



Court limits harsh terms for youths

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By Mark Wilson, Getty Images

The U.S. Supreme Court Building is seen on March 2, in Washington, D.C.

WASHINGTON — The [Supreme Court](#) ruled Monday that juveniles cannot be sentenced to life without parole for crimes other than murder, in a significant 5-4 decision that says imposing such sentences violates the Constitution's prohibition on "cruel and unusual" punishment.

The court's 5-4 decision — which says that an automatic life sentence for a young offender who has not committed murder violates the Constitution's ban on "cruel and unusual" punishment — wipes out laws in 37 states.

It means that the 129 juveniles now serving time under such laws will, at some point, have an opportunity to make a case for parole.

Most significantly, the decision — signed by the nine-member court's four more liberal justices and [Anthony Kennedy](#), the conservative who votes with the liberals the most — emphasizes that young criminals are different from adults. And not just when it comes to the death penalty, which the court made off-limits for juveniles in 2005.

"A life without parole sentence improperly denies the juvenile offender a chance to demonstrate growth and maturity," Kennedy wrote for the majority in the decision that found life without parole disproportionately harsh.

The decision immediately generated debate over where the court would go in the future regarding juvenile rights, including the possibility that it could strike down life-without-parole for juvenile murderers.

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Advocates for juvenile defendants, such as Bryan Stevenson of the Alabama-based Equal Justice Initiative, hailed the decision as a crucial step toward helping juvenile offenders, who as a group have been subject to relatively harsh sentences in recent decades.

"The politics of fear and anger make it very difficult for legislatures to turn around" on juvenile

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punishments, Stevenson said. "I hope that this case will encourage a broader conversation about the nature of sentencing in this country."

Liz Ryan at the Campaign for Youth Justice in Washington said the decision could lead states to reconsider policies that allow juveniles to be tried as adults for certain crimes. "It calls into question the broader set of state laws that treat children as adults," she said. "We think states ought to reconsider their laws as a result of this decision."

Critics of Monday's decision, such as Gene Schaerr, who represents the National District Attorneys Association, predicted it would lead to widespread appeals of juvenile sentences and weaken the hand of prosecutors trying to win plea deals with juvenile offenders.

"I also see this decision setting up a whole new area of litigation over what punishments are off-limits for juveniles," he said. "What about an 80-year sentence or a 50-year sentence or even a 20-year sentence?"

In Kennedy's opinion for the majority, he highlighted the limited culpability of young offenders and said the usual justifications for harsh sentences, such as deterrence, do not hold up for those under age 18.

Baylor University criminal law professor Mark Osler said Monday's decision arises against the backdrop of a broader national re-examination of harsh sentences, but it is most significant in how it views offenders who are under age 18.

"It reinforces the idea that children are different," Osler said, adding, "We are at a point that some people are perceiving that the pendulum has swung too far" toward harsh sentences for young offenders.

Dissenting justices, led by Clarence Thomas, stressed that "states over the past 20 years have consistently increased the severity of punishments for juvenile offenders."

Yet Kennedy noted that most prosecutors and judges have not taken advantage of state laws that eliminated the chance of parole for juveniles whose crimes fall short of homicide. He said that of the 129 juvenile offenders serving life without parole for a non-homicide crime, 77 are behind bars in Florida. The other 52 criminals are in just 10 states

and the federal system.

"The sentencing practice now under consideration is exceedingly rare. And it is fair to say that a national consensus has developed against it," Kennedy wrote. He added that the "independent judgment" of the court majority was that life without parole was unconstitutionally harsh for young offenders.

Joining Kennedy were Justices John Paul Stevens, Ruth Bader Ginsburg, Stephen Breyer and Sonia Sotomayor.

Chief Justice John Roberts provided a sixth vote to reverse the sentence for the particular Florida prisoner whose case was before the court, Terrance Graham.

Graham was 17 when he took part in an armed robbery while on probation for another violent crime he committed at age 16. Graham, now 27, was sentenced to life in prison without parole.

Roberts argued against the majority's new blanket rule against life without parole for juveniles but said Graham's punishment was "extraordinarily severe."

