

IS STARE DECISIS AN INEXORABLE COMMAND?

Payne v. Tennessee
U.S. Supreme Court, 1991
501 U.S. 808

CHIEF JUSTICE REHNQUIST delivered the opinion of the court.

In this case we reconsider our holdings in *Booth v. Maryland*, 482 U.S. 496 (1987), and *South Carolina v. Gathers*, 490 U.S. 805 (1989), that the Eighth Amendment bars the admission of victim impact evidence during the penalty phase of a capital trial.

The petitioner, Pervis Tyrone Payne, was convicted by a jury on two counts of first-degree murder and one count of assault with intent to commit murder in the first degree. He was sentenced to death for each of the murders, and to 30 years in prison for the assault.

The victims of Payne's offenses were 28-year-old Charisse Christopher, her 2-year-old daughter Lacie, and her 3-year old son Nicholas. The three lived together in an apartment in Millington, Tennessee, across the hall from Payne's girl friend, Bobbie Thomas. On Saturday, June 27, 1987, Payne visited Thomas' apartment several times in expectation of her return from her mother's house in Arkansas, but found no one at home. On one visit, he left his overnight bag, containing clothes and other items for his weekend stay, in the hallway outside Thomas' apartment. With the bag were three cans of malt liquor.

Payne passed the morning and early afternoon injecting cocaine and drinking beer. Later, he drove around the town with a friend in the friend's car, each of them taking turns reading a pornographic magazine. Sometime around 3 P.M., Payne returned to the apartment complex, entered the Christophers' apartment, and began making sexual advances towards Charisse. Charisse resisted and Payne became violent. A neighbor who resided in the apartment directly beneath the Christophers, heard Charisse screaming, "'Get out, get out,' as if she were telling the children to

leave." The noise briefly subsided and then began, "horribly loud." The neighbor called the police after she heard a "blood curdling scream" from the Christopher apartment. Brief for Respondent.

When the first police officer arrived at the scene, he immediately encountered Payne who was leaving the apartment building, so covered with blood that he appeared to be "sweating blood." The officer confronted Payne, who responded, "I'm the complainant." *Id.*, at 3-4. When the officer asked, "What's going on up there?" Payne struck the officer with the overnight bag, dropped his tennis shoes, and fled.

Inside the apartment, the police encountered a horrifying scene. Blood covered the walls and floor throughout the unit. Charisse and her children were lying on the floor in the kitchen. Nicholas, despite several wounds inflicted by a butcher knife that completely penetrated through his body from front to back, was still breathing. Miraculously, he survived, but not until after undergoing seven hours of surgery and a transfusion of 1700 cc's of blood—400 to 500 cc's more than his estimated normal blood volume. Charisse and Lacie were dead.

Charisse's body was found on the kitchen floor on her back, her legs fully extended. She had sustained 42 direct knife wounds and 42 defensive wounds on her arms and hands. The wounds were caused by 41 separate thrusts of a butcher knife. None of the 84 wounds inflicted by Payne were individually fatal; rather, the cause of death was most likely bleeding from all of the wounds.

Lacie's body was on the kitchen floor near her mother. She had suffered stab wounds to the chest, abdomen, back, and head. The murder weapon, a butcher knife, was found at her feet. Payne's baseball cap was snapped on her arm near her elbow. Three cans of malt liquor bearing Payne's fingerprints were found on a table near her body, and a fourth empty one was on the landing outside the apartment door.

Payne was apprehended later that day hiding in the attic of the home of a former girlfriend. As he descended the stairs of the attic, he stated to the arresting officers, "Man, I ain't killed no woman." According to one of the officers, Payne had "a wild look about him. His pupils were contracted. He was foaming at the mouth, saliva. He appeared to be very nervous. He was breathing real rapid." He had blood on his body and clothes and several scratches across his chest. It was later determined that the blood stains matched the victims' blood types. A search of his pockets revealed a packet containing cocaine residue, a hypodermic syringe wrapper, and a cap from a hypodermic syringe. His overnight bag, containing a bloody white shirt, was found in a nearby dumpster.

