

JONES v. MISSISSIPPI;
JUVENILE SENTENCING AND THE 8th AMENDMENT

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On the day of the 2020 election, where a record number United States citizens went to the polls in one of the most consequential elections in American history, the Supreme Court of the United States heard oral arguments in *Jones v. Mississippi*. *Jones v. Mississippi*, No. 18-1259 (U.S. filed Mar. 29, 2019). A decision in *Jones v. Mississippi* will answer the question “[d]oes the Eighth Amendment require a sentencing authority to find that a juvenile is permanently incorrigible before it may impose a sentence of life without the possibility of parole?” *Jones v. Mississippi*, Oyez, <https://www.oyez.org/cases/2020/18-1259> (last visited Nov 3, 2020). *Jones v. Mississippi* is the result of two prior cases, *Miller v. Alabama* 567 U.S. 460 (2012), and *Montgomery v. Louisiana* 577 U.S. ____ (2016) which establish, in brief, that mandatory sentencing for juveniles is unconstitutional under the Eighth Amendment to the United States Constitution with the exception of those cases where “crimes reflect permanent incorrigibility” and that this determination should be applied retroactively to juvenile cases, respectively. *Miller*, 567 U.S. 460, *Montgomery*, 577 U.S. _____. Additionally, the Supreme Court has consistently ruled in favor of juveniles being granted greater privilege in regards to life sentencing and capital punishment, while defining in clear terms what constitutes cruel and unusual punishment for minors.

This is abundantly evident in both *Graham v. Florida*, 560 U.S. 48 (2010) and *Roper v. Simmons*, 543 U.S. 551 (2005). In line with the Court’s previous rulings in both *Miller* and *Montgomery* as well as *Graham* and *Roper*, the court should be expected to rule in favor of *Jones* and affirm that a sentencing authority should be required to establish that a juvenile is, indeed, permanently incorrigible prior to installing a life sentence without the possibility of parole, effectively placing limitations on the extent of discretionary sentencing. This is the most likely outcome due to the heavily established precedent of “proportionality” in punishment and Eighth

amendment interpretation by the court in specific regards to juvenile sentencing. In addition, requiring establishment of incorrigibility would create a more equal system of justice as sentencing authorities would be unable to sentence individuals to different amounts of time in prison based on personal biases.

The Eighth amendment to the United States Constitution states that “excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” U.S. CONST. amend. VIII. The Constitutional Framers and the Founding Fathers of the United States of America provide significant guidance within the document for the legal system. Instead of providing a list which includes many distinct punishments which may be cruel or unusual, the authors of the Constitution leave it vague and open to interpretation. This is, in part, the beauty of the document. Indeed, the Framers must have realized that the document would change over time and definitions of cruel and unusual would, perhaps, change as life in the new United States progressed and changed throughout time. The Supreme Court, throughout time, has changed and altered what exactly is cruel and unusual punishment. Importantly, the standards today are much different than they were when the document was ratified in 1789. This change also reflects changes of the common law found in the United States Code. In general, the Supreme Court has trended positively in regards to granting citizens more protection and rights to be included as Eighth amendment protections.

In the context of the aforementioned argument, it is essential to understand the facts of the case in regards to the question that *Jones v. Mississippi* aims to answer. These facts are relatively simple. Brett Jones, a fifteen year old boy, murdered his grandfather. He was tried in a Mississippi Court of Law and found guilty of murder. Under Mississippi law, Jones was awarded a sentence of life in prison without parole. Importantly, during post-trial proceedings both *Miller*

and *Montgomery* were decided by the United States Supreme Court. Mississippi courts ruled that crime that Jones was not able to claim exemption and was sentenced to life imprisonment without the possibility of parole. After many appeals, the case arrived at the United States Supreme Court and was granted writ of certiorari.

In addition to understanding the facts specific to *Jones v. Mississippi*, it is also integral to examine the precedent set in regards to juvenile sentencing by both *Montgomery v. Louisiana* and *Miller v. Alabama* as well as in additional cases at the level of the United States Supreme Court.

