

Yale Daily News

Published: Monday, November 9, 2009

Littman: Juvenile sentences both cruel and unusual

By [Aaron Littman](#)

This morning, the Supreme Court will hear the tandem cases of *Sullivan v. Florida* and *Graham v. Florida*. Both challenge the imposition of a sentence of life without the possibility of parole on a juvenile convicted of a non-homicide. One petitioner was 17 years old at the time of the crime's commission; the other was 13. The two cases will be heard concurrently but have not been conjoined, suggesting that the Court may intend to differentiate between the two in an effort to narrow its holding. It ought to extend its 2005 ruling in *Roper v. Simmons*, however, which found that the juvenile death penalty was unconstitutional, to hold that any sentence of life without parole constitutes cruel and unusual punishment when imposed on an offender under the age of 18, especially when the crime committed was not a homicide.

Joe Sullivan, a mentally disabled boy who suffered from frequent physical and sexual abuse, was sentenced at the age of 13 for sexually assaulting an elderly woman after burglarizing her home. According to the petition filed by his attorney, Bryan Stevenson, Executive Director of the Equal Justice Initiative of Alabama, two older accomplices convinced him to participate. One, who may have actually committed the sexual assault, testified that Sullivan had been the assailant; both accomplices received short sentences in juvenile detention. Sullivan was convicted in a trial that lasted only a single day. Witnesses referred to him as a "colored boy," and his appointed attorney, who was later disbarred, failed to challenge either the victim's rehearsed "voice identification" or the constitutionality of his eventual sentence. (In the spirit of full disclosure, I worked at the Equal Justice Initiative in the summer of 2008.)

Terrance Graham, the petitioner in the second case, was born addicted to crack cocaine. He was 17 when, following a felony robbery conviction, he violated his probation and received a sentence of life without the possibility of parole.

In the 14 amicus briefs supporting the petitioners, psychiatrists, clergy, and juvenile correctional officers all argue that juveniles' brains and moral sensibilities are not fully developed. Recent advances in neuropsychology have confirmed this finding and evidence of its truth is readily available to all those who hope that their fates are not determined by the regretted actions of their teenaged selves.

As the petitioners explain in *Sullivan*, the Supreme Court recognized in its *Roper* decision that "an irrevocable judgment ... cannot rationally be passed on children below a certain age. They are unfinished products, human works-in-progress. They stand at a peculiarly vulnerable moment in their lives. Their potential for growth and change is enormous. Almost all of them will outgrow criminal behavior... They are the products of an environment over which they had no real control — passengers through narrow pathways in a world they never made." Like the death penalty, a sentence of life without the possibility of parole is a "denial of hope"; "it means that good behavior and character improvement are immaterial; it means that whatever the future might hold in store for the mind and spirit of [the defendant], he will remain in prison for the rest of his days."

Life without parole sentences for 13- and 14-year-old children are, in the words of Sullivan's attorneys, "freakishly rare" in the United States and literally unheard of in the rest of the world. Only 73 people in the United States are currently serving life without parole sentences for crimes they committed at this age; only nine of them were 13, and only two of those are serving the sentence for non-homicides. There is a clear national consensus that life without parole sentences are inappropriate for young children.

In most countries, life without parole sentences for older juveniles are just as unusual. According to a report published last year by Human Rights Watch, "in the United States at least 2,380 people are serving life

without parole for crimes they committed when they were under the age of 18. In the rest of the world, just seven people are known to be serving this sentence for crimes committed when they were juveniles.” Only two nations have refused to ratify the United Nations Convention on Rights of the Child, which forbids juvenile life without parole sentences: the United States and Somalia.

Sullivan, confined to a wheelchair with multiple sclerosis, is now 33. He has spent all of his adult years, and more than half of his life, in prison. He has paid for his crime and then some. Like many juveniles incarcerated in adult prisons, Sullivan suffered exploitation and abuse at the hands of older inmates. Graham has not yet served a particularly long sentence; his incarceration began three years ago. Both committed crimes, and both deserved sanctions for those crimes. Perhaps Graham, more mature and closer to adulthood, should have been held more fully culpable for his actions than Sullivan, who was just a (developmentally disabled) child when he committed his offense. But neither is impervious to rehabilitation, and neither is irredeemable. Neither Joe Sullivan nor Terrance Graham deserves to die in prison.

Aaron Littman is a senior in Ezra Stiles College. He was a Liman Summer Fellow at the Equal Justice Initiative.