

US Supreme Court denies relief for juveniles sentenced to life in prison

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On June 9, the US Supreme Court with no explanation refused to hear a case in which Pennsylvania's Supreme Court ruled against making retroactive an earlier high court ruling (*Miller v. Alabama*) banning mandatory life imprisonment without parole for those convicted as juveniles.

As many as 2,000 JLWOPs—juvenile lifers without parole—are incarcerated throughout the country, many anxiously waiting to see if the US Supreme Court would have instituted the retroactivity of the ruling nationwide.

Now they will have to wait in prison hoping that the Supreme Court decides whether or not JLWOPs can be resentenced. This could take many more years, or not take place at all, as other appeals drag through the US judicial system.

With 500 inmates serving mandatory life sentences for crimes committed before they turned 18, Pennsylvania has the largest number of such prisoners of any US state, and possibly more than in any country in the world. Philadelphia has more than 250 juvenile offenders behind bars and Allegheny County, where Pittsburgh is situated, has 48. The United States is the only nation on the planet that continues to imprison juveniles for life without parole.

The Pennsylvania ruling was handed down on October 30, 2013 and involved the case of *Ian Cunningham v. Pennsylvania*. In 1999, Ian Cunningham, who was 17 at the time, and several others, attempted to rob the occupants of a vehicle at gunpoint. In the course of the robbery, a fight or scuffle broke out and one occupant, Daniel Delarge, Jr., was shot and killed. In 2002, Cunningham was convicted of second-degree murder and related charges. Cunningham received a mandatory sentence of life imprisonment without the possibility of parole, plus

another sentence of seven-and-a-half to 15 years.

Pennsylvania and Alabama, along with many other states, had laws mandating that juveniles convicted of certain crimes serve a life term without the possibility of parole. Pennsylvania law mandated that juveniles convicted of first- or second-degree murder be sentenced to life in prison.

Ruling in *Miller v. Alabama* in 2012, the US Supreme Court found that mandatory life without parole for those convicted as juveniles violated the cruel and unusual punishment clause of the Eighth Amendment. The ruling, however, did not ban the practice of sentencing youths to life without possibility of parole. It only required that judges consider other factors—such as impetuosity, immaturity, and other objective influences—before sentencing a youth to life imprisonment.

Before this ruling, 29 states had statutes that mandatorily sentenced juveniles to life without parole, as in homicide cases. All of these were struck down with this ruling. However, the Supreme Court decision purposely never acknowledged whether or not the ruling could be applied retroactively to the more than 2,000 juvenile offenders currently serving life sentences without parole.

The Pennsylvania Supreme Court in a 4-3 decision argued that the *Miller* “majority simply did not address retroactivity, and, thus, there simply is no dispositive ruling on the subject” and that the cases in which retroactivity was applied were “substantive rules ... whereas, the Commonwealth maintains, the *Miller* rule is purely a procedural one.” Put differently, almost 500 JLWOPs had no recourse to use the Pennsylvania justice system, and now the abstaining US Supreme Court, as a way to reduce their sentence and potentially once again become free.

State supreme courts are divided on the retroactive issue of *Miller*. So far, Texas, Illinois, Louisiana, Mississippi, Massachusetts and Iowa say that it can be applied retroactively, whereas Pennsylvania, Michigan and Minnesota say it cannot.

Although the Supreme Court has refused to hear this case, law experts hold out the hope that one day the court may decide the issue. The Juvenile Law Center and the Defender of Philadelphia had appealed the *Cunningham v. Pennsylvania* decision to the Supreme Court. Bradley Bridge, an attorney with Defenders of Philadelphia, told the *Philadelphia Inquirer* that it was “intolerable for a citizen of Pennsylvania to be denied relief, while a citizen of Texas gets relief. That is not a just result.” This is just one example of the arbitrary and reactionary judicial system in America.

Cara Drinan, a professor at the Columbus School of Law at Catholic University of America, commented to the *Pittsburg h Post-Gazette*, “Because [judicial reviews] are discretionary, the court will often pick the case very carefully—even if it wants to address the issue. It will wait until the issue is ripe and presented the right way.” Currently, she continued, four US circuit courts have allowed petitioners to move forward with appeals to resentence individuals under the Miller case, but two others have disallowed it.

While these individuals languish in prison until an “impeccable” appeal suits the justices on the highest court in the nation, the ruling class is still locking up more people than any nation on Earth and ruthlessly executing prisoners.



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