



**ALL CHILDREN ARE CHILDREN**

Challenging Abusive Punishment of Juveniles

The Equal Justice Initiative (EJI) is a private, nonprofit human rights organization. EJI helps the poor, the incarcerated, the condemned, and children. Our work with children is focused on providing legal assistance to juveniles condemned to die in prison; challenging the placement of youth in adult jails and prisons, where they face an elevated risk of assault and sexual violence; and challenging the prosecution of very young children as adults.

In the last several years, EJI has won several reforms that aid children caught in the American criminal justice system. As this report outlines, more work remains. EJI currently is seeking to end the adult prosecution of any child under age 14; to end the placement of any juvenile under age 18 in an adult jail or prison; and to abolish life imprisonment without parole and other excessive sentences imposed on children.

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**Please visit us at [www.eji.org](http://www.eji.org) to learn more about how you can help end excessive punishment and eliminate cruel treatment of children in the adult criminal justice system.**



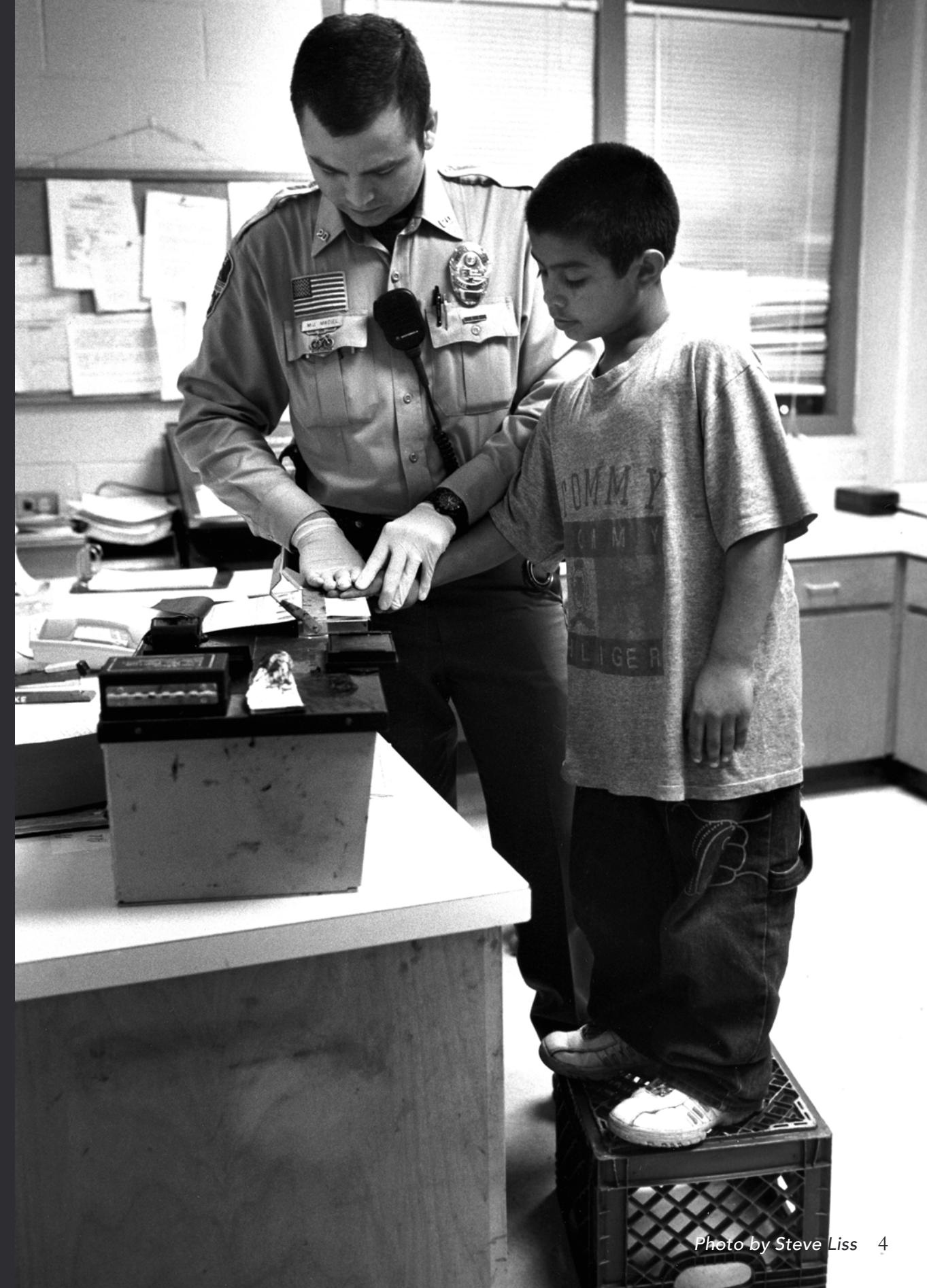
## **UNDERAGE PROSECUTION OF CHILDREN**

Children under the age of 14 are protected in virtually every area of the law, except when it comes to the criminal justice system. Over the last 25 years, very young children have been prosecuted as adults in increasing numbers and subjected to very harsh adult sentences. Prosecuting underage children as adults is not only incompatible with the capabilities of young children, but also traumatizing, abusive, cruel, and unusual.

Young children are developmentally incapable of exercising the judgment, maturity, and knowledge necessary to competently defend themselves against criminal prosecution in adult court. The U.S. Supreme Court has developed clear guidelines for insuring that adults are competent before they are subjected to criminal prosecution, but courts have not developed rules that address the unique characteristics of children, leaving child defendants vulnerable and at great risk in adult court.

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**Consistent with what adolescent development experts have taught us and with what teachers, parents, and child advocates appreciate, young children cannot be prosecuted fairly as adults. The practice of prosecuting children under the age of 14 as adults should be eliminated.**