At trial, Payne took the stand and, despite the overwhelming and relatively uncontroverted evidence against him, testified that he had not harmed any of the Christophers. Rather, he asserted that another man had raced by him as he was walking up the stairs to the floor where the Christophers lived. He stated that he had gotten blood on himself when, after hearing moans from the Christophers' apartment, he had tried to help the victims. According to his testimony, he panicked and fled when he heard police sirens and noticed the blood on his clothes. The jury returned guilty verdicts against Payne on all counts.

During the sentencing phase of the trial, Payne presented the testimony of four witnesses: his mother and father, Bobbie Thomas, and Dr. John T. Huston, a clinical psychologist specializing in criminal court evaluation work. Bobbie Thomas testified that she met Payne at church, during a time when she was being abused by her husband. She stated that Payne was a very caring person, and that he devoted much time and attention to her three children, who were being affected by her marital difficulties. She said that the children had come to love him very much and would miss him, and that he "behaved just like a father that loved his kids." She asserted that he did not drink, nor did he use drugs, and that it was generally inconsistent with Payne's character to have committed these crimes.

Dr. Huston testified that based on Payne's low score on an IQ test, Payne was "mentally handicapped." Huston also said that Payne was neither psychotic nor schizophrenic, and that Payne was the most polite prisoner he had ever met. Payne's parents testified that their son had no prior criminal record and had never been arrested. They also stated that Payne had no history of alcohol or drug abuse, he worked with his father as a painter, he was good with children, and that he was a good son.

The State presented the testimony of Charisse's mother, Mary Zvolanek. When asked how Nicholas had been affected by the murders of his mother and sister, she responded:

"He cries for his mom. He doesn't seem to understand why she doesn't come home. And he cries for his sister Lacie. He comes to me many times during the week and asks me, Grandmama, do you miss my Lacie. And I tell him yes. He says, I'm worried about my Lacie." App. 30.

In arguing for the death penalty during closing argument, the prosecutor commented on the continuing effects of Nicholas' experience, stating:

"But we do know that Nicholas was alive. And Nicholas was in the same room. Nicholas was still conscious. His eyes were open. He responded to the paramedics. He was able to follow their directions. He was able to hold his intestines in as he was carried to the ambulance. So he knew what happened to his mother and baby sister." *Id.*, at 9.

"There is nothing you can do to ease the pain of any of the families involved in this case. There is nothing you can do to ease the pain of Bernice or Carl Payne, and that's a tragedy. There is nothing you can do basically to ease the pain of Mr. and Mrs. Zvolanek, and that's a tragedy. They will have to live with it the rest of their lives. There is obviously nothing you can do for Charisse and Lacie Jo. But there is something that you can do for Nicholas.

"Somewhere down the road Nicholas is going to grow up, hopefully. He's going to want to know what happened. And he is going to know what happened to his baby sister and his mother. He is going to want to know what type of justice was done. He is going to want to know what happened. With your verdict, you will provide the answer." *Id.*, at 12.

In the rebuttal to Payne's closing argument, the prosecutor stated:

"You saw the videotape this morning. You saw what Nicholas Christopher will carry in his mind forever. When you talk about cruel, when you talk about atrocious, and when you talk about heinous, that picture will always come into your mind, probably throughout the rest of your lives.

" . . . No one will ever know about Lacie Jo because she never had the chance to grow up. Her life was taken from her at the age of two years old. So, no there won't be a high school principal to talk about Lacie Jo Christopher, and there won't be anybody to take her to her high school prom. And there won't be anybody there—there won't be her mother there or Nicholas' mother there to kiss him at night. His mother will never kiss him good night or pat him as he goes off to bed, or hold him and sing him a lullaby.

" . . . [Petitioner's attorney] wants you to think about a good reputation, people who love the defendant and things about him. He doesn't want you to think about the people who love Charisse Christopher, her mother and daddy who loved her. The people who loved little Lacie Jo, the grandparents who are still here. The brother who mourns for her every single day and wants to know where his best little playmate is. He doesn't have anybody to watch cartoons with him, a little one. These are the things that go into why it is especially cruel, heinous, and atrocious, the burden that that child will carry forever." *Id.*, at 13–15.

