

The Miami Herald

Posted on Tue, Nov. 03, 2009

Juveniles' life sentences are too cruel

BY LAUREN FASIG

fasig@law.ufl.edu

As parents, teachers and coaches have long known, teens think differently than adults. So, it comes as no surprise that a substantial and growing body of science confirms that although adolescents may demonstrate cognitive abilities similar to those of adults, they are less capable of mature judgment.

For example, research in behavioral science shows that adolescents simply reason differently than adults. They are less able to control their emotions or consider alternative behaviors and are less able to consider the long-term consequences of their actions. The research also concludes that adolescents are more susceptible than adults to peer and environmental influences.

Neuroscientists have found that the prefrontal cortex of the brain, the frontal lobe area that is related to functions such as impulse control, planning and risk evaluation, is not fully developed in adolescents. Developmental psychologists also find that adolescents are less psychologically mature. During the teen and young adult years, the major psychological developmental task is forging identity. Scientific evidence indicates that these ongoing developmental processes yield adolescents who are capable of behavioral change.

On Nov. 9, these research findings should be at the heart of the U.S. Supreme Court's consideration as it addresses two cases where juveniles who committed non-homicide crimes were sentenced to life imprisonment without parole. In both the Sullivan v. Florida and Graham v. Florida cases, the U.S. Supreme Court will hear arguments on whether such a sentence for juveniles is cruel and unusual punishment under the Eighth Amendment.

Joe Sullivan was convicted of raping a 72-year-old woman after he and two older boys burglarized her house in Pensacola in 1989. Terrance Graham, of Jacksonville, was convicted of armed burglary, then violated his probation when he fled from police after a home invasion. Sullivan, at 13, was barely a teenager at the time of the offense. Graham was 17 when he violated his probation.

Both were tried and sentenced in adult criminal court as a result of Florida's direct file laws, which allow prosecutors to file cases in criminal court rather than juvenile court.

Some argue that the legal system has already incorporated the developmental factors that distinguish teens from adults into its consideration of juvenile crimes by creating a separate juvenile justice system. But adolescents who receive a sentence of life without parole are prosecuted and sentenced in adult criminal court. Because they are not tried in the juvenile justice system, these adolescents bypass any consideration of their developmental status that might be imbedded in that system. As criminal defendants, these youth receive no consideration of their immaturity or ongoing development.

In the 2005 Roper v. Simmons case, the U.S. Supreme Court held that teenage defendants should not face the death penalty because, "the susceptibility of juveniles to immature and

irresponsible behavior means that their `irresponsible conduct is not as morally reprehensible as that of an adult,' " quoting *Thompson v. Oklahoma*.

The court further reasoned that because adolescents are still forming their identities, they are still capable of ceasing risky or antisocial activities.

Our new understanding of teenagers only strengthens that line of reasoning. The U.S. Supreme Court should determine that a sentence of life in prison without parole imposed on juveniles meets the definition of cruel and unusual punishment forbidden by the Constitution.

Lauren Fasig, a professor of law and director of research at the Center on Children and Families at the University of Florida Levin College of Law, co-edited the book, Handbook on Communicating and Disseminating Behavioral Science.

© 2009 Miami Herald Media Company. All Rights Reserved.
<http://www.miamiherald.com>