**Thirteen states in the United States have no minimum age for trying children as adults.**

Children as young as eight have been prosecuted as adults. Some states set the minimum age at 10, 12, or 13. EJI believes that the adult prosecution of any child under age 14 for any crime should be banned.



Photo by Richard Ross

## STATES WITH NO MINIMUM AGE FOR ADULT PROSECUTION

Alaska  
Delaware  
Florida  
Hawaii  
Idaho

Maine  
Maryland  
Michigan  
Pennsylvania  
Rhode Island

South Carolina  
Tennessee  
West Virginia



## IMPRISONING CHILDREN WITH ADULTS

Some 95,000 children are housed in adult jails and prisons in America each year. Unquestionably, jailing children with adults needlessly puts young people at great risk. Children are five times more likely to be sexually assaulted in adult prisons than in juvenile facilities.

Children are much more likely to commit suicide after being housed in an adult jail or prison than incarcerated adults or children incarcerated in juvenile facilities. Youth in adult facilities get little to no access to age-appropriate services like school, mental health, and in-person family visits.

As thousands of children have been transferred to adult courts for criminal

prosecution, growing numbers of them have been automatically placed in adult jails and prisons. Many states strictly prohibit placing children in adult jails or prisons. But a majority of states still permit the practice and thousands of young people have been assaulted, raped, and traumatized as a result.

Every state in the country maintains juvenile facilities or could segregate juveniles from adults, but many refuse to do so.

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**Prison confinement of children with adults is indefensible, cruel, and unusual, and it should be banned.**

# 95,000

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**Children are housed in adult jails and prisons each year**

# 5X

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**More likely to be sexually assaulted in adult prisons**



**At the age of 13, Joe Sullivan was arrested and prosecuted as an adult. He was convicted and initially sentenced to die in prison.**

After arriving at an adult prison in Florida, he was repeatedly subjected to sexual violence and assaults. By the age of 27, he began showing signs of multiple sclerosis that experts believe was in part induced by trauma and abuse he suffered in prison. Now 37, he is confined to a wheelchair. EJI recently won a reduced sentence for Joe and is now providing him with support services.



