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

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You asked for a summary of the United States Supreme Court's ruling in *Miller v. Alabama*.

SUMMARY

In *Miller v. Alabama* (567 U.S. ___ 2012), the U.S. Supreme Court held that the 8th Amendment's "cruel and unusual punishments" prohibition (Cruel and Unusual Punishments Clause) prohibited courts from automatically imposing life without parole sentences on offenders who committed homicides while they were juveniles (under age 18). The challenge was raised in two consolidated cases involving youth who were age 14 when they committed their offenses and were sentenced to this penalty under state statutes that barred state judges from imposing lesser sentences.

The majority opinion, written by Justice Elena Kagan and joined by Justices Anthony Kennedy, Stephen Breyer, Ruth Bader Ginsburg, and Sonia Sotomayor found that such sentences violate the Cruel and Unusual Punishments Clause. The Court based its decision on two lines of cases: one that relied on a proportionality standard and the other that calls for individualized sentencing when imposing the death penalty.

Although the Court did not categorically bar life without parole sentences for juveniles, it did require sentencers “to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison” (slip op. at 17).

Justices Breyer and Sotomayor joined fully in the majority opinion. Justice Breyer also wrote a concurrence, in which Sotomayor joined, explaining how recent 8th Amendment cases allow courts to impose sentences other than life without parole to certain youthful homicide offenders. In his view, the amendment prohibits judges from imposing life without parole sentences on juveniles who (1) committed homicides before they reached age 18 and (2) neither killed the victim nor intended that he or she be killed.

Justice Breyer considered juveniles’ moral culpability to be “twice diminished” – first by their chronological ages and second by their immaturity and related characteristics.

The four dissenting justices (Alito, Roberts, Scalia, and Thomas) agreed that the majority (1) exceeded its constitutional powers by invalidating legislatively established sentencing policies and (2) was likely to do so in future juvenile sentencing cases. They amplified the basis for their dissents in three separate opinions.

Chief Justice Roberts, joined by the other dissenters, argued that the Court’s decision should have turned on whether categorically sentencing juveniles convicted of homicide was an “unusual” punishment within the meaning of the 8th Amendment’s Cruel and Unusual Punishments Clause.

Justice Alito, joined by Justice Scalia, maintained that the majority improperly based its opinion on subjective views of juvenile sentencing policies, rather than on objective indications that society’s trends pointed in the opposite direction. Finally, Justice Thomas, joined by Justice Scalia, rested his dissent on the view that the majority should have based its decision on the doctrine of original intent. Under that analysis, courts must uphold criminal sentencing decisions unless they were widely understood to be cruel and unusual punishments in 1792, the year in which the 8th Amendment was adopted.

PETITIONERS

Evan Miller

On an evening in 2003, 14-year old Evan Miller was at home with a friend when a man came to make a drug deal with Miller's mother. The boys followed the man to his trailer, where they all smoked marijuana and played drinking games. The boys stole the man's wallet when he passed out. After removing the wallet's contents, Miller attempted to return the wallet to the man's pocket. The man woke up and grabbed Miller by the throat. Miller's friend hit the man with a baseball bat, and when the man released him, Miller struck the man with the bat repeatedly. The boys retreated from the trailer when the man was unconscious, but returned in order to destroy the evidence. They lit the trailer on fire, and the man died of his injuries and smoke inhalation.

Kuntrell Jackson

Kuntrell Jackson was 14 years old when he and two other boys decided to rob a video store. At some point prior to the commission of the crime, Jackson learned that one of his companions was armed with a gun. Jackson waited outside while the others entered the store. One of the boys threatened the clerk with a gun and demanded money. The clerk refused. Jackson entered the store and either said to the clerk, "We ain't playin'," or said to his friends, "I thought you all was playin'." When the clerk threatened to call the police, the armed boy shot and killed her. All three boys fled the store empty-handed.

PROCEEDINGS BELOW

Miller

In Arkansas, juveniles may be transferred to adult court when charged with certain serious offenses. Jackson was charged with capital felony murder and aggravated robbery. He was transferred to adult court and, following a jury trial, was convicted of both offenses. The judge imposed the mandatory sentence for capital murder of life imprisonment without the possibility of parole.

Following the U.S. Supreme Court's decision in *Roper v. Simmons* (543 U.S. 551 (2005)) that sentencing a juvenile offender to death violates the 8th Amendment's Cruel and Unusual Punishment Clause, Jackson filed a *habeas corpus* petition in state court. (This is a commonly used procedure to obtain a judicial determination of the legality of an

individual's custody.) He argued, based on *Roper*, that a mandatory life sentence without parole for a juvenile offender also violates the 8th Amendment. The court dismissed Jackson's habeas petition. While on appeal, the U.S. Supreme Court held in *Graham v. Florida* (560 U.S. ____ (2010)) that a life sentence without parole for a juvenile nonhomicide offense also violates the 8th Amendment. The Arkansas Supreme Court affirmed the *habeas* petition dismissal. The majority found that neither case was applicable because, unlike in *Roper*, Jackson had not been sentenced to death and unlike in *Graham*, he had committed a homicide offense.

