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Cruel and unusual

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On Monday, the Supreme Court heard petitioners argue that sentencing people to life in prison without any possibility of parole for crimes they committed as juveniles, where no homicide was committed, violates the Eighth Amendment's ban on cruel and unusual punishment.

There should be little argument over whether the punishment is unusual: The United States is the only country in the world to impose such a draconian sentence on children, with 109 people serving life without parole for non-homicide juvenile offenses. Even here, it is rare to non-existent in all states but Florida, which accounts for 77 of that total, according to a recent Florida State University study.

Seven other states account for 32 of the 109, while 39 states have none, including Texas, which — as of September, 2009 — does not permit life without parole sentences for offenders under 17. (Statistics for three states were not available.)

The cases argued, both in Florida, involve Joe Sullivan, convicted of raping a woman at the age of 13, and Terrance Graham, who was 16 when he pleaded guilty to attempted robbery and was placed on probation. A year later, at 17, he was one of three youths who forced their way into an apartment and robbed two men at gunpoint. Both Sullivan and Graham were sentenced to life without parole.

These juveniles committed serious crimes and deserved punishment for them. But to abandon



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all hope, irrevocably, for a young person whose character is still developing — as multiple scientific and psychological studies have shown — is surely cruel and unusual punishment.

Four years ago, the Supreme Court faced a similar situation in *Roper v. Simmons*, when it decided 5-4 that executing a child for crimes committed as a juvenile is a violation of the Eighth Amendment. The same arguments used in that case are equally valid when applied to locking a child up for life — a long-term death sentence.

In the *Roper* case, Justice Anthony Kennedy, arguing for the majority, called the death penalty “a disproportionate punishment for juveniles,” citing three major areas of differences between them and adults: first, juveniles' lack of maturity and undeveloped sense of responsibility; second, their vulnerability to “negative influences and outside pressures, including peer pressures”; and third, a character not as well formed as an adult's, with personality traits that are “more transitory, less fixed.” To a large extent, noted Stevens, our laws also reflect these differences, barring juveniles from serving on juries, voting or marrying without parental consent.

Professor Ellen Marrus of the University of Houston Law Center told the Chronicle that the juvenile justice system was never intended to treat children as miniature adults: “We have to look beyond the offense and look at children as children,” she said. “We should not be putting them into a system that is going to make them

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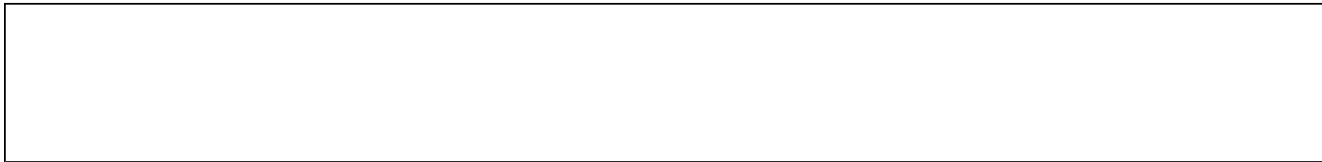
worse instead of helping them.”

Most juveniles grow up to become responsible adults, many of them surviving serious youthful mistakes and terrible choices. To abandon all hope of ever redeeming a young life before that life is fully formed should never be a choice in a civilized society.



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