

Is the death penalty on the way out?

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Last Tuesday, the Supreme Court ruled that Florida's death penalty sentencing [violates the Sixth Amendment](#). Tomorrow, the court [will consider](#) whether to hear a death-row petition [based on the Eighth](#). The first is comparatively narrow in scope: Florida has to stop sending people to [its rather bustling death row](#) unless that decision is made by a real live jury.

The second, however, could be quite sweeping. The petition argues that executing *anyone*—not just petitioner Shonda Walter, sentenced to death for the brutal killing of her elderly neighbor, James Sementelli—constitutes cruel and unusual punishment. It's a challenge to the death penalty itself, nationwide.

[The death penalty is on the decline in the U.S.](#)—in terms of executions carried out, new death sentences imposed, and states that use it at all. [Its opponents include a growing number of conservatives](#), whose objections stem in part from a distrust of the state's ability to administer a program with such serious consequences. Death penalty abolitionists are strategizing about [just which case](#) might get the court to end the practice altogether. Perhaps Walter's petition will be the one.

[As this New York Times editorial points out](#), abolitionists have for years avoided bringing such a broad challenge, lest it fail and set the movement back. That sort of political realism is wise, of course. It's also weighty, given all the executions that haven't been stopped in the meantime.

Another piece of costly pragmatism: the extent to which death-penalty abolition has relied on the alternative of life sentences without the possibility of parole. [As I wrote in the magazine last year](#), Pope Francis is right: LWOP sentences have more in common with the death penalty than we might like to admit. An excerpt:

The problem is that LWOP gives up on rehabilitation without trying. In imposing the sentence, society waives the very opportunity to determine whether or not someone has changed. And while not everyone does

change, anyone can.... To embrace such a sentence suggests that God's grace is limited, if not in its object, then in its scope: sure, God forgives you, but that doesn't mean there's the slightest chance we'll ever let you rejoin society. That's a pretty circumscribed vision. Grace doesn't just make people right with God; it has the power to restore them to life in community—and no one is beyond its reach.

Still, if the end of the death penalty is indeed at hand, this is very good news for all of us who believe that human dignity belongs to saint and sinner alike. It won't solve the problem of sentencing that simply gives up on people forever, but it will blunt the iceberg's violent tip. That's a start.