

Life Without Parole for Juvenile Offenders

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Permanent Incurability is Not Required to Sentence a Juvenile to Life without Parole for Murder

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In *Jones v. Mississippi*, 141 S. Ct. 1307 (2021), the U.S. Supreme Court ruled that a finding of permanent incurability is not required to deliver a sentence of life without parole for a murder committed when the defendant was under 18.

Facts of the Case

In August 2004, Brett Jones (age 15, referred to here as Mr. Jones) was living with his grandparents, Bertis Jones and Madge Jones. On August 9, 2004, Mr. Jones had an argument with his grandfather and stabbed him to death in the home with a kitchen knife. Mr. Jones was seen outside washing blood off his arms by a neighbor, who called the police. Mr. Jones then left the home with his girlfriend. The two were found by police later that night at a gas station and initially provided false names to the officer. Mr. Jones was charged with murder.

Mr. Jones pled not guilty and claimed he acted in self-defense. A Mississippi jury found him guilty of murder, which carried a mandatory sentence of life without parole in Mississippi at that time. Mr. Jones was sentenced accordingly. The Mississippi Court of Appeals affirmed the decision.

In 2012, the U.S. Supreme Court decided *Miller v. Alabama*, 567 U.S. 460 (2012), holding that mandatory life without parole sentences for juvenile murder defendants violated the cruel and unusual punishment clause of the Eighth Amendment. In light of that decision, the U.S. Supreme Court ruled in *Montgomery v.*

Louisiana, 577 U.S. 190 (2016), that the holding in *Miller* applied retroactively. In accordance with this, the Mississippi Supreme Court ordered a new sentencing hearing for Mr. Jones, with discretion given to the sentencing judge to consider Mr. Jones' youth and the appropriateness of other sentencing options. Mr. Jones was again sentenced to life without parole.

Mr. Jones appealed the sentence to the Mississippi Court of Appeals. Citing *Miller* and *Montgomery*, Mr. Jones argued that consideration of a murder defendant's youth at sentencing required a separate factual finding of permanent incurability prior to delivering a sentence of life without parole. The Mississippi Court of Appeals rejected the argument. The U.S. Supreme Court granted *certiorari* to address the disagreement between state and federal courts regarding the interpretation of *Miller* and *Montgomery*.

Ruling and Reasoning

Justice Kavanaugh delivered the majority opinion, joined by Justices Roberts, Alito, Gorsuch, and Barrett. Justice Thomas filed a concurring opinion. The Court affirmed the judgment of the Mississippi Court of Appeals, holding that a separate factual finding of permanent incurability is not required to sentence a juvenile murder defendant to life without parole.

First, the Court addressed the matter of youth as a factor of special consideration during sentencing. Mr. Jones argued that, in the wake of *Miller* and *Montgomery*, permanent incurability became an eligibility criterion for a juvenile murder defendant to be constitutionally sentenced to life without parole. The Court recognized that youth matters in sentencing, citing its decisions in *Roper v. Simmons*, 543 U.S. 551 (2005), and *Graham v. Florida*, 560 U.S. 48 (2010), which found that the Eighth Amendment prohibits capital punishment for juveniles, and life without parole sentences for nonhomicide juvenile offenders, respectively. The Court held, however, that the finding in *Miller* did not establish permanent incurability as an eligibility criterion for a life without parole sentence. "Rather, *Miller* repeatedly described youth as a sentencing factor akin to a mitigating circumstance" (*Jones*, p 1315). which the fact finder must have the discretion to consider.

Second, the Court considered the Mr. Jones' argument that the Mississippi Supreme Court in *Montgomery* found *Miller* to be a substantive holding that life without parole would be limited to permanently incurable juvenile defendants. Therefore,

consideration of a defendant's youth absent a separate factual finding of incorrigibility was not constitutionally sufficient. The Court disagreed with this interpretation, stating that *Miller* imposed a discretionary sentencing procedure with no additional requirements, and that *Montgomery* then also refrained from imposing additional procedures. The Court elaborated, "The key assumption of both *Miller* and *Montgomery* was that discretionary sentencing allows the sentencer to consider the defendant's youth, and thereby helps ensure that life without parole sentences are imposed only in cases where that sentence is appropriate in light of the defendant's age" (*Jones*, p 1318).

The Court explained that a separate factual finding of permanent incorrigibility is not required based on the findings in *Miller* and *Montgomery*, that a discretionary sentencing procedure allowing for consideration of a defendant's youth was constitutionally sufficient, and that such a procedure fulfilled the goal of making life without parole sentences for juvenile offenders a rare phenomenon. The Court rejected the argument that a statement on the record by the factfinder was required to establish an "implicit finding" of permanent incorrigibility, stating that such a statement was not required to ensure that a defendant's youth was appropriately considered during sentencing. Finally, the Court emphasized that the finding in this case did not limit states from imposing their own additional procedural requirements or sentencing limits for juveniles convicted of murder.

Dissent

Justice Sotomayor delivered the dissenting opinion, joined by Justices Breyer and Kagan. The dissent stated that the holding in *Miller* established life without parole as a disproportionate punishment under the Eighth Amendment for a juvenile who is not permanently incorrigible. The dissent elaborated that "no set of discretionary sentencing procedures can render a sentence of LWOP [life without parole] constitutional for a juvenile whose crime reflects 'unfortunate yet transient immaturity'" (*Jones*, p 1332, citing *Miller*, p 479). Therefore, the dissent asserted that the discretionary sentencing procedure interpreted by the majority is not constitutionally sufficient to comply with the limit established by *Miller*.

Discussion

Here, the Court considered whether the Eighth Amendment mandates that a juvenile convicted of

murder be formally found incorrigible prior to being sentenced to life without parole. The finding hinges on the Court's interpretation of *Miller v. Alabama*, which held that it was a violation of the Eighth Amendment to mandate life without parole sentences for juveniles, and *Montgomery v. Louisiana*, which held that *Miller* applied retroactively. *Miller* and *Montgomery* sought to limit the implementation of such a sentence to rare cases in which a defendant's actions are born of permanent incorrigibility. The Court was split regarding the procedural implications of *Miller* and *Montgomery* and the constitutional sufficiency of a discretionary sentencing system to fulfill the parameters of those decisions. The majority opinion held that judicial discretion, in the absence of a separate fact-finding requirement of permanent incorrigibility, did comply with precedent and that additional procedural requirements in such cases were unnecessary. This decision does not limit the ability of the states to formulate their own sentencing restrictions or procedural requirements for juveniles convicted of murder.

The Court's holding has relevance to forensic psychiatrists conducting sentencing evaluations of juveniles convicted of murder. Although the Court held that a formal finding of permanent incorrigibility is not required for juveniles to receive life without parole sentences, the Court's debate centers on the most effective constitutional means of ensuring that such sentences are delivered rarely and only to those individuals who are incorrigible. A goal of the justice system remains identification of juvenile defendants whose offenses are a reflection of transient immaturity, and appropriate mitigation of their sentences. To aid this objective, forensic psychiatrists may be asked to more scrupulously examine factors related to corrigibility for this group of defendants. Such factors include decisional maturity, family and environmental circumstances, psychiatric disorders, the individual's capacity for autonomy versus dependence, and the potential for rehabilitation.

Admissibility of Defendant's Testimony About Mental Health

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