

essential that psychiatrists and mental health clinicians recognize the potential criminal, civil, and administrative questions involved in the assessment of alleged sexual abuse between students.

Brain Maturity and Sentence Severity

Collin Lueck, MD
Fellow in Forensic Psychiatry

Joseph Simpson, MD, PhD
Clinical Associate Professor

Department of Forensic Psychiatry
Institute of Psychiatry, Law, and Behavioral Science
University of Southern California
Los Angeles, California

Claimed Developmental Immaturity Not Considered Grounds for Postconviction Relief

DOI:10.29158/JAAPL.3930LI-20

In *Crow v. State*, 923 N.W.2d 2 (Minn. 2019), the Supreme Court of Minnesota addressed whether a postconviction court abused its discretion when it summarily denied a petition for relief by a man who was convicted of murder and sentenced to life in prison. The arguments in the petition referenced the petitioner's mental state during and after the trial. The postconviction court had dismissed these claims without an evidentiary hearing.

Facts of the Case

In 2006, Keith Crow, then 22 years old, assisted a 16-year-old male in knocking a man unconscious, stabbing him to death, and dropping his body in a river. He was convicted of two charges: aiding and abetting first-degree felony murder while committing a kidnapping, and aiding and abetting second-degree intentional murder. He was sentenced to life in prison without the possibility of parole. The minor received the same sentence.

Mr. Crow appealed his conviction immediately after trial, citing a number of procedural problems. This appeal was summarily denied. From 2008 to 2013, Mr. Crow filed three petitions for postconviction relief, making a variety of claims about the trial proceedings and the facts of the case. All of these were denied without a hearing as well, mainly for procedural reasons.

In the case of *Miller v. Alabama*, 567 U.S. 460 (2012), the Supreme Court of the United States ruled that mandatory sentencing of juvenile offenders to life imprisonment without the possibility of parole is unconstitutional, as it violates the Eighth Amendment's prohibition of cruel and unusual punishment. In *Montgomery v. Louisiana*, 136 S.Ct. 718 (2016), the Supreme Court held that *Miller* applies retroactively. The Minnesota Supreme Court made a concordant ruling in *Jackson v. State*, 883 N.W.2d 272 (Minn. 2016), and the sentence for Mr. Crow's juvenile accomplice was reduced to life with the possibility of parole.

Mr. Crow again appealed for relief in 2017, his fourth appeal. Among his arguments was the claim that his young age and immaturity at the time of the crime should have merited the same sentencing relief as his younger accomplice. He also asserted that his mental health condition at the time of his conviction and appeals should have excused his failure to adhere to required timelines. As with his other appeals, this one was denied without an evidentiary hearing.

Mr. Crow appealed to the Minnesota Supreme Court, claiming that the postconviction court abused its discretion in dismissing the 2017 petition without a hearing.

Ruling and Reasoning

The Supreme Court of Minnesota ruled against Mr. Crow and affirmed that the lower court did not abuse its discretion in denying his appeals. The court noted that an evidentiary hearing is ordinarily required, unless the petition is procedurally barred or when the arguments do not have factual support (or, as they phrased it, when they are presented in an "argumentative or conclusory manner").

The court addressed Mr. Crow's six arguments in turn and explained why each was procedurally barred or presented in a "conclusory" manner. The three topics that relate specifically to Mr. Crow's mental state and his assertions of mental illness are discussed below.

First was Mr. Crow's assertion that his sentence should be reduced to match that of his then-juvenile accomplice. The court flatly stated that he was an adult at the time of the crime, and therefore the holdings in *Miller*, *Montgomery*, and *Jackson* were not applicable.

His second argument involved his maturity at the time of the offense. He referred to scientific research

suggesting that the human brain is not fully developed until about age 25, and he stated that his immaturity at the time of the offense should be grounds for relief. The court rejected this claim on the basis that it was conclusory. They pointed out that the law uses age 18, and not 25, as the barrier between childhood and adulthood; and that the research cited by Mr. Crow did not show that his mental state was equivalent to that of a “generic juvenile.”

The third argument was that the state should ignore a two-year time limit for appeals because he had a “mental disease.” Elsewhere, he referred to “a long history” of mental health defects and medication. The court dismissed this argument as “highly conclusory,” stating that Mr. Crow simply asserted the presence of a condition without explaining what that condition is or how its symptoms would have affected his appeal process. The justices also noted that he successfully filed three petitions prior to the current one, which they took as evidence of relatively intact mental functioning.

Discussion

In this ruling, the Minnesota Supreme Court held that the postconviction appellate court acted properly when it summarily denied a relief petition by a man serving a life sentence for murder, his fourth such petition.

Mr. Crow raised a number of arguments related to his mental state. The court’s rationale in dismissing these claims rested mainly on the notion that they were “conclusory,” which is to say, they flatly asserted mental states that purportedly merited relief, without explaining how those states related to the crime or to the previous petitions. Mr. Crow’s claim of a “mental disease” was the clearest example of this. He stated that he had a mental disease for which he had sought treatment, but he failed to explain which symptoms in particular affected his adherence to normal petition procedures.

Perhaps the most interesting of Mr. Crow’s assertions was the one regarding brain development. He cited research which indicates that the human brain takes about 25 years to fully develop, then stated he should receive postconviction relief because he was only 22 years old when he committed the crime. The court simply responded that the law considers offenders above age 18 to be adults

and that he failed to explain how his mental state was similar to that of a child (again, his statement was conclusory).

Despite its inadequacy, this argument highlights a possible area of tension between legal standards and advancing scientific research. The U.S. criminal justice system draws a bright line between adolescence and adulthood at age 18. Advances in neuroscience have already eroded that line by demonstrating that brain areas associated with impulse control and judgment are slower to develop than previously thought. It is conceivable that the level of criminal responsibility afforded to young adult offenders might someday change as a result of this research. One wonders if the Minnesota Supreme Court would have given Mr. Crow’s argument more weight had he explained the association between brain maturity and impulse control in greater detail. Because he did not establish the crucial link between the actual symptoms of his mental state, the manifestations of his immaturity, and the facts of the case, the court found the argument unpersuasive.

Must an Attorney Investigate and Consider a Diminished Capacity Defense?

Matthew W. Motley, MD, PhD
Fellow in Forensic Psychiatry

Timothy Botello, MD, MPH
Clinical Professor of Psychiatry
Program Director, Forensic Psychiatry Fellowship

Institute of Psychiatry, Law, and Behavioral Science
University of Southern California
Los Angeles, California

Failing to Investigate and Consider a Diminished Capacity Defense May Constitute Deficient Counsel if Claimant Suffered Prejudice

DOI:10.29158/JAAPL.3930L2-19

In *Hernandez v. Chappell*, 923 F.3d 544 (9th Cir. 2019), the Ninth Circuit Court of Appeals considered whether a federal district court had erred in denying a defendant’s *habeas* petition based on ineffective assistance of counsel. Francis Hernandez, the defendant, had filed a *habeas* petition for guilt-phase relief that had been denied by the district court, which ruled that “counsel was ineffective for failing