

American College of Forensic Psychology
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JUVENILE RESENTENCING

Review of Applicable Caselaw and Statutes

Roper v. Simmons, 543 U.S. 551 (2005)

- The Eighth Amendment prohibits the imposition of the death penalty for offenders under 18.
- Found 3 fundamental differences between children and adults:
 - “A lack of maturity and underdeveloped sense of responsibility These qualities often result in impetuous and ill-considered actions and decisions.” Id. at 569
 - “[J]uveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure This is explained in part by the prevailing circumstance that juveniles have less control, or less experience with control, over their own environment.” Id.

Roper v. Simmons, 543 U.S. 551 (2005)

- “[T]he character of a juvenile is not as well formed as that of an adult. The personality traits of juveniles are more transitory, less fixed.” Id. at 570.
- “The susceptibility of juveniles to immature and irresponsible behavior means ‘their irresponsible conduct is not as morally reprehensible as that of an adult.’ Their own vulnerability and lack of control over their immediate surroundings mean juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment.” Id. (citation omitted)
- Thus, “it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character.” Id.

Graham v. Florida, 560 U.S. 48 (2010)

- The Eighth Amendment prohibits the imposition of a life without parole sentence on a juvenile who did not commit a homicide.
- Building off of Roper, the Court stressed the differences between juveniles and adults: “[D]evelopments 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.” Id. at 68
- “Juveniles are more capable of change than are adults, and their actions are less likely to be evidence of ‘irretrievably depraved character’ than are actions of adults.” Id. (citing Roper).

Graham v. Florida, 560 U.S. 48 (2010)

- “[W]hen compared to an adult murderer, a juvenile offender who did not kill or intend to kill has a *twice diminished* moral culpability.” Id. at 69 (emphasis supplied).

Miller v. Alabama, 132 S. Ct. 2455 (2012)

- The Eighth Amendment prohibits mandatory life sentences without parole for juvenile homicide offenders.
- Such offenders must be given an individualized sentencing determination.
- “[C]hildren are constitutionally different from adults for purposes of sentencing.” Id. at 2464.
- Roper and Graham “rested not only on common sense – on what ‘any parent knows’ – but on science and social science as well.” Id. (citation omitted).

Miller v. Alabama, 132 S. Ct. 2455
(2012)

- “It is increasing clear that adolescent brains are not yet fully mature in regions and systems related to higher-order executive functions such as impulse control, planning ahead, and risk-avoidance Numerous studies post-Graham indicate that exposure to deviant peers leads to increased deviant behavior and is a consistent predictor of adolescent delinquency.” Id. (citations omitted).

Miller v. Alabama, 132 S. Ct. 2455
(2012)

- A juvenile’s “transient rashness, proclivity for risk, and inability to assess consequences both lessen(s) a child’s ‘moral culpability’ and enhance(s) the prospect that, as the years go by and neurological development occurs, his ‘deficiencies will be reformed.’” Id. at 2465 (citations omitted).
- A sentencing court must “have the ability to consider the mitigating qualities of youth:
 - It is a time of immaturity, irresponsibility, impetuosity, and recklessness.
 - It is a moment and condition of life when a person may be most susceptible to influence and to psychological damage.
 - Its signature qualities are all transient.” Id. at 2467 (internal quotations omitted).

Miller v. Alabama, 132 S. Ct. 2455
(2012)

- Juveniles are also different because the juvenile homicide defendant “might have been charged and convicted of a lesser offense if not for incompetencies associated with youth – for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys.” Id. at 2468.

Miller v. Alabama, 132 S. Ct. 2455
(2012)

- “[G]iven all we have said in Roper, Graham, and this decision about children’s diminished culpability and heightened capacity for change, we think appropriate occasions for sentencing juveniles to this harshest possible penalty will be uncommon.” Id. at 2469.
- A sentencing court is required “to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison.” Id.