The jury sentenced Payne to death on each of the murder counts.

The Supreme Court of Tennessee affirmed the conviction and sentence. 791 S. W. 2d 10 (1990). The court rejected Payne's contention that the admission of the grandmother's testimony and the State's closing argument constituted prejudicial violations of his rights under the Eighth Amendment as applied in *Booth v. Maryland*, 482 U.S. 496 (1987), and *South Carolina v. Gathers*, 490 U.S. 805 (1989). The court characterized the grandmother's testimony as "technically irrelevant," but concluded that it "did not create a constitutionally unacceptable risk of an arbitrary imposition of the death penalty and was harmless beyond a reasonable doubt." 791 S. W. 2d, at 18.

The court determined that the prosecutor's comments during closing argument were "relevant to [Payne's] personal responsibility and moral guilt." *Id.*, at 19. The court explained that "when a person deliberately picks a butcher knife out of a kitchen drawer and proceeds to stab to death a twenty-eight-year-old mother, her two-and-one-half-year-old daughter and her three-and-one-half-year-old son, in the same room, the physical and mental condition of the boy he left for dead is surely relevant in determining his 'blameworthiness.'" The court concluded that any violation of Payne's rights under *Booth* and *Gathers* "was harmless beyond a reasonable doubt." *Ibid.*

We granted certiorari, 498 U.S. (1991), to reconsider our holdings in *Booth* and *Gathers* that the Eighth Amendment prohibits a capital sentencing jury from considering "victim impact" evidence relating to the personal characteristics of the victim and the emotional impact of the crimes on the victim's family.

In *Booth* the defendant robbed and murdered an elderly couple. As required by a state statute, a victim impact statement was prepared based on interviews with the victims' son, daughter, son-in-law, and granddaughter. The statement, which described the personal characteristics of the victims, the emotional impact of the crimes on the family, and set forth the family members' opinions and characterizations of the crimes and the defendant, was submitted to the jury at sentencing. The jury imposed the death penalty. The conviction and sentence were affirmed on appeal by the State's highest court.

This Court held by a 5-to-4 vote that the Eighth Amendment prohibits a jury from considering a victim impact statement at the sentencing phase of a capital trial. The Court made clear that the admissibility of victim impact evidence was not to be determined on a case-by-case basis, but that such evidence was per se inadmissible in the sentencing phase of a capital case except to the extent that it "related directly to the circumstances of the crime." 482 U.S., at 507, n. 10. In *Gathers*, decided two years later, the Court extended the rule announced in *Booth* to statements made by a prosecutor to the sentencing jury regarding the personal qualities of the victim.

The *Booth* Court began its analysis with the observation that the capital defendant must be treated as a "uniquely individual human being," 482 U.S., at 504 (quoting *Woodson v. North Carolina*, 428 U.S. 280, 304 (1976)), and therefore the Constitution requires the jury to make an individualized determination as to whether the defendant should be executed based on the "character of the individual and the circumstances of the crime." 482 U.S., at 502 (quoting *Zant v. Stephens*, 462 U.S. 862, 879 (1983)). The Court concluded that while no prior decision of this Court had mandated that only the defendant's character and immediate characteristics of the crime may constitutionally be considered, other factors are irrelevant to the capital sentencing decision unless they have "some bearing on the defendant's 'personal responsibility and moral guilt.'" 482 U.S., at 502 (quoting *Edmund v. Florida*, 458 U.S. 782, 801 (1982)). To the extent that victim impact evidence presents "factors about which the defendant was unaware, and that were irrelevant to the decision to kill," the Court concluded, it has nothing to do with the "blameworthiness of a particular defendant." 482 U.S., at 504, 505. Evidence of the victim's character, the Court observed, "could well distract the sentencing jury from its constitutionally required task [of] determining whether the death penalty is appropriate in light of the background and record of the accused and the particular circumstances of the crime." The Court concluded that, except to the extent that victim impact evidence relates "directly to the circumstances of the crime," *id.*, at 507, and n. 10, the prosecution

may not introduce such evidence at a capital sentencing hearing because “it creates an impermissible risk that the capital sentencing decision will be made in an arbitrary manner.” *Id.*, at 505.