**Many children prosecuted as adults  
suffer from untreated mental illness.**

Unlike adults with mental illness, children have very limited experience managing their disabilities, anxieties, fears, and trauma. They often act impulsively, recklessly, and irresponsibly. In an adult jail or prison, this behavior results in more aggressive punishment, which can worsen a child's mental health problems.

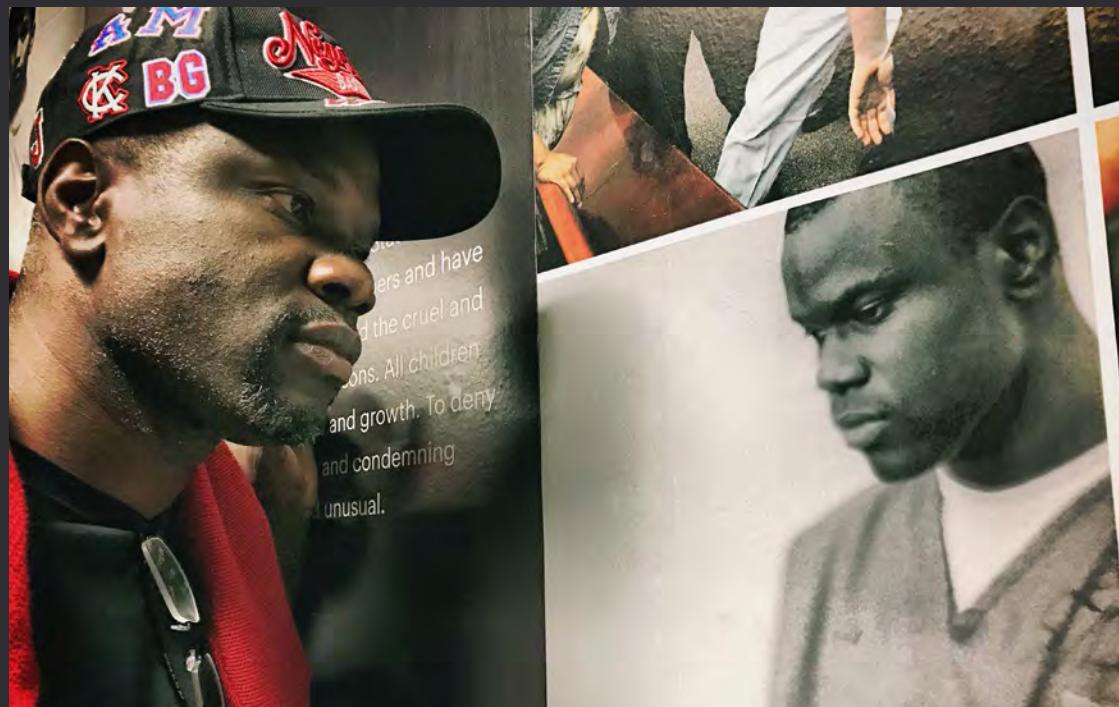
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**Ian Manuel was 13 when older teens directed him to commit a robbery, during which a woman suffered a nonfatal gunshot wound.**

After Ian turned himself in, his attorney told him to plead guilty and he would be sentenced to 15 years. Ian accepted responsibility and pleaded guilty but was sentenced to life imprisonment without parole. His lawyer never appealed or withdrew the plea. When he arrived at prison processing in Central Florida, he was so small that no prison uniform fit him. Within months, Ian was sent to one of the toughest adult prisons in the

state, where because of his size and age he was placed in solitary confinement. He remained there for 18 years. He has lived most of his life in a closet-size concrete box, getting his food through a slot in the door, never seeing another inmate, with only limited reading materials. Isolation led him to repeatedly attempt suicide.