Miller v. Alabama, 132 S. Ct. 2455
(2012)

- Justice Breyer’s concurrence (felony murder):
 - “[T]his Court has made clear that this artificially constructed kind of intent does not count as intent for purposes of the Eighth Amendment. We do not rely on transferred intent in determining if an adult may receive the death penalty.” Id. at 2476.
 - “At base, the theory of transferring a defendant’s intent is premised on the idea that one engaged in a dangerous felony should understand the risk that the victim of the felony could be killed, even by a confederate. Yet the ability to consider the full consequences of a course of action and to adjust one’s conduct accordingly is precisely what we know juveniles lack capacity to do effectively.” Id. (citation omitted).

Falcon v. State, 162 So.3d 954 (Fla.
2015)

- Miller is retroactive; courts shall apply the new statute in re-sentencing a juvenile defendant.
- The “actually killed, intended to kill, or attempted to kill the victim” language in Fla. Stat. 775.082 means just that – no transferred intent.
- “If the trial court concludes that Falcon did not ‘actually kill, intend to kill, or attempt to kill the victim,’ the trial court has broader discretion to impose a sentence of any lesser term of years, with judicial review after fifteen years if Falcon is sentenced to more than fifteen years’ imprisonment.” Id. at 963.

Horsley v. State, 160 So.3d 393 (Fla. 2015)

- Courts must apply the new statute to all sentences rendered unconstitutional by Miller.
- Under the new statute (Fla. Stat. 775.082(1)(b)(3)), sentencing courts must make a written finding as to whether the defendant is eligible for a sentencing review under Fla. Stat. 921.1402.

Montgomery v. Louisiana, 136 S. Ct. 718 (2016)

- Miller is retroactive.
- “Even if a court considers a child’s age before sentencing him or her to a lifetime in prison, that sentence still violates the Eighth Amendment for a child whose crime reflects ‘unfortunate yet transient immaturity.’” Id. at 733 (citation omitted).
- “Miller drew a line between children whose crimes reflect transient immaturity and those rare children whose crimes reflect irreparable corruption.” Id. at 734.

Landrum v. State, 41 Fla. L. Weekly S 274 (Fla. 2016)

- Non-mandatory life without parole sentences for second degree murder not given under the new juvenile sentencing statute violates the Eighth Amendment.
- “The sentencing court’s discretion must be guided by two overarching principles set forth in Miller and reaffirmed by Montgomery: The requirement that sentencing courts give due weight to evidence that Miller deemed constitutionally significant before determining that the most severe punishment possible for juvenile offenders is appropriate; and that under Miller, sentencing juvenile offenders to life imprisonment must be ‘rare’ and ‘uncommon.’” Id.

Florida Statute 775.082 (1)(b)(2)

- A person who did not actually kill, intend to kill, or attempt to kill the victim and who is convicted under s. 782.04 of a capital felony, or an offense that was reclassified as a capital felony, which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or by a term of years equal to life if, after a sentencing hearing conducted by the court in accordance with s. 921.1401, the court finds that life imprisonment is an appropriate sentence. A person who is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(c).

Florida Statute 921.1401 (2)

- (2) In determining whether life imprisonment or a term of years equal to life imprisonment is an appropriate sentence, the court shall consider factors relevant to the offense and the defendant's youth and attendant circumstances, including, but not limited to:
 - (a) The nature and circumstances of the offense committed by the defendant.
 - (b) The effect of the crime on the victim's family and on the community.
 - (c) The defendant's age, maturity, intellectual capacity, and mental and emotional health at the time of the offense.
 - (d) The defendant's background, including his or her family, home, and community environment.
 - (e) The effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the defendant's participation in the offense.
 - (f) The extent of the defendant's participation in the offense.
 - (g) The effect, if any, of familial pressure or peer pressure on the defendant's actions.
 - (h) The nature and extent of the defendant's prior criminal history.
 - (i) The effect, if any, of characteristics attributable to the defendant's youth on the defendant's judgment.
 - (j) The possibility of rehabilitating the defendant.