Booth and *Gathers* were based on two premises: that evidence relating to a particular victim or to the harm that a capital defendant causes a victim’s family do not in general reflect on the defendant’s “blameworthiness,” and that only evidence relating to “blameworthiness” is relevant to the capital sentencing decision. However, the assessment of harm caused by the defendant as a result of the crime charged has understandably been an important concern of the criminal law, both in determining the elements of the offense and in determining the appropriate punishment. Thus, two equally blameworthy criminal defendants may be guilty of different offenses solely because their acts cause differing amounts of harm. “If a bank robber aims his gun at a guard, pulls the trigger, and kills his target, he may be put to death. If the gun unexpectedly misfires, he may not. His moral guilt in both cases is identical, but his responsibility in the former is greater.” *Booth*, 482 U.S., at 519 (SCALIA, J., dissenting). The same is true with respect to two defendants, each of whom participates in a robbery, and each of whom acts with reckless disregard for human life; if the robbery in which the first defendant participated results in the death of a victim, he may be subjected to the death penalty, but if the robbery in which the second defendant participates does not result in the death of a victim, the death penalty may not be imposed. *Tison v. Arizona*, 481 U.S. 137, 148 (1987).

The principles which have guided criminal sentencing—as opposed to criminal liability—have varied with the times. The book of Exodus prescribes the *Lex talionis*. “An eye for an eye, a tooth for a tooth.” Exodus 21: 22–23. In England and on the continent of Europe, as recently as the 18th century crimes which would be regarded as quite minor today were capital offenses. Writing in the 18th century, the Italian criminologist Cesare Beccaria advocated the idea that “the punishment should fit the crime.” He said that “we have seen that the true measure of crimes is the injury done to society.” J. Farrer, *Crimes and Punishments*, 199 (London, 1880).

Gradually the list of crimes punishable by death diminished, and legislatures began grading the severity of crimes in accordance with the harm done by the criminal. The sentence for a given offense, rather than being precisely fixed by the legislature, was prescribed in terms of a minimum and a maximum, with the actual sentence to be decided by the judge. With the increasing importance of probation, as opposed to imprisonment, as a part of the penological process, some States such as California developed the “indeterminate sentence,” where the time of incarceration was left almost entirely to the penological authorities rather than to the courts. But more recently the pendulum has swung back. The Federal Sentencing Guidelines, which went into effect in 1987, provided for very precise calibration of sentences, depending upon a number of factors. These factors relate both to the subjective guilt of the defendant and to the harm caused by his acts.

Wherever judges in recent years have had discretion to impose sentence, the consideration of the harm caused by the crime has been an important factor in the exercise of that discretion:

“The first significance of harm in Anglo-American jurisprudence is, then, as a prerequisite to the criminal sanction. The second significance of harm—one no less important to judges—is as a measure of the seriousness of the offense and therefore as a standard for determining the severity of the sentence that will be meted out.” S. Wheeler, K. Mann, and A. Sarat, *Sitting in Judgment: The Sentencing of White-Collar Criminals* 56 (1988).

Whatever the prevailing sentencing philosophy, the sentencing authority has always been free to consider a wide range of relevant material. *Williams v. New York*, 337 U.S. 241 (1949). In the federal system, we observed that “a judge may appropriately conduct an inquiry broad in scope, largely unlimited as to the kind of information he may consider, or the source from which it may come.” *United States v. Tucker*, 404 U.S.

443, 446 (1972). Even in the context of capital sentencing, prior to *Booth* the joint opinion of Justices Stewart, Powell, and STEVENS in *Gregg v. Georgia*, 428 U.S. 153, 203–204 (1976), had rejected petitioner’s attack on the Georgia statute because of the “wide scope of evidence and argument allowed at presentence hearings.” The joint opinion stated:

“We think that the Georgia court wisely has chosen not to impose unnecessary restrictions on the evidence that can be offered at such a hearing and to approve open and far-ranging argument. . . . So long as the evidence introduced and the arguments made at the presentence hearing do not prejudice a defendant, it is preferable not to impose restrictions. We think it desirable for the jury to have as much information before it as possible when it makes the sentencing decision.”