Miller

Miller was charged with murder in the course of arson and, like Jackson, his case was discretionarily transferred to adult court. Following a jury trial, Miller was convicted and given the mandatory sentence of life imprisonment without parole. The Alabama Court of Criminal Appeals affirmed the sentence and the Alabama Supreme Court denied review.

The U.S. Supreme Court consolidated both cases and agreed to hear them in order to address the question of whether mandatory life without parole sentences for juveniles under age 18 violate the 8th Amendment's Cruel and Unusual Punishments clause.

MAJORITY OPINION

The majority opinion held that mandatory life without parole sentences for juveniles under age 18 violate the 8th Amendment's Cruel and Unusual Punishments Clause. The decision was based on two lines of cases, one of which relied on a proportionality standard to determine that children should not be sentenced as if they are adults. The other line of cases calls for individualized sentencing when imposing the death penalty. The Court likened mandatory life sentences without parole to the death penalty, and thus found these cases to be relevant.

Proportionality Standard

The majority looked to the proportionality standard it used in *Roper*, *Graham*, and other cases. The Court used this standard (that punishment for a crime should be proportional to the offense committed), when it adopted categorical bans on sentences that mismatched the class of offenders' culpability and the penalties' severity. For example, in both *Roper* and *Graham*, the Court found that "juveniles have diminished

culpability and greater prospects for reform [than adults, and thus]...they are less deserving of the most severe punishments” (*slip opinion* at 8).

The majority cited several differences between children and adults, including a lack of maturity, greater vulnerability to family and peer pressure, and behaviors and traits that are less fixed than their adult counterparts. It noted that science has shown fundamental differences between juvenile and adult brains. These differences “diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes” (*Id.* at 9). Additionally, the Court observed that imposing a life without parole sentence on a juvenile is actually a harsher punishment than imposing the same sentence on an adult, because the juvenile will likely spend a much greater proportion of his or her life incarcerated than an adult would for committing the same crime.

Similarity to Death Penalty

The Court likened a juvenile’s life sentence without parole to a death sentence (as it also did in *Graham*) and noted that in previous cases it had ruled that mandatory imposition of the death penalty violated the 8th Amendment. It explained that, like mandatory death penalty sentences, mandatory life without parole sentences “preclude a sentencer from taking account of an offender’s age and the wealth of characteristics and circumstances attendant to it” (*Id.* at 14).

Response to State Arguments

The majority refuted the respondent states’ (Alabama and Arkansas) contention that mandatory life sentences without parole for juvenile homicide offenses do not violate the 8th Amendment. The states cited the Court’s holding in *Harmelin v. Michigan*, 501 U.S. 957 (1991) to support their argument. In *Harmelin*, the Court upheld an adult defendant’s life without parole sentence for possessing more than 650 grams of cocaine. It had reasoned that (1) a sentence is not cruel and unusual simply because it is mandatory and (2) individualized sentencing was necessary in the death penalty context but not for life without parole.

The Court disagreed with the states’ assertion and pointed out that the case had nothing to do with children and “did not purport to apply its holding to the sentencing of juvenile offenders” (*Id.* at 18-19).

The Court also refuted the states' assertion that juvenile mandatory life without parole sentences for some forms of murder are valid because 29 jurisdictions impose such sentences. In previous cases, including *Roper* and *Graham*, the Court looked at legislation around the country as part of its proportionality analysis. However, in *Graham*, the Court prohibited life-without-parole sentences for juvenile nonhomicide offenses even though 39 jurisdictions permitted such sentences.

The Court observed that “most jurisdictions authorized the death penalty or life without parole for juveniles only through the combination of two independent statutory provisions. One allowed the transfer of certain juvenile offenders to adult court, while another (often in a far-removed part of the code) set out the penalties for any and all individuals tried there” (*Id.* at 23). In such situations, the Court found that it was impossible to determine whether the legislature had intended for a child to be eligible for life without parole in this context.

Additionally, the states argued that judges are able to take individual circumstances into account when deciding whether to transfer a juvenile case to adult court. However, the Court responded that many states use mandatory transfer systems and juveniles accused of committing certain serious criminal offenses are automatically transferred to the adult court regardless of any individual circumstances. The Court also observed that even when a transfer is discretionary, a judge has only partial information about the defendant and the circumstances of the offense at the transfer stage. In some states, the prosecutor, rather than the judge, decides whether or not to transfer the juvenile to adult court. The Court noted that transfer discretion does not equate to sentencing discretion and, thus, transfer discretion does not satisfy the need for sentencing discretion.

