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UPDATE

Supreme Court rules against Tennessee death row inmate

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WASHINGTON (AP) -- The Supreme Court ruled today that a lower court improperly gave a Tennessee death row inmate a second chance, infringing on the state's right to execute the man. But four justices said the judicial system failed the inmate.

Justices found that the 6th U.S. Circuit Court of Appeals in Cincinnati abused its discretion when it reopened Gregory Thompson's case. Thompson had already lost an appeal there, and at the Supreme Court.

Justice Anthony M. Kennedy, writing the majority opinion, said that the appeals court's action was extraordinary, and that it infringed on the state's right to execute Thompson.

Thompson was convicted of using a rusty butcher knife in 1985 to kill Brenda Blanton Lane, a 28-year-old former newspaper reporter, whom he abducted from a Wal-Mart parking lot in Shelbyville, Tenn., drove to a remote area and killed. Thompson confessed to the crime.

"Tennessee expended considerable time and resources in seeking to enforce a capital sentence rendered 20 years ago, a sentence that reflects the judgment of the citizens of Tennessee that Thompson's crimes merit the ultimate punishment," Kennedy wrote.

Thompson was to be executed last year, but that was called off after the appeals court vacated an earlier ruling against him.

The change of heart stemmed from the research of appellate Judge Richard F. Suhrheinrich, who found the opinion of an expert witness who believed Thompson suffered from schizophrenia. The expert's opinion had not been entered into the record.

Justice Stephen Breyer praised the judge and said that the expert's opinion was important. "To consider the case without reference to it could mean a miscarriage of justice," he wrote in a dissent, joined by Justices John Paul Stevens, David H. Souter and Ruth Bader Ginsburg.

Breyer also read part of his dissent from the bench and said he fears that the message to lower courts is "they are not to act to cure serious injustice in similar cases."

The high court's ruling clears the way for the Tennessee Supreme Court to set a new execution date, according to the state attorney general's office.

Tennessee's victory follows several state losses in death penalty cases. In the past two weeks, the Supreme Court has thrown out the death sentences of inmates in Pennsylvania and Texas. Earlier this year, the court ruled 5-4 that states could not execute juvenile killers.

The case is *Bell v. Thompson*, 04-514.

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Supreme Court:
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