The Maryland statute involved in *Booth* required that the presentence report in all felony cases include a “victim impact statement” which would describe the effect of the crime on the victim and his family. *Booth*, *supra*, at 498. Congress and most of the States have, in recent years, enacted similar legislation to enable the sentencing authority to consider information about the harm caused by the crime committed by the defendant. The evidence involved in the present case was not admitted pursuant to any such enactment, but its purpose and effect was much the same as if it had been. While the admission of this particular kind of evidence—designed to portray for the sentencing authority the actual harm caused by a particular crime—is of recent origin, this fact hardly renders it unconstitutional. *Williams v. Florida*, 399 U.S. 78 (1970) (upholding the constitutionality of a notice-of-alibi statute, of a kind enacted by at least 15 states dating from 1927); *United States v. DiFrancesco*, 449 U.S. 117, 142 (1980) (upholding against a double jeopardy challenge an Act of Congress representing “a considered legislative attempt to attack a specific problem in our criminal justice system, that is, the tendency on the part of some trial judges ‘to mete out light sentences in cases involving organized crime management personnel’”).

“We have held that a State cannot preclude the sentencer from considering ‘any relevant mitigating evidence’ that the defendant proffers in support of a sentence less than death.” *Eddings v. Oklahoma*, 455 U.S. 104, 114 (1982). See also *Skipper v. South Carolina*, 476 U.S. 1 (1986). Thus we have, as the Court observed in *Booth*, required that the capital defendant be treated as a “‘uniquely individual human being,’” 482 U.S., at 504 (quoting *Woodson v. North Carolina*, 428 U.S., at 304). But it was never held or even suggested in any of our cases preceding *Booth* that the defendant, entitled as he was to individualized consideration, was to receive that consideration wholly apart from the crime which he had committed. The language quoted from *Woodson* in the *Booth* opinion was not intended to describe a class of evidence that could not be received, but a class of evidence which must be received. Any doubt on the matter is dispelled by comparing the language in *Woodson* with the language from *Gregg v. Georgia*, quoted above, which was handed down the same day as *Woodson*. This misreading of precedent in *Booth* has, we think, unfairly weighted the scales in a capital trial; while virtually no limits are placed on the relevant mitigating evidence a capital defendant may introduce concerning his own circumstances, the State is barred from either offering “a glimpse of the life” which a defendant “chose to extinguish,” *Mills*, 486 U.S., at 397, (REHNQUIST, C. J., dissenting), or demonstrating the loss to the victim’s family and to society which have resulted from the defendant’s homicide.

Booth reasoned that victim impact evidence must be excluded because it would be difficult, if not impossible, for the defendant to rebut such evidence without shifting the focus of the sentencing hearing away from the defendant, thus creating a “‘mini-trial’ on the victim’s character.” *Booth*, *supra*, at 506–507. In many cases the evidence relating to the victim is already before the jury at least in part because of its relevance at the guilt phase of the trial. But even as to additional evidence admitted at the sentencing phase, the mere fact that for tactical reasons it might not be prudent for the defense to rebut victim impact evidence makes the case no different

than others in which a party is faced with this sort of a dilemma. As we explained in rejecting the contention that expert testimony on future dangerousness should be excluded from capital trials, “the rules of evidence generally extant at the federal and state levels anticipate that relevant, unprivileged evidence should be admitted and its weight left to the factfinder, who would have the benefit of cross examination and contrary evidence by the opposing party.” *Barefoot v. Estelle*, 463 U.S. 880, 898 (1983).

Payne echoes the concern voiced in *Booth*’s case that the admission of victim impact evidence permits a jury to find that defendants whose victims were assets to their community are more deserving of punishment than those whose victims are perceived to be less worthy. *Booth*, *supra*, at 506, n. 8. As a general matter, however, victim impact evidence is not offered to encourage comparative judgments of this kind—for instance, that the killer of a hardworking, devoted parent deserves the death penalty, but that the murderer of a reprobate does not. It is designed to show instead each victim’s “uniqueness as an individual human being,” whatever the jury might think the loss to the community resulting from his death might be. The facts of *Gathers* are an excellent illustration of this: the evidence showed that the victim was an out of work, mentally handicapped individual, perhaps not, in the eyes of most, a significant contributor to society, but nonetheless a murdered human being.

