# *Courthouse Event for Students*

# Open Doors to Federal Courts 2005

## *United States v. Simmons*

**Purpose**

- To acquaint participants with the legal issues concerning the imposition of the death penalty.
- To allow participants to experience the voir dire process in a death-penalty case.
- To allow participants to experience the penalty-phase of a death-penalty case.

### Fact Pattern: United States v. Simmons

**Please Note:** The following scenario, *United States v. Simmons*, has been adapted from the facts in the U.S. Supreme Court case *Roper v. Simmons* (argued 2004) out of Missouri. The facts for the case *Roper v. Simmons* are taken from the briefs[1] of the petitioner, Roper, and the respondent, Simmons, that were filed in the U.S. Supreme Court. While many of the facts in this scenario are similar to those in the actual case, **two facts have been changed so that this fictional adaptation can be simulated as a federal case. In this adaptation, the defendant is 19 years old and the murder took place on federal land.**

**Facts**

In 1993, Christopher Simmons and two of his friends, broke into the house of Mrs. Crook with the intention of burglarizing it. Simmons was nineteen years old. When Mrs. Crook awoke, Simmons recognized that she was an individual with whom he had been involved in an auto accident. Fearing that she would recognize him, Simmons and his friends bound Mrs. Crook with duct tape. They forced her into a vehicle, and drove to the National Forest at Halsey, Nebraska. They stopped the vehicle on a bridge.

By the time the vehicle arrived at the bridge, Mrs. Crook managed to partially free herself. When Simmons and his friends saw this, they once again tied her up in duct tape and pushed her into the river. She drowned shortly after hitting the water. Simmons and his friends then returned home. Mrs. Crook's body was later discovered downstream.

Simmons was apprehended by the police within a short period of time. Since the murder took place on federal land, Simmons was charged with "first degree murder on federal land or federal property" in violation of 18 U.S.C. § 1111. Simmons' childhood was troubled, and his father beat him when he was younger. Around the time of Mrs. Crook's murder,

[1]Including the petitioner's, Roper's, reply brief and the Appendix attached to the brief of the respondent, Simmons. All briefs relating to the Petitioner and Respondent can be found on the following website <http://www.abanet.org/publiced/preview/briefs/home.html> under the heading "Roper v. Simmons."

Simmons frequently abused both illegal drugs and alcohol. There was no evidence that he was under the direct influence of either drugs or alcohol at the time he committed the murder. The U.S. government has filed a notice to seek the death penalty in this case. Simmons is indigent and two defense counsel have been appointed for him.

## Student Program Itinerary

# 2005 Open Doors to Federal Court Program

## Welcoming Activities

*9:00 a.m. - 9: 30 a.m.*

Students arrive and take their places in the courtrooms.

*9:30 a.m. - 9:45 a.m.*

- The judges welcome the students and their teachers.
- The judges ask the volunteer attorneys to introduce themselves.
- The judge or court representative explains the flow of the day and talks about logistics: directions to restrooms, time of breaks, and lunch.

## Activity #1: Voir Dire

*9:45 a.m. - 11:30 a.m.*

Before the beginning of this exercise, the prosecutors and defense attorneys will briefly explain the voir dire process in capital cases.

During this exercise, 30 students will be selected to fill the jury pool. Each of these 30 students will receive a profile sheet containing a potential juror's: 1) name; 2) age; 3) race; 4) gender; 5) occupation; and 6) a distinctive characteristic about the juror's life that may or may not have some impact on the juror's ability to be impartial about imposing the death penalty. Judges and attorneys will receive a seating chart giving each juror's name and the first five items from the profile sheet.

**Please Note:** To maintain a position that is consistent with the character described in the profile, the following two jurors must assume the following positions:

- Juror #1, Suzie Jones, must be against the death penalty.
- Juror #22, Officer John Ferguson, must be for the death penalty.

If students assigned to one of these two jurors feel that they cannot take these position, they should exchange their profile card with someone who can. All other jurors are free to answer the questions about the death-penalty in any manner they choose.

The judge may conduct some preliminary questioning of the panel. The attorneys will then be permitted to question each potential juror. When the attorneys have

completed their questioning, the judge will ask if there are any challenges for cause or peremptory challenges. Federal Rule of Criminal Procedure 24(c) provides that in capital cases both the prosecutor and the defense attorney are permitted 20 peremptory challenges each; an unlimited number of challenges for cause are permitted. For purposes of this scenario, however, each side will only be permitted three challenges for cause and four peremptory challenges. The goal is to select twelve jurors and four alternates.

## Lunch
## and
## Debriefing of Voir Dire Activity

*11:30 a.m -Noon*

Discussion follows with students, judges, and attorneys. The focus of this discussion will be the jury selection process, and constitutionality of executing people who are as young as 19 years old. During the debriefing, students may ask the prosecutor and defense attorney to explain the reasons for their selections.