Dissenting with Thomas were Justices Antonin Scalia and Samuel Alito. Thomas, who wrote for the three, disputed the view that there was a societal consensus against the lifetime punishment for juveniles and declared that the decision eviscerated a longstanding distinction in court rationales for death sentences compared with other sentences.

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Thomas dismissed the majority's references to the infrequency of life-without-parole sentences and its other analyses as "window dressing that accompanies its judicial fiat."

'An important win'

Monday's case comes amid an escalating national debate over whether states have gone overboard in devising punishments for the young as part of the modern tough-on-crime era that began in the 1980s.

States such as Florida say laws such as the one at issue in Graham's case deter juvenile crime and reflect the reality that the horror of an attack is the same to a victim, no matter how young the attacker. Juvenile advocates counter that such policies fail to account for crucial differences between children and adults.

"Youth by definition is a time of many changes, changes in judgment, moral attitude, self-control. We believe that they should be given the opportunity to restore themselves through rehabilitation and safe reintegration into society," says Nancy Gannon Hornberger, executive director of the Coalition for Juvenile Justice, made up of governor-appointed juvenile justice advisory panels.

An estimated 2,500 juvenile defendants in the USA are serving life-without-parole sentences — the vast majority for homicides.

Hornberger and the Equal Justice Initiative's Stevenson said they hope the court decision inspires a re-examination of harsh sentencing policies, including automatic life without parole for juvenile murderers.

"It's an important win not only for kids who have been condemned to die in prison but for all children who need additional protection and recognition in the criminal justice system," said Stevenson, who had represented a second juvenile whose case was before the court.

With Graham's appeal last November, the justices had heard the case of Joe Harris Sullivan, who was 13 when he was arrested in the rape and robbery of an elderly woman. The justices dismissed Sullivan's case without explanation Monday. Yet Sullivan, like

all other juvenile offenders, would be covered by the new ruling and able to try to argue that he deserves parole.

The paired Graham and Sullivan cases had drawn interest from an array of groups, such as the [American Psychological Association](#), and prominent people who got in trouble in their youth but straightened up, such as actor Charles Dutton and former U.S. senator Alan Simpson, a [Republican](#) from Wyoming.

Joining Florida's bid to uphold life in prison for young offenders were victims' rights groups, such as Mothers Against Murderers Association, 18 states and the district attorneys group. (The U.S. government did not enter the case on either side.)

After Monday's ruling, Florida Attorney General and Republican candidate for governor [Bill McCollum](#) said he expected Graham be resentenced to a "very long term in prison." Yet McCollum also said the ruling "will have a significant impact on our state's juvenile justice and corrections systems both going forward and for current inmates." Florida has been at the forefront of tough sentences for juveniles.

In the high court's opinion Monday, it noted that six states in recent years, including Colorado, Montana and Texas, had amended their laws to ban life without parole for juvenile offenders.

A blistering dissent

The Supreme Court's decision was a follow-up to a

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ruling in 2005, when the court ruled for the first time that juvenile offenders could not be sentenced to death.

In that case, *Roper v. Simmons*, Kennedy — again writing for the majority — emphasized the differences between juveniles and adults. In Monday's case of *Graham v. Florida*, he adopted much of that earlier reasoning.

"As compared to adults, juveniles have a lack of maturity and an underdeveloped sense of responsibility;" Kennedy noted, "they are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure; and their characters are not as well formed."

He said that juveniles are more capable of change than are adults.

Kennedy also addressed the court's different handling of the death penalty from all other punishments in past cases: "It is true that a death sentence is unique in its severity and irrevocability, yet life without parole sentences share some characteristics with death sentences that are shared by no other sentences." Life without a chance of parole, Kennedy said, "deprives the convict of the most basic liberties without giving hope."

In his dissenting opinion, Thomas declared the majority was imposing its subjective, moral views on the states.

"The court proclaims a consensus against the practice, implying that laws allowing it either reflect the consensus of a prior, less civilized time or are the work of legislatures tone-deaf to moral values of their constituents that this court claims to have easily discerned from afar," Thomas wrote. "This logic strains credulity."

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