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IQ tests key in Palm Beach County trial that is longest delayed death penalty case in state



Allen Eyestone/Palm Beach Post

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D'Andre Bannister looks back at his family Monday during a motion to bar the death penalty in his case.



The Palm Beach Post

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D'andre Bannister during his first appearance in court in 2002.



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Tarquez Woodson died in August 2002 in his Riviera Beach home. He had bruises all over his body, torn internal organs and brain damage.

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D'Andre Bannister talks with his attorney, Ronald Chapman, during a motion to bar the death penalty in his case.

By **SUSAN SPENCER-WENDEL**

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WEST PALM BEACH — His is one of the longest-running death penalty cases in Florida, experts recall.

D'Andre Bannister has sat in jail more than seven years awaiting trial, after being charged with first-degree murder in the death of his stepson, 4-year-old Tarquez Woodson, whom police say Bannister beat to death in August 2002.

Today, the attorneys and judge gathered again, this time to determine if Bannister is mentally retarded and thus ineligible to face the ultimate penalty. One factor under Florida law is having a general IQ score 70 or below.

Despite Bannister scoring an IQ of 72 some years ago, a newly available intelligence test given to him in 2008 gave his defense attorneys the magic IQ score of 69.

"It may have been a blessing in disguise this long passage of time," said defense attorney Ronald Chapman outside court, adding that the new intelligence test — the WAIS-IV — was not available previously.

Testimony of three doctors who evaluated Bannister did not conclude today. Circuit Judge John Hoy could not immediately identify a time he had available to continue testimony at a later date. Hoy has said he well set the case for trial this summer.

Under testing by a defense doctor, psychologist Harry Krop, Bannister scored a general IQ of 69 in 2008.

But under the same testing by a doctor tapped by prosecutors, Bannister scored an IQ of 78 in 2009, according to testimony .

And the protracted delay may have played a part in that as well,

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Krop testified.

For Bannister, being in a highly structured environment like the jail has likely increased his overall abilities, Krop said.

"To his credit, he has done a lot of things to try to improve himself during the eight years he has been incarcerated," Krop said.

How could Bannister score 69 on an intelligence test and then 78 less than a year later?

Krop opined that he believed Bannister purposefully learned the answers, looking up in a dictionary, for example, some words he did not understand the first time he was tested.

The doctors who testified said that Bannister does not want think of himself as mentally retarded and doesn't want to be seen as such.

So, it's a double-edged sword for Bannister waiting so long for trial, as he may have grown smarter in the meantime — and eligible for execution.

In 2002, the U.S. Supreme Court in the case of Atkins v. Virginia barred the execution of mentally retarded people, deciding the practice is "cruel and unusual punishment."

Two months later Bannister was arrested and charged, after Tarquez Woodson died, bruises all over the boy's body, torn internal organs and brain damage.

The case against Bannister languished under a constellation of events: a series of procedural delays, distractions, changes in judges and momentous personal events in the attorneys' own lives.

And his defense attorneys, Chapman and Evelyn Ziegler, have been in no hurry to take his case to trial, with no one forcing their hand.

The delay's multi-layered effect on the outcome is something, of course, only more time will tell.

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If this guy were not guilty, why not demand a sprrdy trial? It's his right. He won't because he knows he is guilty.

Plan "B"...wait for a new test...given no doubt by some liberal, anti-death penalty geek who will tell us this poor man can't be held responsible for his actions.

Well if he(Bannister)isn't to blame, then who killed Tarquez?

"Bannister dosen't want to think of himself as *****". Of course he does, and he wants you to think that. It's the way to get away with murder.

nemo
7:09 PM, 2/8/2010

REPORT ABUSE

Sprrdy huh?
Brilliant...

You realize even if he wins this motion he doesn't get out. He just gets to spend the rest of his life in prison if convicted.

That's all.

No big deal or anything.

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11:34 PM, 2/8/2010

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I await the comments of those who are "pro-life." Please join me in condemning any taking of life.

Or should we judge worthiness of survival based on test scores? And if so: upon the basis of which tests will you approve in the taking of life?

Please know I appreciate consistent opinions. Especially those who are willing to speak up for the less popular.

Join me in calling for the abolition of the barbarous death penalty. Please, be pro-life. ALL life.

speravi
1:11 AM, 2/9/2010

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IQ of 70, but yet, if he was in school, NCLB would expect progress every year for this kid and if he didn't make 'progress'/gains' the school would not be making "ayp"-adequate yearly progress.

Sometimes the government is stuck on stupid and an entire system is penalized.

There is no doubt, his parents FAILED to instruct and demonstrate moral behavior.

No sympathy. Not all low IQ are immoral.

Bless that young child who suffered at the hands of this child and eventually died.

Drain on taxpayer society
4:48 AM, 2/9/2010

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I was researching something about IQ and came on this. I thought IQ was not used because it is culturally biased. I didn't know a SC decision as recently as 2002 was that IQ is real and usable in courts of law. If it is not real, and is just about cultural bias --Latino SC justice Sotomayor talked about the cultural bias in regards to her own poor school testing when nominated---- then I'm surprised she would also apply it to be real and a case for retardation.

anna
7:12 AM, 2/9/2010

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To speravi, okay lets not kill any of these CONVICTED killers. That way we (the taxpayers) can pay for their cost of living. I absolutely love you pro lifers because you really can't see beyond the immediate issue. I would probably be more pro life if inmates were put to work doing something useful to society. This way I would not feel like my money is being wasted. Then again that would be considered cruel and unusual punishment.

Benotts
8:27 AM, 2/9/2010

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