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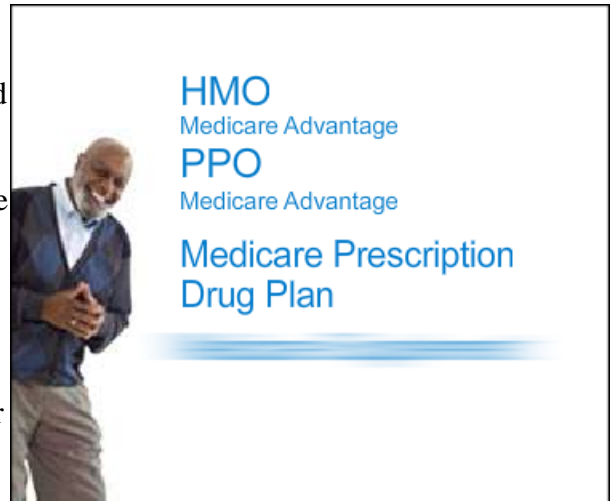
A chance for redemption

Our view: Life without parole is not appropriate for crimes committed by juveniles

November 13, 2009

We treat children differently from adults in all sorts of ways because we recognize they are not fully formed intellectually, emotionally or ethically. We restrict their ability to see R-rated movies, to buy alcohol, to get tattoos or vote.

It's hard to justify, then, the fact that at latest count, 109 people in the United States are now serving life sentences without the possibility of parole for crimes other than murder that they committed as juveniles. Such a harsh sentence is understandable for repeat adult offenders, people whose patterns of behavior indicate they will never change their criminal ways. But given our widespread judgment in all other areas of life that minors are still developing, how can we justify a sentence that doesn't recognize the possibility of change?



The Supreme Court heard arguments this week in two Florida cases to determine whether such a sentence amounts to a violation of the Eighth Amendment's ban on cruel and unusual punishment. The vast majority of such sentences nationwide (77 of 109) were handed down in Florida. According to a study by Florida State University researchers, Louisiana was the only other state with more than a half-dozen such cases. Maryland is one of 42 states with no inmates who fit the criteria in cases the Supreme Court considered, though Delaware does have one.

The cases come four years after the court concluded in a 5-4 decision that death sentences for juveniles were unconstitutional, and that case loomed large in this week's arguments. The four more conservative members of the court appeared disinclined to outlaw life without parole for juveniles completely but indicated such a bright-line distinction was appropriate in the earlier case because, as Chief Justice John G. Roberts Jr. put it, "death is different." The more liberal members of the court appeared inclined to recognize that there is precedent and good reason for making distinctions between how we treat adults and juveniles. Justice Roberts floated something of a compromise - a holding that judges would be required to take age into account when sentencing - but we would hope that's the case already.

That leaves Justice Anthony M. Kennedy in the middle, just as he was in the 2005 case on juvenile capital punishment. That's not surprising, but it's ironic given the other reason he made the news this week. Justice Kennedy gave a speech recently at the Dalton School in New York, but, before doing so, he insisted that any student journalists covering the speech get his approval for their story before running it in the school newspaper. Justice Kennedy apparently does not believe that minors can handle the responsibility of writing down a few quotes from a speech. Now he's deciding whether minors should be forced to spend the rest of their lives in prison.

Just as "death is different" under the law, so should be juveniles. Justice Samuel A. Alito was right when he

pointed out that juveniles have committed crimes that are horrible beyond imagining and that those cases deserve severe punishment, but Justice Antonin Scalia went too far in suggesting that if parole is a possibility, the "value of retribution diminishes to the point of zero." The possibility of parole doesn't mean the guarantee of parole. It just leaves the state with the option to re-evaluate the criminal once he or she has become an adult.

Some people who commit crimes as juveniles are probably so depraved that they can never be a part of society. That is something a parole board can decide years after they committed their crimes. It's not something a judge can predict when looking at a person whose intellect and morals are not yet fully formed.

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