Under our constitutional system, the primary responsibility for defining crimes against state law, fixing punishments for the commission of these crimes, and establishing procedures for criminal trials rests with the States. The state laws respecting crimes, punishments, and criminal procedure are of course subject to the overriding provisions of the United States Constitution. Where the State imposes the death penalty for a particular crime, we have held that the Eighth Amendment imposes special limitations upon that process.

“First, there is a required threshold below which the death penalty cannot be imposed. In this context, the State must establish rational criteria that narrow the decisionmaker’s judgment as to whether the circumstances of a particular defendant’s case meet the threshold. Moreover, a societal consensus that the death penalty is disproportionate to a particular offense prevents a State from imposing the death penalty for that offense. Second, States cannot limit the sentencer’s consideration of any relevant circumstance that could cause it to decline to impose the penalty. In this respect, the State cannot challenge the sentencer’s discretion, but must allow it to consider any relevant information offered by the defendant.” *McCleskey v. Kemp*, 481 U.S. 279, 305–306 (1987).

But, as we noted in *California v. Ramos*, 463 U.S. 992, 1001 (1983), “beyond these limitations . . . the Court has deferred to the State’s choice of substantive factors relevant to the penalty determination.”

“Within the constitutional limitations defined by our cases, the States enjoy their traditional latitude to prescribe the method by which those who commit murder should be punished.” *Blystone v. Pennsylvania*, 494 U.S. 299, 309 (1990). The States remain free, in capital cases, as well as others, to devise new procedures and new remedies to meet felt needs. Victim impact evidence is simply another form or method of informing the sentencing authority about the specific harm caused by the crime in question, evidence of a general type long considered by sentencing authorities. We think the *Booth* Court was wrong in stating that this kind of evidence leads to the arbitrary imposition of the death penalty. In the majority of cases, and in this case, victim impact evidence serves entirely legitimate purposes. In the event that evidence is introduced that is so unduly prejudicial that it renders the trial fundamentally unfair, the Due Process Clause of the Fourteenth Amendment provides a mechanism for relief. See *Darden v. Wainwright*, 477 U.S. 168, 179–183 (1986). Courts have always taken into consideration the harm done by the defendant in imposing sentence, and the evidence adduced in this case was illustrative of the harm caused by Payne’s double murder.

We are now of the view that a State may properly conclude that for the jury to assess meaningfully the defendant's moral culpability and blameworthiness, it should have before it at the sentencing phase evidence of the specific harm caused by the defendant. "The State has a legitimate interest in counteracting the mitigating evidence which the defendant is entitled to put in, by reminding the sentencer that just as the murderer should be considered as an individual, so too the victim is an individual whose death represents a unique loss to society and in particular to his family." *Booth*, 482 U.S., at 517 (WHITE, J., dissenting) (citation omitted). By turning the victim into a "faceless stranger at the penalty phase of a capital trial," *Gathers*, 490 U.S., at 821 (O'CONNOR, J., dissenting), *Booth* deprives the State of the full moral force of its evidence and may prevent the jury from having before it all the information necessary to determine the proper punishment for a first-degree murder.

The present case is an example of the potential for such unfairness. The capital sentencing jury heard testimony from Payne's girlfriend that they met at church; that he was affectionate, caring, kind to her children; that he was not an abuser of drugs or alcohol; and that it was inconsistent with his character to have committed the murders. Payne's parents testified that he was a good son, and a clinical psychologist testified that Payne was an extremely polite prisoner and suffered from a low IQ. None of this testimony was related to the circumstances of Payne's brutal crimes. In contrast, the only evidence of the impact of Payne's offenses during the sentencing phase was Nicholas' grandmother's description—in response to a single question—that the child misses his mother and baby sister. Payne argues that the Eighth Amendment commands that the jury's death sentence must be set aside because the jury heard this testimony. But the testimony illustrated quite poignantly some of the harm that Payne's killing had caused; there is nothing unfair about allowing the jury to bear in mind that harm at the same time as it considers the mitigating evidence introduced by the defendant. The Supreme Court of Tennessee in this case obviously felt the unfairness of the rule pronounced by *Booth* when it said "it is an affront to the civilized members of the human race to say that at sentencing in a capital case, a parade of witnesses may praise the background, character and good deeds of Defendant (as was done in this case), without limitation as to relevancy, but nothing may be said that bears upon the character of, or the harm imposed, upon the victims." 791 S. W. 2d, at 19.

