees an IQ score in the context of a score-range, thus taking into account standard error of measurement (SEM)
- ✓ The fact that 26 other states also established firm IQ cut-scores after *Atkins v. Virginia* speaks to the pervasive yet inaccurate lay understanding of IQ scores as being a final and inflexible representation of a person's intellectual functioning.

Lesson

2 *Hill v. Georgia*



When interpreting adaptive functioning, the psychologist must emphasize the importance of not prioritizing strengths over weaknesses.

- ✓ *Hill v. Georgia* addressed Warren Lee Hill's denied claim of intellectual disability by the state of Georgia and eventually by the Supreme Court. Hill's adaptive functionality was investigated in multiple categories including his military service, ability to learn, communication skills, and social skills.
- ✓ Because Hill's adaptive functionality profile had a mix of strengths and weaknesses, the judge decided Hill's adaptive strengths negated areas of weakness, in contrast to clinical standards, and denied Hill's Atkins claim.
- ✓ The court's gross misunderstanding of how to interpret adaptive strengths and weaknesses played a significant role in Hill losing his Atkins appeal case.

American Association on Intellectual Disability, 2010; American Psychiatric Association, 2013; Hagen et al., 2016; Ricciardelli & Ayres, 2016; Ricciardelli & Jaskyte, 2019.

Lesson

3 *Moore v. Texas II*



Psychologists can diminish bias about ID by providing detailed understanding of the defining criteria used in the DSM-5 and AAIDD-11 as well as addressing potential ID stereotypes that are more common by lay people.

- ✓ *Moore v. Texas II* is the last in a string of cases regarding Bobby James Moore's Atkins claim. Because *Atkins v. Virginia* left states to determine their definition of ID, the state of Texas developed special guidelines for evaluating ID in Atkins cases called the Briseno Factors.
- ✓ Ultimately, the Supreme Court ruled that the Briseno Factors were unscientific in nature and represented significant bias about ID. Instead, the Court stated definitions outlined in the DSM-5 and the AASID should be the primary references used when defining ID in the legal system.
- ✓ That the Briseno Factors existed at all again highlights poor lay-understanding of ID.

American Association on Intellectual and Developmental Disabilities, 2010; American Psychiatric Association, 2013; Blume et al., 2014; MacVaugh & Cunningham, 2009; Olley, 2013; Scior, 2011; Updegrove & Vaughn, 2019