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SUMMARY OF U.S. SUPREME COURT CASE ON LIFE SENTENCES WITHOUT PAROLE FOR JUVENILE NONHOMICIDE CONVICTIONS

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You asked for a summary of the United States Supreme Court's ruling in *Graham v. Florida* (130 S.Ct. 2011 (2010)).

SUMMARY

In *Graham v. Florida*, the United States Supreme Court considered whether sentencing a juvenile to life without parole for a nonhomicide conviction violated the Eighth Amendment's ban on cruel and unusual punishment.

Following its precedents, the majority opinion considered whether the punishment was proportional to the offense. The Court's proportionality cases consider either the application of a sentence to a defendant in a particular case or to a category of offenders. Because this case involved a particular type of sentence as it applied to a class of offenders, the majority determined that a categorical approach was appropriate.

Under that approach, the majority analyzed state legislation and state practices on imposing life sentences without parole for juvenile nonhomicide offenses. The majority found that a national consensus developed against this sentencing practice.

The majority also stated that penological theory does not justify these sentences because juveniles, relative to adult offenders, have diminished moral culpability, a lack of maturity, underdeveloped sense of responsibility, and are more capable of change.

The majority concluded that the Eighth Amendment prohibits states from imposing sentences to life without parole for defendants younger than 18 and states must provide these defendants with “some meaningful opportunity” for release based on demonstrated maturity and rehabilitation. The majority stated that the Eighth Amendment does not prohibit a juvenile who commits a nonhomicide crime from being kept in prison for life but it does prohibit making the judgment “at the outset that those offenders never will be fit to re-enter society.”

Justice Kennedy wrote the majority opinion in which Justices Stevens, Ginsburg, Breyer and Sotomayor joined. Justice Stevens also wrote a brief concurring opinion. Chief Justice Roberts wrote a concurring opinion, agreeing that Graham’s sentence was not proportionate to the crime but that such determinations should be made case-by-case and the Court’s categorical ban was overly broad.

Justice Thomas wrote a dissenting opinion contesting the evidence used to support the majority’s conclusions and arguing that the constitution’s framers did not intend to include a proportionality test in the Eight Amendment. Justice Alito also wrote a brief dissenting opinion.

The U.S. Supreme Court has agreed to hear two cases, *Miller v. Alabama* and *Jackson v. Hobbs*, each challenging a life sentence without parole for a juvenile convicted of homicide. The Court will hear both cases on March 20, 2012. The decisions are anticipated before the Court’s term ends in June.

FACTS AND PROCEDURAL HISTORY

The Petitioner, Terrence J. Graham, committed armed burglary and attempted armed robbery when he was 16. He pleaded guilty to both charges under a plea agreement and was sentenced to three years of probation.

Less than six months later, Graham violated the terms of his probation by committing a home invasion robbery, possessing a firearm, and associating with people engaged in criminal activity. Because Graham violated the terms of the plea agreement by committing crimes while on probation, the trial court held a new sentencing hearing.

Graham was sentenced to life in prison for the armed burglary and fifteen years for the attempted armed robbery. Because Florida abolished its parole system, Graham would not have the possibility of release at any time during his sentence.

Graham filed a motion with the trial court challenging his sentence under the Eighth Amendment's ban on cruel and unusual punishment. The motion was denied and the First District Court of Appeal of Florida affirmed his sentence. The Florida Supreme Court denied review of the case. The U.S. Supreme Court agreed to hear the case in 2009.

MAJORITY OPINION

Justice Kennedy delivered the majority opinion in which Justices Stevens, Ginsburg, Breyer and Sotomayor joined.

Proportionality Standard

The majority stated that the Eighth Amendment's ban on cruel and unusual punishment is based on the concept that punishment for a crime should be proportional to the offense committed. The Court's cases reviewing a punishment's proportionality fall into two categories: cases considering whether a sentence is excessive for a (1) particular defendant's crime or (2) category of offenders.

The majority determined that a categorical approach was appropriate for this case because it involves a particular type of sentence as it applies to a class of offenders.

Test for Categorical Restrictions

In previous cases considering categories of defendants, the Court held that the Eighth Amendment prohibits the death penalty for individuals (1) under age 16 (*Thompson v. Oklahoma* (487 U.S. 815 (1988))), which the Court later extended to under age 18 (*Roper v. Simmons* (543 U.S. 551 (2005))) and (2) functioning at a low intellectual level (*Atkins v. Virginia* (536 U.S. 304 (2002))).