In *Gathers*, as indicated above, we extended the holding of *Booth* barring victim impact evidence to the prosecutor's argument to the jury. Human nature being what it is, capable lawyers trying cases to juries try to convey to the jurors that the people involved in the underlying events are, or were, living human beings, with something to be gained or lost from the jury's verdict. Under the aegis of the Eighth Amendment, we have given the broadest latitude to the defendant to introduce relevant mitigating evidence reflecting on his individual personality, and the defendant's attorney may argue that evidence to the jury. Petitioner's attorney in this case did just that. For the reasons discussed above, we now reject the view—expressed in *Gathers*—that a State may not permit the prosecutor to similarly argue to the jury the human cost of the crime of which the defendant stands convicted. We reaffirm the view expressed by Justice Cardozo in *Snyder v. Massachusetts*, 291 U.S. 97, 122 (1934): "justice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true."

We thus hold that if the State chooses to permit the admission of victim impact evidence and prosecutorial argument on that subject, the Eighth Amendment erects no per se bar. A State may legitimately conclude that evidence about the victim and about the impact of the murder on the victim's family is relevant to the jury's decision as to whether or not the death penalty should be imposed. There is no reason to treat such evidence differently than other relevant evidence is treated.

Payne and his amicus argue that despite these numerous infirmities in the rule created by *Booth* and *Gathers*, we should adhere to the doctrine of *stare decisis* and

stop short of overruling those cases. *Stare decisis* is the preferred course because it promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process. See *Vasquez v. Hillery*, 474 U.S. 254, 265–266 (1986). Adhering to precedent “is usually the wise policy, because in most matters it is more important that the applicable rule of law be settled than it be settled right.” *Burnet v. Coronado Oil & Gas Co.*, 285 U.S. 393, 406 (1932) (Brandeis, J., dissenting). Nevertheless, when governing decisions are unworkable or are badly reasoned, “this Court has never felt constrained to follow precedent.” *Smith v. Allwright*, 321 U.S. 649, 665 (1944). *Stare decisis* is not an inexorable command; rather, it “is a principle of policy and not a mechanical formula of adherence to the latest decision.” *Helvering v. Hallock*, 309 U.S. 106, 119 (1940). This is particularly true in constitutional cases, because in such cases “correction through legislative action is practically impossible.” *Burnet v. Coronado Oil & Gas Co.*, *supra*, at 407 (Brandeis, J., dissenting). Considerations in favor of *stare decisis* are at their acme in cases involving property and contract rights, where reliance interests are involved . . .

[T]he opposite is true in cases such as the present one involving procedural and evidentiary rules.

Applying these general principles, the Court has during the past 20 Terms overruled in whole or in part 33 of its previous constitutional decisions. *Booth* and *Gathers* were decided by the narrowest of margins, over spirited dissents challenging the basic underpinnings of those decisions. They have been questioned by members of the Court in later decisions, and have defied consistent application by the lower courts. See *Gathers*, 490 U.S., at 813 (O’CONNOR, J., dissenting); *Mills v. Maryland*, 486 U.S. 367, 395–396 (1988) (REHNQUIST, C. J., dissenting). See also *State v. Huertas*, 51 Ohio St. 3d 22, 33, 553 N. E. 2d 1058, 1070 (1990) (“The fact that the majority and two dissenters in this case all interpret the opinions and footnotes in *Booth* and *Gathers* differently demonstrates the uncertainty of the law in this area”) (Moyer, C. J., concurring).

Reconsidering these decisions now, we conclude for the reasons heretofore stated, that they were wrongly decided and should be, and now are, overruled. We accordingly affirm the judgment of the Supreme Court of Tennessee.