U.S. Supreme Court
Rummel v. Estelle, 445 U.S. 263 (1980)
Rummel v. Estelle
No. 78-6386
Argued January 7, 1980
Decided March 18, 1980
445 U.S. 263

Syllabus
Petitioner, who previously on two separate occasions had been convicted in Texas state courts and sentenced to prison for felonies (fraudulent use of a credit card to obtain $80 worth of goods or services, and passing a forged check in the amount of $28.36), was convicted of a third felony, obtaining $120.75 by false pretenses, and received a mandatory life sentence pursuant to Texas' recidivist statute. After the Texas appellate courts had rejected his direct appeal as well as his subsequent collateral attacks on his imprisonment, petitioner sought a writ of habeas corpus in Federal District Court, claiming that his life sentence was so disproportionate to the crimes he had committed as to constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. The District Court rejected this claim, and the Court of Appeals affirmed, attaching particular importance to the probability that petitioner would be eligible for parole within 12 years of his initial confinement.
Held: The mandatory life sentence imposed upon petitioner does not constitute cruel and unusual punishment under the Eighth and Fourteenth Amendments. Pp. 445 U. S. 268-285.
(a) Texas' interest here is not simply that of making criminal the unlawful acquisition of another person's property, but is, in addition, the interest, expressed in all recidivist statutes, in dealing in a harsher manner with those who by repeated criminal acts have shown that they are incapable of conforming to the norms of society as established by its criminal law. The Texas recidivist statute thus is nothing more than a societal decision that, when a person, such as petitioner, commits yet another felony, he should be subjected to the serious penalty of life imprisonment, subject only to the State's judgment as to whether to grant him parole. Pp. 445 U. S. 276-278.
(b) While petitioner's inability to enforce any "right" to parole precludes treating his life sentence as equivalent to a 12 years' sentence, nevertheless, because parole is an established variation on imprisonment, a proper assessment of Texas' treatment of petitioner could not ignore the possibility that he will not actually be imprisoned for the rest of his life. Pp. 445 U. S. 280-281.
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(c) Texas is entitled to make its own judgment as to the line dividing felony theft from petty larceny, subject only to those strictures of the Eighth Amendment that can be informed by objective factors. Moreover, given petitioner's record, Texas was not require to treat him in the same manner as it might treat him were this his first "petty property offense." Pp. 445 U. S. 284-285.
587 F.2d 651, affirmed.
REHNQUIST, J., delivered the opinion of the Court, in which BURGER, C.J., and STEWART, WHITE, and BLACKMUN, JJ., joined. STEWART, J., filed a concurring opinion, *post,* p. 445 U. S. 285. POWELL, J., filed a dissenting opinion, in which BRENNAN, MARSHALL, and STEVENS, JJ., joined, *post,* p. 445 U. S. 285.

POWELL dissent
Nothing in the *Coker* analysis suggests that principles of disproportionality are applicable only
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to capital cases. Indeed, the questions posed in *Coker* and this case are the same: whether a punishment that can be imposed for one offense is grossly disproportionate when imposed for another.
In sum, a few basic principles emerge from the history of the Eighth Amendment. Both barbarous forms of punishment and grossly excessive punishments are cruel and unusual. A sentence may be excessive if it serves no acceptable social purpose, or is grossly disproportionate to the seriousness of the crime. The principle of disproportionality has been acknowledged to apply to both capital and noncapital sentences.

* * * EDIT

Apparently, only 12 States have ever enacted habitual offender statutes imposing mandatory life sentence for the commission of two or three nonviolent felonies and only 3, Texas, Washington, and West Virginia, have retained such a statute. [Footnote 2/13] Thus, three-fourths of the States that experimented

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with the Texas scheme appear to have decided that the imposition of a mandatory life sentence upon some persons who have committed three felonies represents excess punishment. Kentucky, for example, replaced the mandatory life sentence with a more flexible scheme

"because of a judgment that, under some circumstances, life imprisonment for an habitual criminal is not justified. An example would be an offender who has committed three Class D felonies, none involving injury to person."

* * * EDIT

Finally, it is necessary to examine the punishment that Texas provides for other criminals. First and second offenders who commit more serious crimes than the petitioner may receive markedly less severe sentences. The only first-time offender subject to a mandatory life sentence is a person

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convicted of capital murder.

* * * EDIT

Examination of the objective factors traditionally employed by the Court to assess the proportionality of a sentence demonstrates that petitioner suffers a cruel and unusual punishment. Petitioner has been sentenced to the penultimate criminal penalty because he committed three offenses defrauding others of about $230.