**EJI recently won Ian's release from prison and he is now in our specialized re-entry program.**



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**At the age of 14, Trina Garnett was arrested and prosecuted as an adult. She was convicted and sentenced to life imprisonment without parole.**

Shortly after her arrival at the adult women's prison in Muncy, Pennsylvania, she was raped by a male guard and became pregnant. After she delivered the child, the baby was taken from her and she became increasingly mentally ill.

The officer who raped her was never criminally prosecuted. **At 50, Trina suffers from multiple sclerosis and uses a wheelchair. EJI is currently challenging Trina's sentence.**

## EXCESSIVE PUNISHMENT OF CHILDREN

For more than 20 years, EJI has challenged excessive punishments imposed on children, including the death penalty, life imprisonment without parole, and “virtual life” sentences that deny children any meaningful opportunity for release.



**Fourteen-year-old George Stinney was arrested in Clarendon County, South Carolina, on March 23, 1944.**

An all-white jury convicted him of murdering two white girls after a one-day trial. Just 81 days later, the 5-foot-1-inch, 95- pound boy was executed in the electric chair. The adult-sized

face mask slipped off, revealing his wide-open, tearful eyes and saliva coming from his mouth. He was the youngest person executed in the U.S. in the 20th century.

EJI has represented dozens of children facing execution in Alabama, which had the nation’s highest death-sentencing rate for juveniles. Children continued to be sentenced to death and executed in the United States until 2005, when the Supreme Court finally banned the execution of juveniles in *Roper v. Simmons*.

## **ROPER V. SIMMONS, 2005**

In 2005, the U.S. Supreme Court declared in Roper v. Simmons that death by execution is unconstitutional for juveniles. Before the ruling, 365 children had been legally executed in the United States, including 22 since 1985.

The Court's ban on juvenile executions allowed EJI to focus on the plight of nearly 3000 children age 17 or younger who had been sentenced to imprisonment until death through life-without-parole sentences imposed with very little scrutiny or review. Children as young as 13 were among the thousands condemned to die in prison.

Most of the sentences imposed on these children were mandatory: the court could

not give any consideration to the child's age or life history. Some of the children were charged with crimes that do not involve homicide or even injury; many were convicted for offenses where older teens or adults were primarily responsible for the crime; 70% of condemned kids 14 or younger are children of color.

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**EJI believes that such a harsh sentence imposed on children is cruel and unusual in violation of the Eighth Amendment to the U.S. Constitution. In 2006, we launched a litigation campaign to challenge death-in-prison sentences imposed on children.**

**(Right) In Florida, a 15-year-old boy is sentenced to life imprisonment without parole and runs to his mother in court.**



