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Supreme Court seems likely to limit life sentences for juveniles

Most liberal justices seem inclined to rule against life terms for offenders under the age of 18 who did not commit murder. Chief Justice Roberts favors case-by-case reviews.

By David G. Savage

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Reporting from Washington

Confronted with the stark reality of a 13-year old sentenced to spend the rest of his life in prison, the Supreme Court justices signaled Monday that they were inclined to limit, or perhaps abolish, the use of life terms for young teenagers whose crimes do not involve murder.

The high court often has invoked the Constitution's ban on "cruel and unusual punishment" to restrict the death penalty. Monday, the justices also sounded ready to rule that some states, in particular Florida, had gone too far by sentencing children to life in prison without a chance for a parole.

"To say to any child of 13 that you are only fit to die in prison is cruel," attorney Bryan Stevenson told the court. "It cannot be reconciled with what we know about the nature of children. It cannot be reconciled with our standards of decency."

Stevenson is representing Joe Sullivan, who at age 13 was convicted of raping a 72-year-old woman and given a life prison term. Stevenson said rapists in Florida are sentenced, on average, to 10 years in prison. Yet, Sullivan, who already has served 20 years, will die in prison unless the Supreme Court intervenes.

A second case heard Monday involved Terrance Graham, who at 17 was given a life term for his part in an armed robbery of a Florida restaurant and a later home invasion robbery.

Sullivan and Graham are among 109 inmates nationwide who were sentenced as juveniles to life in prison without parole for non-homicide crimes. They are among 77 being held in Florida. Louisiana has 17 such inmates, and California has four. The others are in Iowa, Mississippi, Nebraska and South Carolina.

Lawyers for Graham and Sullivan agreed that their clients committed violent crimes and deserved to spend time behind bars. But they also argued that they deserved a chance, at some time, to seek their release through parole.

"Sentencing an adolescent to life without any possibility of parole condemns him to die in prison and rejects any hope he will change for the better," said Byron Gowdy, Graham's lawyer. Amnesty International also said the United States is the only nation in the world that imposes such long prison terms on young criminals.

During oral arguments, most of the justices sounded as though they were inclined to overturn at least some of



these sentences as too extreme. However, they differed on how to do it. Chief Justice John G. Roberts Jr. offered a middle-ground approach that could overturn prison terms in some cases if the state judges failed to weigh the youth of the offender. Roberts said this "case-by-case approach" was wiser than setting a single rule. Justice Samuel A. Alito Jr. agreed.

But most of the liberal justices hinted they would go further and rule it was always cruel and unusual punishment to impose a life term for an offender who is under age 18 and who did not commit a murder.

"Every state recognizes the difference between an adult and a minor. And you have to make a line. We have it at 18," said Justice Ruth Bader Ginsburg. "The teenager can't drink, can't drive, can't marry. There are many [legal] limitations on children just because they are children."

Only Justice Antonin Scalia defended Florida's policy. He said the ban on "cruel and unusual" punishment did not give the court grounds to second-guess the length of prison terms. "When the 'cruel and unusual' clause was adopted [in 1791], 12 years was viewed as the year when a person reaches maturity," Scalia said. "And then all felonies [were subject to] the death penalty."

Florida's Solicitor General, Scott D. Makar, agreed with Scalia and said the court should take a hands-off approach. "I believe Florida is very balanced," he said.

The two defense lawyers also differed somewhat. Sullivan's lawyers said the justices should outlaw life prison terms for all offenders who are 13 or 14, including murderers. Graham's lawyer said the court should only forbid life prison terms without parole for criminals under age 18 who were not involved in a homicide.

Even if Sullivan and Graham prevail, it is not likely that a ruling in their favor would affect the more than 2,000 prisoners nationwide who were sent to prison for life as juveniles for crimes where someone died. In many states, young criminals can be given life terms if they participated in a violent crime where someone was killed, even if they did not commit the murder.

A Florida State University survey in July listed the states with the most juvenile criminals serving life terms, including for homicide: Pennsylvania (375), Michigan (347), Louisiana (335), Florida (302), California (249) and Illinois (103).

david.savage@latimes.com

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