Miller v. Alabama aims to answer questions about the constitutionality of imposing life sentences on minors without the possibility of parole. *Miller*, 567 U.S. 460. The Court decides in *Miller* that it is indeed a violation of the Eighth amendment to impose life sentences without parole onto minors. In the opinion of the court, delivered by Justice Elena Kagan, “requiring that all children convicted of homicide receive lifetime incarceration without possibility of parole, regardless of their age and age-related characteristics and the nature of their crimes, the mandatory sentencing schemes before us violate this principle of proportionality, and so the Eighth Amendment’s ban on cruel and unusual punishment.” *Miller*, 567 U.S. 460. Indeed, what is important here is that the court reaffirms “proportionality”, initially presented in *Weems v. United States*, 217 U.S. 349, (1910) which establishes that “punishment for crime should be graduated and proportioned.” *Weems*, 217 U.S. 349, 367.

The decision in *Miller* is important precedent in regards to juvenile sentencing as it suggests that the opinion of the court, sentencing a juvenile to life imprisonment without parole is a punishment of a higher caliber than the same sentence in regards to individuals of legal age.

Additionally, this decision continues to demonstrate that the historically progressive view of the Court is still very much alive in the contemporary atmosphere of the American judiciary.

In *Roper v. Simmons*, a juvenile, Christopher Simmons, was sentenced to death. Simmons continually appealed the decision through many courts. The case reached the Supreme Court of the United States after the Supreme Court of Missouri ruled contrary to *Stanford v. Kentucky*, 492 U.S. 361 (1989) in which the Court ruled that capital punishment, specifically the death penalty, was not unconstitutional when awarded to a guilty party under the age of eighteen. In *Stanford*, the Court ruled, as the parties argued, that there was little evidence in the shift of public opinion in regards to perspective and stance on the imposition of capital punishment on minors. Furthermore, the Rehnquist Court decided the decision regarding the constitutionality of capital punishment for those under the age of eighteen to be determined individually by state legislatures and judicial bodies. *Stanford*, 492 U.S. 361. Ultimately, in the case of *Roper v. Simmons*, the Court sides with Simmons, concluding that it is, indeed, unconstitutional to sentence juveniles to death. *Stanford v. Kentucky*, Oyez, <https://www.oyez.org/cases/1988/87-5765> (last visited Nov 4, 2020). Importantly, this decision reversed the prior decision of the court, making the Court's decision the law of the land.

The *Roper* decision, authored by the late Justice Anthony Kennedy, draws on the precedent set by *Trop v. Dulles*, 356 U.S. 86 (1958) which concludes that punishments ruled unconstitutional under Eighth amendment claims can, and should, change based on public opinion and to the “evolving standards of decency.” *Trop*, 356 U.S. at 101. Kennedy concludes that “It is proper that we acknowledge the overwhelming weight of international opinion against the juvenile death penalty, resting in large part on the understanding that the instability and emotional imbalance of young people may often be a factor in the crime.” *Roper*, 543 U.S. 551.

It is clear here that the Court places value on the changing perspective pertaining to juvenile capital punishment sentencing. Indeed, it also represents a shift in the world view on juvenile sentencing between *Stanford* in 1989 and *Roper* in 2005. *Roper*, also, represents a significant progressive attitude towards juvenile sentencing which remains the Court's position on the subject as recently as the *Montgomery* decision in 2016.

Five years following the *Roper* decision in 2005, the United States Supreme Court heard oral arguments in *Graham v. Florida*, 560 U.S. 48, (2010). Graham, a sixteen year old Floridian attempted to commit a robbery of a local restaurant. Graham was sentenced, released, and again committed a serious crime. He pled guilty to his charges and was sentenced to life in prison without the possibility of parole, the maximum sentence for the crime that he had committed. With his lawyer, Graham appealed the decision and it reached the United States Supreme Court. The case asks "whether the Constitution permits a juvenile offender to be sentenced to life in prison without parole for a nonhomicide crime." *Graham*, 560 U.S. 48. In a six to three decision, the court ruled that it is, indeed, unconstitutional for juveniles to be sentenced to life in prison without parole for a non homicide crime.