*Photo by Bob Self/Florida Times-Union* 18

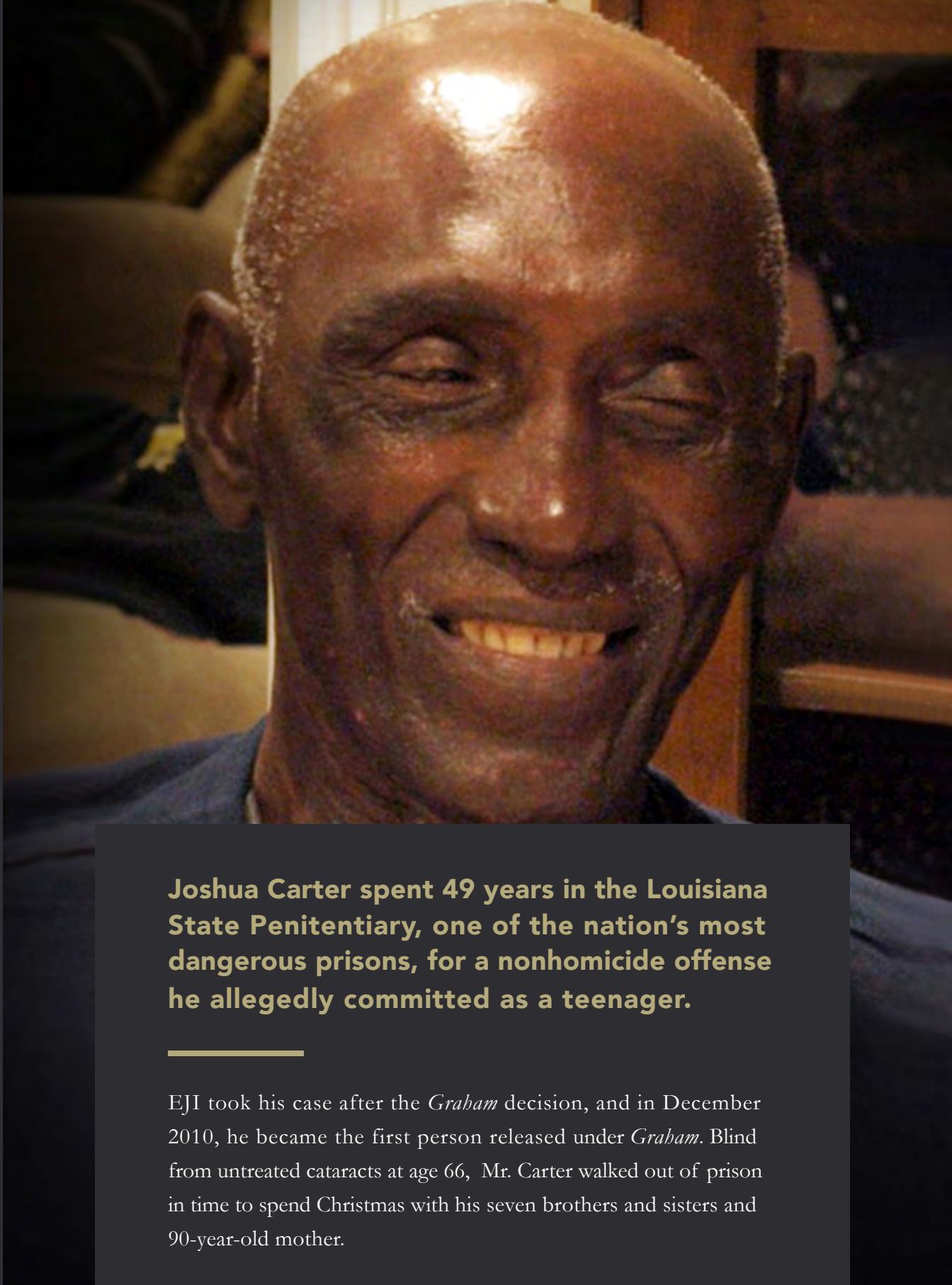
## **GRAHAM v. FLORIDA, 2010**

In November 2009, EJI attorneys went to the U.S. Supreme Court and argued for a constitutional ban on imposing death-in-prison sentences on children.

On May 17, 2010, the Court issued a groundbreaking ruling in *Graham v. Florida* declaring that life-without-parole sentences could no longer be imposed on juveniles convicted of non-homicide offenses.



**EJI's Bryan Stevenson argued *Sullivan v. Florida*, the companion case to *Graham*.**



**Joshua Carter spent 49 years in the Louisiana State Penitentiary, one of the nation's most dangerous prisons, for a nonhomicide offense he allegedly committed as a teenager.**

EJI took his case after the *Graham* decision, and in December 2010, he became the first person released under *Graham*. Blind from untreated cataracts at age 66, Mr. Carter walked out of prison in time to spend Christmas with his seven brothers and sisters and 90-year-old mother.

The Court's decision in *Graham* recognized that children are different from adults in several ways that directly impact the appropriate punishment for juvenile offenses. The Court wrote:

**“ Juveniles are more capable of change than adults, and their actions are less likely to be evidence of ‘irretrievably depraved character’ than are the actions of adults. It remains true that ‘[f]rom a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor’s character deficiencies will be reformed. ”**

International law prohibits sentencing children to death in prison. The United States is the only country in the world that sentences juveniles to life in prison without parole.