In these cases, the Court used a two pronged test. First, the Court considers society's standards, based on legislative acts and state practices. Second, the Court looks to case precedents and its own understanding of the use and application of the Eighth Amendment. The Court applied the same test in *Graham*.

Application

Regarding the first part of the test, the majority observed 37 states, the District of Columbia, and the federal government all allowed life sentences without parole for some juvenile nonhomicide offenses. However, only 12 jurisdictions actually had offenders serving such terms. After considering various statistics, the majority noted that “in proportion to the opportunities for its imposition, life without parole sentences for juveniles convicted of nonhomicide crimes is as rare as other sentencing practices found to be cruel and unusual.” The majority found that a national consensus developed against this sentencing practice.

Regarding the second part of the test, the majority reiterated its finding in *Roper* that juveniles, relative to adult offenders, have diminished moral culpability. They have a lack of maturity and underdeveloped sense of responsibility, their brains continue to develop through late adolescence, and they are more capable of change than adults.

The majority stated that a life sentence without parole for a juvenile convicted of a nonhomicide offense could not adequately serve any of the four legitimate goals of penal sanctions. Specifically, they found that the sentence did not serve the goals of

1. retribution, because the severity of the sentence outweighed the juvenile offender’s culpability;
2. deterrence, because juveniles were less likely than adults to consider possible punishments when making decisions;
3. incapacitation, because the sentence was based on the unfair assumption that the juvenile offender will forever be a danger to society; and
4. rehabilitation, because the sentenced juvenile would never have the opportunity to re-enter the community.

Additionally, the majority noted the United States is the only nation that allows for such a sentence.

Conclusions

The majority found that penological theory, the limited culpability of juvenile nonhomicide offenders, and the severity of a sentence of life without parole all led to the conclusion that the sentencing practice was cruel and unusual and prohibited by the Eighth Amendment. They explained that such a categorical rule against a life sentence without parole allows juvenile nonhomicide offenders the opportunity to reform and mature.

The majority expressed doubt that courts taking a case-by-case approach would be able to accurately distinguish the individuals who were truly incorrigible from those who had the capacity to change. They also noted the difficulties faced by juvenile offenders' attorneys: "Difficulty weighing long-term consequences; a corresponding impulsiveness; and reluctance to trust defense counsel seen as part of the adult world a rebellious youth rejects, all can lead to poor decisions by one charged with a juvenile offense."

Because age 18 is the line society generally draws between childhood and adulthood, the majority concluded that states cannot sentence defendants younger than 18 to life without parole. They stated that this does not require their eventual freedom, but states must provide "some meaningful opportunity" for release based on demonstrated maturity and rehabilitation. States can explore the means and mechanisms for compliance. They added that the Eighth Amendment does not prohibit a juvenile who commits a nonhomicide crime from being kept in prison for life but it does prohibit making the judgment "at the outset that those offenders never will be fit to re-enter society."

JUSTICE STEVENS CONCURRING OPINION

Justice Stevens filed a brief concurring opinion, in which Justices Ginsburg and Sotomayor joined. He refuted Justice Thomas' dissenting opinion (see below). He stated that evolving standards of decency have been central to the Court's rulings on the Eighth Amendment for at least a century and Justice Thomas's interpretation is too rigid.

CHIEF JUSTICE ROBERTS CONCURRING OPINION

Chief Justice Roberts filed a separate concurring opinion. He argued that the Court should decide the appropriateness of a life sentence without parole for juvenile nonhomicide offenders on a case-by-case basis. He agreed that Graham should not have received such a sentence, but argued that the majority's decision in this case is overly broad.

JUSTICE THOMAS' DISSENT

Justice Thomas filed a dissenting opinion, with whom Justices Scalia and Alito joined.

Justice Thomas contested the majority's approach and its analysis. He argued that the 37 states that allow life without parole sentences for nonhomicide juvenile offenders constitute a majority and the assertion that the national consensus opposes such sentences was incorrect.

Thomas also questioned the majority's willingness to allow life without parole sentence for juveniles convicted of homicide but not for juveniles convicted of brutal assaults and rapes.

Additionally, Thomas argued that the constitutional framers did not include any language about proportionality when they drafted the Eighth Amendment and therefore it was not their intent for such a standard to be used by the Court when determining if a punishment was cruel and unusual.

JUSTICE ALITO'S DISSENT

Justice Alito filed a separate dissent in order to point out that the majority's opinion does not forbid sentences for a lengthy term of years without parole. He also argued that the sentencing issue was not properly before the Court.

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