

# Low IQ could keep Orlando woman's killer from being executed; judge may rule today

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A judge may decide today whether death-row inmate David Johnston is mentally fit to be executed under Florida law.

The judge's decision will determine whether Johnston, convicted of killing an Orlando woman about 27 years ago, will die by lethal injection or spend the rest of his life behind bars.

Florida bans the execution of prisoners "with mental retardation."

To be considered legally retarded, a defendant must have an IQ of 70 or below and can't perform "adaptive functions," such as holding a job, cooking a meal and balancing a checkbook. Both conditions must have existed before the person was 18.

Orange-Osceola Chief Judge Belvin Perry held a hearing last month on the issue. He heard about IQ testing from experts on the defense and the state.

Johnston was scheduled to be executed March 9. The Florida Supreme Court issued a last-minute delay and instructed the lower court to hash out the "mental retardation" issue. Monday is the deadline for Perry's ruling.

Johnston's IQ scores have varied throughout his life, ranging from 57 to 83.

His attorney, Todd Johnston, has argued that the latest most accurate test scores him at 61 — lower than previous tests — and qualifies him to be spared the state's death penalty.

The state has pointed to earlier tests in 2005 that scored Johnston's IQ at 84.

Johnston was convicted in the 1983 murder of Mary Hammond. The 84-year-old woman was found stabbed to death in her Orlando home.

Johnston had been working at a demolition site near Hammond's home and had spoken to Hammond before her death.