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**Since 2010, EJI has provided legal assistance to scores of people who were condemned to die in prison and won the release of dozens who were sentenced to life imprisonment without parole when they were children.**



**Robert Caston was sentenced to die in prison for an assault when he was just 17 years old. He was sent to work in the fields of Louisiana's infamous Angola prison plantation under brutal conditions.**

He was extremely vulnerable in adult prison, constantly faced with threats of rape, murder, and sexual slavery. In 1986, he lost four fingers on his right hand in a prison work accident but continued to learn carpentry, baking, and air conditioner repair. He maintained an impeccable conduct record: he was a Class A Trusty for the last 25 years prior to his release;

obtained his GED; and completed classes in anger management, HIV/AIDS education, refereeing and umpiring, and sports statistics. Even the prosecutors assigned to his case were impressed with his rehabilitation. After *Graham*, EJI filed a motion to challenge Mr. Caston's sentence, and just three days before his 64th birthday, won his release.

## MILLER V. ALABAMA, 2012

As part of our ongoing litigation campaign to end life imprisonment without parole for children in all cases, EJI asked the U.S. Supreme Court to review two cases in which 14-year-old children had been sentenced to die in prison after being convicted of homicide crimes.

In November 2011, the Supreme Court granted review in both cases, *Miller v. Alabama* and *Jackson v. Hobbs*.

(Right) Two 14-year-old boys in Michigan are sentenced to life imprisonment without parole in 2009. Seventy percent of children 14 or younger sentenced to life imprisonment without parole are children of color.

Evan Miller and Kuntrell Jackson were among hundreds of children convicted of tragic crimes and condemned to die in prison by judges who were required to impose life-imprisonment-without-parole sentences without considering the child's age or circumstances, even though most of the kids facing these harsh sentences had suffered extreme abuse, neglect, and trauma.





In March 2012, EJI lawyers argued at the Supreme Court that sentencing kids to life in prison without parole is cruel and unusual punishment that violates the Eighth Amendment to the U.S. Constitution, relying on the Court's recognition in *Roper v. Simmons* and *Graham v. Florida* that children's unique immaturity, impulsiveness, vulnerability, and capacity for redemption and rehabilitation are not crime-specific.



**Kuntrell Jackson** was convicted of murder after his older cousin and friend shot a video store clerk during a robbery attempt. **He received a mandatory sentence to die in prison in Arkansas even though he never possessed the weapon, he was not the shooter, and his involvement in the robbery was limited.**



