

# US Supreme Court limits some juvenile sentences

## Upholds life without parole for children convicted of murder

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In a 6-3 decision Monday, the US Supreme Court ruled as unconstitutional life without parole prison sentences for juvenile offenders whose crimes do not involve murder. The ruling upholds such punishment for young offenders convicted of homicide and does not challenge the constitutionality of trying those charged with crimes committed as juveniles in adult courts.

The court ruled in the case of Terrance Graham, who was sentenced in the state of Florida to life in prison without the possibility of parole for an armed robbery committed when he was 17. The majority ruled that the Eighth Amendment to the US Constitution's ban on "cruel and unusual" punishment renders such punishment unconstitutional.

A study presented by Graham's attorneys and supplemented by the high court's own research shows that only about 130 juvenile offenders will be affected by the ruling; 77 are in Florida and the rest are in 10 other states. Thirty-seven states and the District of Columbia currently allow sentences of life without parole for crimes not involving murder committed by juveniles.

Justice Anthony Kennedy, speaking for the majority, noted that prior to the high court's ruling, "The United States is the only nation that imposes life without parole sentences on juvenile non-homicide offenders." He was joined by Justices John Paul Stevens, Ruth Bader Ginsburg, Stephen Breyer and Sonia Sotomayor.

The majority cited evolving "standards of decency" and international consensus to back their decision. Kennedy noted that only the US and perhaps Israel impose life without parole sentences for those convicted of homicide as juveniles.

Kennedy wrote in the majority opinion, "The state has denied him [Graham] any chance to later demonstrate that he is fit to rejoin society based solely on a nonhomicide

crime that he committed while he was a child in the eyes of the law."

Dissenting were Justices Clarence Thomas, Antonin Scalia and Samuel Alito, one-third of the court, in whose opinion the incarceration of such young offenders without offering them at the least the chance of parole does not constitute "cruel and unusual" punishment.

The majority's opinion is limited in scope, and shot through with contradictions. While barring life sentences without parole for individuals convicted of non-homicidal crimes, states can continue to incarcerate for life those convicted of crimes involving murder committed while they were under the age of 18.

The majority opinion notes that "developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds. For example, parts of the brain involved in behavior control continue to mature through late adolescence."

If such fundamental differences exist, and support the majority's opinion that non-homicide juvenile offenders should at least be offered the possibility of parole, why should this same reasoning not be applied to juveniles who have been convicted of murder?

While concurring with the majority opinion, Justice Roberts argued in a separate opinion against what he considered the overly broad scope of the ruling. While noting that the particular circumstances surrounding Terrance Graham's case did not justify a life-without-parole sentence, he wrote that "there is no need for the Court to decide whether that same sentence would be constitutional if imposed for other more heinous nonhomicide crimes."

Roberts added, "This means that there is nothing *inherently* unconstitutional about imposing sentences of

life without parole on juvenile offenders; rather, the constitutionality of such sentences depends on the particular crimes for which they are imposed.” (Emphasis in the original.)

By this logic, the age of the individual on trial—and the very real behavioral differences between children and adults—should be considered *only up to a point*. If the crime is particularly brutal the juvenile defendant should be tried in an adult court and, if convicted, should receive an adult sentence. Under this scenario, there is no prospect for rehabilitation.

Dissenting, Justice Thomas argued that the Eighth Amendment’s ban on “cruel and unusual punishment” was “originally understood as prohibiting torturous ‘methods of punishment,’ and not “punishment that the Court deems ‘grossly disproportionate’ to the crime committed.”

He stated that “there is virtually no indication that the Cruel and Unusual Punishments Clause originally was understood to require proportionality in sentencing.” As if to argue that “standards of decency” may have evolved too far, Thomas pointed to the First Congress whose penal statute “prescribed capital punishment for offenses ranging from ‘run[ning] away with ... goods or merchandise to the value of fifty dollars,’ to ‘murder on the high seas.’”

Thomas pointed to the developmental theory of crime advanced by University of Wisconsin psychology professor Terrie Moffitt, which “differentiates between adolescents for whom antisocial behavior is a fleeting symptom and those for whom it a lifelong pattern. According to this theory, Thomas noted, there is a small group “who engage in antisocial behavior ‘at every life stage’ despite ‘drift[ing] through successive systems aimed at curbing their deviance.’”

He added, “That research further suggests that the pattern of behavior in the latter group often sets in before 18.” According to this reasoning, such juveniles cannot be rehabilitated and reintegrated into society. They should be branded as irredeemable sociopaths, tried in adult court and thrown in jail for life.

In the case under consideration by the Court, the Florida court system determined that Terrance Graham was such an individual. The majority opinion described his background, “Graham’s parents were addicted to crack cocaine, and their drug use persisted in his early years. Graham was diagnosed with attention deficit hyperactivity disorder in elementary school. He began drinking alcohol and using tobacco at age 9 and smoked

marijuana at age 13.”

In 2003, at the age of 16, Graham participated in the robbery of the Jacksonville restaurant, during which one of his accomplices beat the manager with a steel bar. The next year, at age 17, he and two 20-year-olds carried out a home invasion robbery.

In 2005, the trial judge sentenced him to life without the possibility of parole for violating the terms of probation for the 2003 offense. In the course of a rambling and barely literate sentencing statement, the judge stated, “This is an escalating pattern of criminal conduct on your part and that we can’t help you any further. We can do nothing to deter you. This is the way you are going to lead your life, and I don’t know why you are going to. You’ve made that decision. I have no idea...”

“Given your escalating pattern of criminal conduct,” the judge added, “it is apparent to the court that you have decided that this is the way you are going to live your life and that the only thing I can do now is to try and protect the community from your actions.”

While the Supreme Court has ruled that Graham’s life sentence without parole was unconstitutional, had a murder been committed in the course of either crime, the sentence would stand.

Monday’s ruling follows a 2005 decision by the high court that struck down the death penalty for crimes committed by juveniles. While that ruling declared the execution of juveniles offenders unconstitutional, it left in place the barbaric system of capital punishment, a practice outlawed by the vast majority of industrialized countries.

Similarly, the ruling in *Graham v. Florida* bars life without parole sentences for some juvenile defenders, while allowing those convicted of crimes involving murder to be condemned to life in prison with no chance of release.

The Supreme Court decision leaves the United States in the pariah status of being the only country in the world that publicly defends the legality of throwing children into prison cells with no possibility of being released for the rest of their lives.



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