CONCURRING OPINION

Justices Breyer and Sotomeyer joined fully in the majority opinion. Breyer also wrote a concurrence, in which Sotomeyer joined. He maintained that the 8th Amendment, as interpreted in *Graham*, prohibits the Arkansas court from re-sentencing Jackson to life without parole unless it determines that he had intended that the robbery victim be killed. (Jackson was the juvenile who appeared to be a minor participant in the video store robbery and murder.)

Breyer quoted the *Graham* Court's conclusion that “when compared to an adult murderer, a juvenile offender who did not kill or intend to kill has a twice diminished moral culpability” (*slip opinion* at 18.)

The concurrence also pointed to scientifically-accepted findings on differences in brain functions in children as compared to adults that were given substantial weight by the majority in this case and in *Roper* and *Graham*.

Finally, he rejected the argument that the “transferred intent” rule be applied in these cases. (That rule attributes a murderer’s intent to kill to all participants, regardless of whether they individually intended that the murder be committed.)

The concurring Justices found that applying the rule may be appropriate in cases involving adults, but is an insufficient basis for subjecting a juvenile to a sentence of life imprisonment without parole. Relying on *Graham*, they indicated that the only young offenders who may constitutionally be sentenced to this punishment are those convicted of homicide offenses in which they killed or intended to kill.

DISSENTING OPINIONS

The Chief Justice’s Dissent

Chief Justice Roberts asserted that the majority’s conclusions were not supported by the amendment’s text, objective criteria of society’s standards, or precedent. He listed fundamental 8th Amendment principles he claimed the majority’s proportionality analysis had displaced.

1. The Cruel and Unusual Punishments Clause prohibits only sentencing schemes that are cruel or unusual.
2. Courts should be guided by tangible evidence of society’s standards as expressed in legislative enactments and state practice. A given sentencing practice is “unusual” if there is a national consensus against its use.
3. In *Graham*, the Court drew a distinction between juveniles convicted of serious non-homicide cases, for whom categorical life without parole sentences were unconstitutional, and those convicted of murder, suggesting that the two crimes be treated differently. In this case, however, the majority rejected that distinction, treating homicide and nonhomicide offenders equally.

The Cruel and Unusual Punishments Clause. Roberts argued that the majority incorrectly applied its proportionality analysis prior to deciding if the challenged sentencing policy was “unusual.” He indicated that a determination that a given punishment was unusual was a threshold finding that courts must make before analyzing Cruel and Unusual Punishment Clause claims any further.

If the majority had undertaken this analysis, he indicated that it could not have found that sentencing teenage murderers to mandatory life sentences without the possibility of parole was an unusual punishment. He presented statistical information to support this contention, including that (1) 28 states and the federal government subject juveniles to this form of punishment and (2) between 2,000 and 2,500 offenders are currently serving this sentence for homicides they committed while under age 18.

Roberts contrasted these statistics with the scenario presented in *Graham*, in which an “exceedingly rare” number of juveniles (123) convicted of serious non-homicide crimes were serving mandatory life without parole sentences.

Tangible Evidence of Society’s Standards. The Chief Justice then turned to 8th Amendment precedents directing courts to look for objective evidence of society’s evolving views of decency and render decisions consistent with those views. He faulted the majority for substituting its subjective opinion that the 8th Amendment requires juvenile sentencing decisions to reflect factors that render them less culpable than adults who committed the same offenses.

The Chief Justice maintained that objective evidence of society’s evolving views indicated that most states did not share the majority’s views and were in fact evolving in the opposite direction. He observed that since the 1980s, state and federal sentencing policies have steadily rejected prior principles of restorative justice. Instead, many legislatures’ policies are now controlled by notions of punitive and retributive justice. This trend is reflected in recently-enacted statutes that reduce or eliminate parole and impose longer sentences to punish criminals and prevent them from committing more crimes.

Justice Alito’s Dissent

Justice Alito, joined by Justice Scalia, cited two reasons for his disagreement with the majority. First, he expressed the view that, for the most part, the Constitution leaves questions of sentencing policies to Congress and state legislatures. He viewed this as the correct approach

because setting these policies requires legislatures, as representatives of the people, to strike a balance among competing local interests. When legislatures determine that a category of killers must be imprisoned for life, it reflects their view that the risk of these prisoners killing again outweighs all other countervailing considerations, including juveniles' reduced culpability due to immaturity.

His second argument traced the history of 8th Amendment jurisprudence since *Trop v. Dulles*, 356 U.S. 101 (1958), the case in which the Court interpreted the Cruel and Unusual Punishments Clause as requiring courts to take into account objective indicia of society's evolving standards of moral decency. By and large, courts had looked for proof of a national consensus by tallying up positions taken by state legislatures.

In his view, the Court's 8th Amendment decisions have gradually given less and less weight to society's views and discarded them altogether in *Graham*. According to Alito's dissent, the majority's approach in this case eliminates any tie to objective considerations, allowing the Court to base its ruling in this and future cases entirely on its subjective views.

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