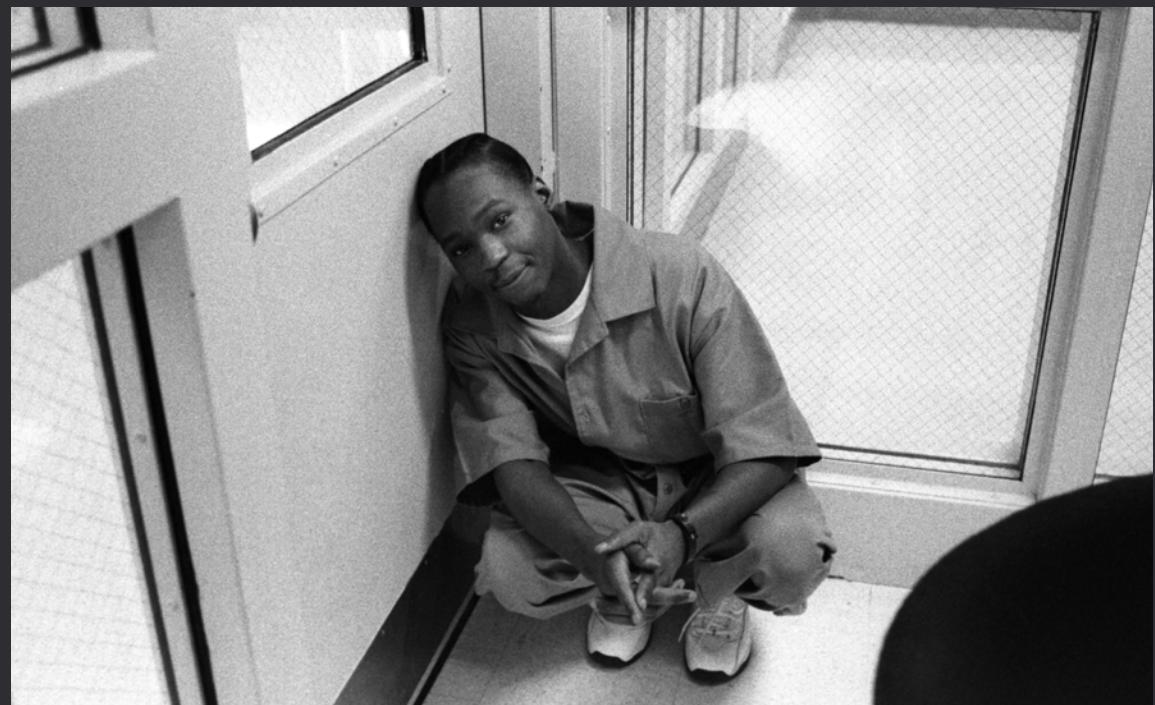
**Evan Miller** suffered physical and emotional abuse so severe that he tried to hang himself at age five. On the night of the crime, a man gave 14-year-old Evan and an older boy drugs and alcohol. When the man grabbed Evan, the boys hit him with a bat and set a fire in the trailer. The man died of smoke inhalation. **Evan was sentenced to die in prison in Alabama without any consideration of his age or the abuse he suffered throughout his short life.**

On June 25, 2012, the Supreme Court issued an historic ruling in *Miller v. Alabama* and *Jackson v. Hobbs* holding that mandatory life-without-parole sentences for all children 17 or younger convicted of homicide are unconstitutional. Kuntrell Jackson and Evan Miller were granted new sentencing hearings. The ruling will affect hundreds of individuals whose sentencers did not take their age or other mitigating factors into account, including 13-year-old Joseph Jones in North Carolina (*below*) and 14-year-old Ashley Jones in Alabama (*opposite*).

The Court did not ban all juvenile life-without-parole sentences, but wrote that

requiring sentencers to consider “children’s diminished culpability, and heightened capacity for change” should make such sentences “uncommon.”

On January 25, 2016, the United States Supreme Court decided in *Montgomery v. Louisiana* that states must retroactively apply the ban on mandatory death-in-prison sentences for juveniles. The Court explained: **“Before Miller, every juvenile convicted of a homicide offense could be sentenced to life without parole. After Miller, it will be the rare juvenile offender who can receive that same sentence.”**



27 Photo by Gigi Cohen



Photo by Birmingham News 28

## THANK YOU.

There is still much work to be done to protect children in an era when extreme and excessive punishments have become a serious threat to basic human rights in the United States. EJI is committed to challenging abusive treatment of children in the criminal justice system.

For videos, reports, and additional information about our work on behalf of children, please visit our website at [www.eji.org](http://www.eji.org). EJI is a 501(c)(3) organization that depends on individual donations. We are honored and energized when others stand with us, and we are grateful for your support.



*(Clockwise from top left)* EJI attorneys Alicia D'Addario and John Dalton prepare for oral argument; law fellow Jennifer Williams with EJI client Willie Leason, who was released after more than 50 years in Louisiana's notorious Angola prison for a nonhomicide offense as a teenager; and, EJI Director Bryan Stevenson with Kuntrell Jackson, who was released in 2017 after EJI successfully challenged his death-in-prison sentence at the Supreme Court.



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