In the majority opinion on behalf of the Court, Justice Anthony Kennedy addressed the idea of rehabilitation in regards to sentencing, specifically the idea of life imprisonment as a means of rehabilitation. Kennedy writes "A sentence of life imprisonment without parole [omitted] cannot be justified by the goal of rehabilitation. The penalty forswears altogether the rehabilitative ideal. By denying the defendant the right to reenter the community, the State makes an irrevocable judgment about that person's value and place in society. This judgment is not appropriate in light of a juvenile nonhomicide offender's capacity for change and limited moral culpability. A State's rejection of rehabilitation, moreover, goes beyond a mere expressive

judgment. As one amicus notes, defendants serving life without parole sentences are often denied access to vocational training and other rehabilitative services that are available to other inmates.” *Graham*, 560 U.S. 48. This is, perhaps, the most important piece of evidence suggesting that the court will rule that a sentencing authority must prove incorrigibility in order to sentence a juvenile to life. Indeed, it is clear through Justice Kennedy’s statements for the Court that the judicial body places a great deal of value on rehabilitation, specifically that of juveniles.

Also in the majority opinion in *Graham*, Justice Kennedy writes that “The Eighth Amendment does not foreclose the possibility that persons convicted of nonhomicide crimes committed before adulthood will remain behind bars for life. It does forbid States from making the judgment at the outset that those offenders never will be fit to reenter society.” Although Kennedy is speaking for non homicide crimes, the opinion of the Court, here, is still relevant and likely will become applicable in *Jones*. While the legal system, as Kennedy writes, can leave someone in prison for a lifetime, to do so without the possibility of parole from the outset is unconstitutional under the Eighth amendment. More importantly, perhaps, is that the Court establishes that it is unconstitutional to do this at the outset. Again, only applicable to non homicide crimes, it still is made clear that the Court reaffirms the notion that juveniles should have the opportunity to participate in rehabilitation and perhaps the opportunity to re enter into society.

It is clear through the aforementioned precedent and the heavily established progressive attitude towards juvenile sentencing that the court will likely decide that sentencing authorities must establish incorrigibility in order to avoid instances where cruel and unusual punishment is imposed through discretionary sentencing. Finally, without the requirement of an on-record establishment of incorrigibility, it is for a sentencing authority to determine whether or not the

individual on trial is or is not worthy of receiving rehabilitative opportunities in life. To establish incorrigibility is extremely difficult as it is near impossible for one to know who will and who will not be corrigible. Not allowing juveniles, whom the Court has ruled over and over again should be held to a different standard than adults, an opportunity at rehabilitation if they are corrigible would be unconstitutional.

In *Montgomery*, the Court aimed to answer the question whether or not the holding in *Miller* should be applied retroactively among other questions. The Court rules that *Miller* should be held retroactively as it is more than just a procedural issue, and that the Court has jurisdiction to review the case from the Louisiana Supreme Court. In the majority opinion for the Court, Justice Kennedy writes “*Miller* did bar life without parole, however, for all but the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility. For that reason, *Miller* is no less substantive than are *Roper* and *Graham*. 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. The only difference between *Roper* and *Graham*, on the one hand, and *Miller*, on the other hand, is that *Miller* drew a line between children whose crimes reflect transient immaturity and those rare children whose crimes reflect irreparable corruption.” *Montgomery*, 477 U.S. _____. This is an incredibly important holding as it clarifies the position that only children who commit crimes reflecting “irreparable corruption” should be sentenced to life in prison without parole. This level of corruption, however, is not explained nor are these crimes listed in the opinion of the Court. This opens up interpretation of what exactly “irreparable corruption” is. When there is a standard such as this which can be decided at the discretion of a sentencing authority, it creates a scenario in which the ability to sentence could be abused or unfairly implemented among people of different backgrounds

reflecting the personal biases of individual sentencing authorities. This represents a violation of the Equal Protection clause found in the Fourteenth amendment of the United States Constitution. U.S. CONST. amend. XIV, § 1.

The Supreme Court of the United States should rule in favor of Jones for all of the aforementioned reasons. Indeed, a ruling in favor of Jones makes most sense in regards to precedent set by the United States Supreme Court, as well as the text of the Eighth and Fourteenth amendments to the United States Constitution. Juvenile life in prison without the possibility of parole is the greatest possible sentence that a child can receive in the American legal system and determinations and deliverances of this sentence should not be taken lightly, and the Court should have to prove incorrigibility before sentencing to imprisonment without parole.

Citations

Jones v. Mississippi, No. 18-1259 (U.S. filed Mar. 29, 2019)

Jones v. Mississippi, Oyez, <https://www.oyez.org/cases/2020/18-1259> (last visited Nov 3, 2020)

Miller v. Alabama 567 U.S. 460 (2012)

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