

Should kids be sentenced to life in prison?

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In 1998, Omer Ninham was an abused 14-year-old child of alcoholic parents.

He was also a murderer.

After throwing a 13-year-old boy to his death from the top of a hospital parking ramp, Ninham was sentenced to life in prison without parole — essentially condemned to die in prison.

Last week, the Wisconsin Supreme Court decided to review Ninham's sentence in a case that could determine how age should factor into the sentencing of kids who are sent to adult court.

Ninham's is one of a number of cases that have been taken up by the Montgomery, Ala.-based Equal Justice Initiative in an effort to turn back laws at both the state and federal level that allow kids to be sent away for life.

"We were very concerned about this community of very young kids who had been sentenced to life without parole and almost no one knew anything about them" says Bryan Stevenson, executive director of the group.

Stevenson says kids and adults have different levels of responsibility for their actions, and they need to be held to different standards. "You can't conclude that the person is beyond rehabilitation, redemption and reform when they're only 14 years of age," he says.

More and more, courts are backing up his view.

In 2004 the U.S. Supreme Court ruled that it is unconstitutional to impose capital punishment for offenders under the age of 18, which set in motion a number of legal challenges on behalf of children convicted of crimes in adult court.

Earlier this year, the high court again distinguished between adolescents and adults when it ruled that it was unconstitutional to permanently lock up adolescents who commit non-capital offenses.

Now, says Stevenson, courts need to make the same distinction between adults and children who commit capital crimes. And his group is making some headway. Earlier this year the Iowa Supreme Court gave an Iowa woman, now 32, the right to challenge her life sentence as cruel and unusual punishment for a 1993 killing she committed when she was 14.

The Equal Justice Initiative last year took Ninham's case to the Wisconsin Court of Appeals, arguing that his sentence was excessive. The group also contends that recent research on adolescent brain development shows that kids are not as biologically equipped as adults to control their impulses, especially when, as in Ninham's case, brain development is stifled by alcohol abuse.

"There's no question that anyone who commits a terrible crime like this has to be punished," Stevenson says. "But I think it's difficult to say that any child of 14 is beyond hope and redemption and rehabilitation. Children just change too much to make that kind of judgment."

The appeals court shot down the arguments, setting the stage for the Wisconsin Supreme Court. In taking the case, the court hopes to clarify whether U.S. Supreme Court decisions make it unconstitutional to sentence youthful offenders to life without parole; whether courts should consider age and development issues when sentencing; and whether recent scientific studies on adolescent brain development reduce the culpability of young offenders.

Stevenson says Wisconsin is one of 18 or so states that allow children to be sent away for life, and Ninham, now 26, is in a category by himself: the only inmate in a Wisconsin prison who committed a crime at 14 and has no hope of going free.

Generally, Stevenson says, legislatures didn't intend to put kids away for life. Instead, they made it easier to put kids into the adult system and they also stiffened the punishments available for adults.

"They've done a lot of things that are catching kids in ways that I think have not been carefully considered," he says.

No one, including Stevenson, is downplaying the horrific nature of the Ninham's crime.

On Sept. 23, 1998, 13-year-old Zong Vang was running an errand for his family. Ninham and 13-year-old Richard Crapeau, both of Green Bay, and three other juveniles were near the St. Vincent Hospital parking ramp when they spotted Vang, who they did not know, riding his bike.

“Let’s mess with this kid,” Crapeau said, according to news accounts of the case.

Crapeau pulled Vang from his bike and Ninham punched him. Vang fled to the top floor of the parking ramp, where Crapeau and Ninham caught up with him and punched him in the face and body. Ninham grabbed the boy’s wrists and Crapeau held his ankles and they swung Vang over the side of the ramp wall. Vang pleaded for his life as the others egged Crapeau and Ninham on, urging them to let go. They did, letting the screaming boy plummet to his death.

Ninham and Crapeau were later convicted of first-degree intentional homicide and physical abuse of a child. Crapeau was sentenced to life in prison with no chance of parole until he has served 50 years, and Ninham was sentenced to life with no chance of parole, ever.

Stevenson calls the crime “terrible,” and he says he understands how people might want to throw away the key. “You could certainly see how a crime like this is provocative and raging and painful,” he says.

Wisconsin Attorney General J.B. Van Hollen, who has assigned an attorney from his department to argue against giving Ninham a chance at parole, would not comment on the Supreme Court’s acceptance of the case. But after the appeals court decision last year he issued a statement saying, “For some juvenile offenders, a life sentence without parole is fair and just punishment. Ninham was properly punished for a horrible crime.”

But Stevenson argues that like all adolescents, Ninham has changed as he has matured. Before the murder, he was abused and neglected. He had never owned a toothbrush until he was sent to a group home at age 14. His alcoholic parents allowed him to imbibe alcohol daily, and his father and brothers beat him.

Soon after he committed the murder, Ninham was placed in a center for at-risk Native American kids and started to make “extraordinary progress,” says Stevenson, adding, “We think he’s continued to make good progress.”