

Restore Justice Foundation

Criminal Justice Issues and Prisoners' Rights

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Policy Issue Resources

The Supreme Court reviewed the cases of two 14-year-old boys who were sentenced to mandatory life in prison without parole after being convicted of murder in adult court. The Court declared unconstitutional sentencing laws mandating life in prison without the possibility of parole for juveniles under age 18 convicted of a homicide crime. The decision was based on the Eighth Amendment's prohibition of cruel and unusual punishment, which guarantees that people will not be subjected to excessive punishment. Citing previous decisions in *Roper v. Simmons* and *Graham v. Florida*, the Court established that children are constitutionally different than adults for sentencing purposes, because they lack maturity and have an underdeveloped sense of responsibility that makes them more reckless, impulsive and risk-prone than adults and more susceptible to rehabilitation. The Court said that judges must be able to consider youth as a mitigating factor as well as the circumstances of the crime when making sentencing decisions.

Adolfo Davis was 14 years old when he was arrested for murdering two men. He was charged in adult court with 31 counts related to the murders and was convicted of two counts of first degree murder, two counts of attempted murder, and home invasion. Based on the Illinois statute requiring a life sentence for anyone convicted of multiple murders, Davis received a life sentence without the possibility of parole, as well as 30 years for each count of attempted murder and home invasion to run concurrently. The Illinois Supreme Court decided that the United States Supreme Court's decision in *Miller v. Alabama* applied retroactively to Davis in his state post-conviction petition procedure, that Davis's sentence should be vacated, and that Davis was entitled to a resentencing hearing in which the factors laid out in *Miller* could be considered in mitigation and the trial court could impose any permissible sentence.

Antonio House was 19 years old when he was charged with two counts of murder and two counts of aggravated kidnapping based on an accountability theory. The trial court sentenced him to two terms of life in prison without parole based on the multiple-murder statute and two terms of 30 years for the aggravated kidnapping counts to run consecutive to the life sentences. In a post-conviction petition House filed in 2010, he challenged the mandatory life sentence based on the Eighth Amendment of the United States Constitution and the proportionate penalties clause of the Illinois Constitution. The Illinois Appellate Court decided that the life sentence as applied to House violated the proportionate penalties clause of the Illinois Constitution. The court said that the designation that after age 18 an individual is a mature adult appears to be somewhat arbitrary, especially in the case at bar, relying on the relevant United States Supreme Court cases (*Miller*, *Graham*, and *Roper*) for the findings about continuing brain development in adolescents and young adults. In this case, the court found, House was barely a legal adult, did not have a criminal history of violent crimes, had a hard family life, and never graduated from high school. Factors that the sentencing court should have been able to consider in mitigation. The court decided that House was entitled to a new sentencing hearing in which the trial court would be able to consider the relevant mitigating factors.

The Supreme Court reviewed the case of a 17-year-old who killed a deputy sheriff and received a mandatory sentence of life without parole. The Court decided that *Miller* announced a new substantive rule of law that juveniles under 18 could not be subject to mandatory life sentences without the possibility of parole for homicide crimes and that the states must give retroactive effect to this new rule in state court review proceedings. The Court left it to the states to determine how to provide a remedy for those who were convicted of homicide crimes and sentenced to mandatory life without parole as juveniles. The Court suggested that parole is an option. Ultimately, however, the Court said that the opportunity for release will be afforded to those who demonstrate the truth of *Miller*'s central intuition that children who commit even heinous crimes are capable of change. Importantly, the Court also said: *Miller* did bar life without parole for all but the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility.

Bernard McKinley was 16 years old when he shot and killed another young man. A jury convicted him of first degree murder, and the trial court sentenced him to consecutive 50-year terms for the murder and for use of a firearm. He filed a habeas corpus petition in federal court after unsuccessfully seeking post-conviction relief in the Illinois court system. The Seventh Circuit vacated the decision of the lower court dismissing his petition, and remanded the case to the lower court to hold until McKinley filed a new successive habeas corpus petition in state court seeking resentencing under *Miller v. Alabama*. The Seventh Circuit focused on the following language in *Miller*: [W]e require [the sentencing judge] to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison. The Seventh Circuit found that this language means that sentencing courts must consider age-related mitigation factors when sentencing individuals who commit crimes as juveniles to *de facto* life terms: That passage implies that the sentencing court must *always* consider the age of the defendant in deciding what sentence (within the statutory limits) to impose on a juvenile. It further noted that the sentencing court did not do so for McKinley. For procedural reasons, the Seventh Circuit said that the claim could not proceed in federal court at that time, but it noted that *Davis v. Illinois* provided McKinley with an avenue through which to challenge his sentence that was not previously available to him, told him to file such a petition in state court, and all but instructed the state court to consider McKinley's youth and immaturity in resentencing him.

Michael Nieto was 17 years old when he shot at a car during a gang dispute, killing one person and injuring another. A jury convicted him of first degree murder and aggravated battery with a firearm. At sentencing, the court weighed mitigating and aggravating factors. In aggravation, the court found that, among other things, Nieto had shouted gang slogans, used a firearm belonging to his gang to fire multiple shots at unarmed victims, and did so without provocation. The court also noted that Nieto had subsequently accidentally shot and killed his younger brother, which it said showed that his criminal conduct was likely to, and did, recur. In mitigation, the court found that Nieto had shown remorse for his brother's death and took into account his young age. The court sentenced Nieto to a total of 78 years in prison, the aggregation of consecutive discretionary sentences with a mandatory sentence for use of a firearm. Nieto filed a post-conviction petition in state court. While the denial of that petition was on appeal, the U.S. Supreme Court decided *Miller*. Nieto then

argued for the first time on appeal that his sentence violated *Miller*. Addressing a procedural issue first, the Appellate Court interpreted *Davis*, *Thompson*, and *Montgomery* to collectively imply that forfeiture could not stand in the way of a juvenile making an as-applied challenge under *Miller* for the first time on appeal. The court then decided that *Montgomery* expanded *Miller* so that even discretionary de facto life sentences could be subject to challenge under *Miller*. The court relied on the Supreme Courts statement in *Montgomery* that *Miller* did bar life without parole for all but the rarest of juvenile offenders, noting that it did not say *mandatory* life. Therefore, the court said, trial courts must consider the special characteristics of youth even when imposing discretionary sentences and that a courts failure to do so entitles a juvenile to relief. Applying this rule, the court found that the trial court had not adequately considered the characteristics of Nietos youth, vacated his sentence, and remanded the case for resentencing.

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