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Commentary

Life Without Parole for Minors: The Supreme Court and the Statistics

OP-ED: The trend has been for the Supreme Court to indicate that children, because of their lack of maturity, should be treated differently from adults. Last week, with the decision in 'Jones v. Mississippi,' that trend paused, or perhaps, stopped.

By **Christine M. Sarteschi and Daniel Pollack** | April 30, 2021 at 12:30 PM



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In 2005, in *Roper v. Simmons*, the United States Supreme Court ruled that it was unconstitutional to impose capital punishment for a crime that an individual committed while that person was under 18 years old. In 2012, the Supreme Court

ruled in *Miller v. Alabama* that a mandatory life sentence without the possibility of parole for juveniles is unconstitutional. These decisions, and others, reflect a trend in which the Court has indicated that children, because of their lack of maturity, should be treated differently from adults. Last week, that trend paused, or perhaps, stopped.

In *Jones v. Mississippi*, the Court held that a sentence of life imprisonment without parole for a fifteen-year-old juvenile who was convicted of murder does not violate the Eighth Amendment Cruel and Unusual Punishment clause. More specifically, in its 6-3 decision, the Court ruled that a minor does not have to be deemed incapable of rehabilitation to receive a sentence of life without parole. Justice Brett Kavanaugh, writing for the majority, opined that previous decisions only required a judge to consider “an offender’s youth and attendant characteristics” before imposing a sentence of life without parole.

As of January 2020, there were approximately 1,465 individuals serving life without parole (LWOP) sentences for crimes they committed when they were juveniles. According to *The Sentencing Project* this represented a 38% decrease from 2016. The 2016 *Montgomery v Louisiana* Supreme Court ruling indicated that bans on mandatory LWOP for crimes committed as juveniles should also be applied retroactively. This ruling meant that approximately 2,100 individuals were now eligible for resentencing and the possibility of parole.

At the heart of these decisions is the idea that individuals who were minors at the time of the crime can change and have the potential to be rehabilitated. They are not “irreparable.” As many have pointed out, most countries prohibit the use of LWOP sentences for juvenile offenders (Yun, 2011).

The *Jones* decision draws a line. The ruling indicates that states are not legally obligated to determine if a juvenile is “permanently incorrigible” before imposing a LWOP sentence. Though 25 states and the District of Columbia have banned these types of sentences for juveniles, the remaining states do not.

For offenders in the remaining states, the court’s decision ensures that some children and adolescents will be locked away for life. This goes against the tide of world opinion and is condemned under international law. Cognitively, adolescents are similar to adults, but that is generally where the similarities end. Developmentally, they are psychosocially immature. Adolescents, when compared to adults, are less future oriented, seek immediate rewards, are more prone to peer influence and risk-taking. This profoundly affects their ability to make good decisions and regulate their behavior.

As a result of brain science indicating major differences between adolescents and adults, juveniles who commit crimes are generally considered less culpable and are punished less severely. While the Court has recognized developmental science and has ruled accordingly, *Jones v. Mississippi* will ensure that some children and adolescents convicted of homicide will die in prison. It will also identify the United States as a decided outlier in this regard.

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