

Supreme Court rules in major Eighth Amendment sentencing case

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By Jonathan Stahl 5 hours ago

Justice Anthony Kennedy wrote the majority opinion that reversed the lower court's judgment, and was joined by Chief Justice John Roberts along with Justices Ruth Bader Ginsberg, Stephen Breyer, Sonia Sotomayor and Elena Kagan.

Justices Clarence Thomas, Samuel Alito, and Antonin Scalia, all traditionally members of the Court's conservative wing, dissented.

In *Montgomery*, the Court was tasked with determining the extent to which new rules of law apply retroactively. In 2012, the Court ruled in *Miller v. Alabama* that mandatory sentencing schemes requiring that "all children convicted of homicide receive lifetime incarcerations without the possibility of parole" violate the Eighth Amendment's ban on cruel and unusual punishment.

Since 1963, Henry Montgomery has been serving a life sentence after being convicted under such a mandatory sentencing scheme at the age of 17. In light of the ruling in *Miller*, Montgomery argued that the new standard established in that case should be applied retroactively to his conviction and be dismissed as a violation of the Eighth Amendment.

In 1989, the Supreme Court established the framework for determining when new rules of law, like the one established in *Miller*, should apply retroactively. The Court decided in *Teague v. Lane* that, in order to apply retroactively, a new rule must either completely prohibit a punishment that can be imposed on a class of defendants, or be a "watershed rule of criminal procedure" that impacts the fundamental fairness of criminal proceedings.

The Louisiana Supreme Court determined that the rule in *Miller* does not meet either of these thresholds. Montgomery's lawyers argued that the Louisiana court erred; in fact, they argued, the standard set in *Miller* passes both prongs of the test established in *Teague*. The Court accepted Montgomery's appeal, but oral arguments largely focused on whether or not the Justices even had the authority to hear the case.

Justice Kennedy dedicated the first half of his opinion in *Montgomery* to explaining that the Supreme Court does in fact have that authority, and rejecting the argument that only Louisiana state courts can rule on this matter. He wrote that the *Miller* decision was not an interpretation of federal statute or a procedural rule, but was rather a "new substantive rule of constitutional law."

Since the Louisiana state court ruled to enforce a penalty that is banned by the Constitution, the "resulting conviction or sentence is, by definition, unlawful," and subject to review by the Supreme Court. In this discussion, Justice Kennedy clarified potential ambiguities from *Teague*, and forcefully wrote that no court can uphold a conviction or sentence that violates a substantive rule of constitutional law, regardless of when the conviction became final or when the rule was announced. "There is no grandfather clause that permits States to enforce punishments the Constitution forbids," Kennedy wrote, for doing so would undercut essential substantive guarantees of the Constitution.

The decision then turned to the question of whether *Miller's* prohibition on mandatory life sentencing

schemes did indeed establish a substantive rule of constitutional law. Justice Kennedy explained that protection against disproportionate punishment is the “central substantive guarantee of the Eighth Amendment,” and cites precedent from *Miller* and other juvenile criminal justice cases that established that mandatory life sentencing for children is in fact disproportionate. Noting that *Teague* sought to balance finality in the courts with the liberty interests of those subjected to rules later found to be unconstitutional, Kennedy determined that *Miller* announced a substantive rule of constitutional law and needed to be applied retroactively.

The end of the majority opinion gives some guidance to lower courts and states for how to move forward in light of this decision, and notes that the decision does not require states to re-litigate every sentence and conviction in which a juvenile defendant was convicted to mandatory life without parole. A state can remedy the situation by having these offenders considered for parole, such that this rule can be applied without having to disturb the finality of convictions.

In his dissent, Justice Scalia asserted that the Court does not have the authority to hear the case, and that the decision it came to was erroneous. He argued that a state court “need only apply the law as it existed at the time a defendant’s conviction became final,” and that the Constitution does not demand that rules like the one established in *Miller* be applied to cases already finalized.

The dissenters pushed back on the majority’s contention that the Constitution has no “grandfather clause” and point to the principle of finality, under which states are not required to reverse punishments that were constitutional when they were originally imposed.

In a separate dissent, Justice Thomas echoed the sentiments expressed in the opinion of Justice Scalia, and wrote that “today’s decision repudiates established principles of finality.”

Sentencing in criminal cases is an issue that has been addressed by all three branches of government in recent months. As this decision is handed down, the [Sentencing Reform and Corrections Act](#) is being considered in Congress and has garnered bipartisan support. Earlier this month, President Obama mentioned criminal justice reform in his [State of the Union](#) address, and expressed hope that Congress will update what advocacy groups like the American Civil Liberties Union feel is an outdated and unfair system.

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