



Kennedy holds to hope in 5-4 ruling

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By **Joan Biskupic**, USA TODAY

WASHINGTON — During Supreme Court arguments last November, Justice **Anthony Kennedy** peered down from the bench and expressed skepticism for a lawyer's claim that juvenile offenders — unlike adult criminals — should not be locked up with no chance of parole, no hope of release.

"Why does a juvenile have a constitutional right to hope, but an adult does not?" Kennedy asked.

Yet, in his groundbreaking opinion for the court Monday, Kennedy referred to the importance of hope.

"Life in prison without the possibility of parole gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope," Kennedy wrote in the opinion finding such sentences unconstitutionally disproportionate to juvenile crimes. "A life without parole sentence improperly denies the juvenile offender a chance to demonstrate growth and maturity."

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Monday's decision was a reminder of how Kennedy, 73, has controlled the high court's most fractious cases since the retirement of centrist Justice **Sandra Day O'Connor** in January 2006. Even before O'Connor's departure, Kennedy was a decisive vote and dominant voice in the court's view of what constitutes "cruel and unusual punishment."

Kennedy also penned a 2005 decision that juvenile criminals could not be executed and a 2008 decision rejecting the death penalty for the crime of child rape.

John Payton, president of the **NAACP** Legal Defense Fund, said Kennedy is "the author of the jurisprudence that gets us to where we are today. He has written all the significant cases on the Eighth Amendment."

In Monday's case, Kennedy dealt with developments among state no-parole laws covering juveniles — including how often they were used — to conclude a national consensus exists against the punishment.

Yet he also said the court needed to bring an "independent judgment" regarding the diminished culpability of juveniles compared with adults.

Adopting some of his reasoning from the 2005 case, Kennedy added, "Juveniles are more capable of change than are adults, and their actions are less likely to be evidence of irretrievably depraved character than are the actions of adults."

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