## Activity #2: Sentencing Phase of the Trial[2]

*12:15 p.m. - 2:00 p.m.*

In an actual criminal case, a trial is conducted after voir dire. At the conclusion of the trial, the jury is asked to determine whether or not defendants are guilty of the crimes with which they are charged. To find defendants guilty, the jury must believe "beyond a reasonable doubt" that the defendants committed the crimes with which they are charged. If the jury does not believe a defendant guilty "beyond a reasonable doubt," the jury must find the defendant not guilty.

In federal and state death penalty cases, if a jury finds a defendant guilty, the case is not yet finished. The jury has one last job to do: decide the appropriate punishment for the defendant, usually life without release or the death penalty. In other words, federal death penalty cases involve a bifurcated (two-part) trial. In the first part of the trial, the jury determines whether or not a defendant is guilty beyond a reasonable doubt. If a defendant is found guilty in the first part of the trial, the jury must then decide during the second part how the defendant will be punished–life or death. The Federal Death Penalty Act of 1994 prescribes this procedure in federal courts.

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[2]A note on sources: Some of the procedural material mentioned in this section is a summary of selected material from *Chapter 18: The Federal Death Penalty* (pp. 845-931) from *Capital Punishment and the Judicial Process* (2d ed.), Eds. Randall Coyne and Lyn Entzeroth. Carolina Academic Press. Durham, NC; 2001.

For purposes of this activity, it is assumed that the jury has already found the defendant, Christopher Simmons, guilty of first-degree murder on federal property. The trial has proceeded to the penalty phase in which jurors are asked to determine Simmons' fate.

For this activity, twelve students will be seated as jurors. (They need not be the same students who participated in the voir dire activity.) Other students in the courtroom will break into groups of twelve. **Unlike the voir dire activity, jurors are to retain their own identity; their individual views on the death penalty will not be questioned.**

The decision about whether to impose the death penalty is not left to the complete discretion of the jury. Federal law dictates a number of aggravating and mitigating factors about which the jury will hear evidence to assist it in making its sentencing decision. The procedure for this process is as follows:

- The prosecutor makes an opening argument outlining the reasons why the death penalty should be imposed in this case, briefly explaining the aggravating factors to be presented) **(approx. 2 minutes)**.

  The prosecutor then presents evidence of aggravating factors, i.e., those factors favoring the imposition of the death penalty. Certain evidence, known as victim impact statements, consists of relatives and/or friends stating the impact that the victim's death has had on their lives. **(approx. 15 minutes [ 5 minutes per witness])**

- Defense counsel may cross-examine witnesses **(10 minutes)**.

- The prosecutor makes a closing statement summarizing the testimony and evidence presented and once again stating why the death penalty should be imposed **(2 minutes)**.

- Defense counsel makes an opening argument outlining the reasons why the death penalty should not be imposed in this case, briefly explaining the mitigating factors to be presented) **(2 minutes)**.

- Defense counsel then presents evidence of mitigating factors, i.e., those factors favoring the imposition of a sentence less than death. If a capital defendant is without funds, federal law provides that at least two attorneys (one of which must have experience in capital cases) are appointed to assist the defendant. Witnesses may be called and evidence presented during this time. **(approx. 15 minutes [ 5 minutes per witness])**

- The prosecutor may cross examine witnesses **(10 minutes)**.

- The defense attorney makes a closing statement summarizing the testimony and evidence presented and once again stating why the death penalty should not be imposed **(2 minutes)**.

- After both the prosecutor and defense counsel have finished with their arguments, the juries will deliberate on the defendant's fate **(30 minutes)**.

  The jury must return findings identifying any aggravating factors or mitigating factors found to exist. Aggravating factors must be found unanimously and beyond a reasonable doubt. Mitigating factors must be found by only one or more jurors.

  The jury shall consider whether all the aggravating factors sufficiently outweigh all the mitigating factors to justify a sentence of death. If there are no mitigating factors, the jury must determine whether the aggravating factors alone justify a sentence of death. If there are no aggravating factors, the court may not impose a sentence of death. The jury must, by unanimous vote, recommend whether the defendant should be sentenced to 1) death, 2) life imprisonment without possibility of release, 3) or some other lesser sentence.

- After the jury reaches its decision, the judge will then formally sentence the defendant **(2 minutes)**. Under federal law, 18 U.S.C. § 94, the judge is bound by the jury's decision if it involves death or life in prison without release. If the sentence involves a term of years, the judge must set the exact punishment. If the jury is deadlocks on punishment, the judge sets the punishment.

## Debriefing of the Penalty-Phase Activity

*2:00 p.m. - 2:30 p.m.*

Discussion follows with students, judges, and attorneys. The focus of this discussion will be the constitutionality of executing individuals for crimes that they committed before 20 years of age.

During the debriefing session, the prosecutor, the defense counsel, and the judge are invited to explain their approach to the penalty phase of the trial and to take questions from the students. Students will be encouraged to offer their reflections on this experience, especially concerning their feelings about deciding whether an individual lives or dies.

*2:30 p.m.*

Students are dismissed.