

The New York Times

September 16, 2013

End Mandatory Life Sentences

By **THE EDITORIAL BOARD**

Young people are different. The Supreme Court has delivered that message repeatedly over the last decade in limiting or flatly prohibiting the most severe criminal punishments for those under 18 at the time of their crime.

In 2005, the court [banned the death penalty for juveniles](#). In 2010, it [outlawed sentences of life without parole](#) for juveniles convicted of crimes other than homicide. And, in a 2012 case, [Miller v. Alabama](#), it said juveniles may never receive a mandatory sentence of life without parole, which prisoners refer to as “the other death penalty.”

Each ruling, relying on the Eighth Amendment’s ban on cruel and unusual punishment, has found that young people are “constitutionally different” from adults, and, therefore, must be punished differently.

In each case, the court was silent on the question of whether its ruling applied retroactively to inmates who had already been convicted. The just answer would surely be yes, and courts have largely agreed, making those first two juvenile justice rulings retroactive. But some states insist that the ban on mandatory life without parole does not apply to offenders who have already been sentenced.

In the Miller case, the court required lower courts to make “individualized sentencing decisions” for juvenile defendants because juveniles are not as morally culpable as adults, and they are more capable of changing over time. If the ban on mandatory life without parole is retroactive, more than 2,000 prisoners would be eligible for a new sentencing hearing. So far, whether these individuals can get a new hearing depends on where they live.

Courts in Michigan, Iowa and Mississippi have ruled that the ban applies to previously sentenced juveniles. The Department of Justice takes that position as well. Yet the Minnesota Supreme Court and one federal appeals court have taken the opposite view.

On Sept. 4, the Louisiana Supreme Court took on this question in the case of Darryl Tate, who was 17 when he held up two men and killed one of them in 1981. Mr. Tate’s lawyers argue that he is entitled to a new sentencing hearing under the Miller rule, because the

United States Supreme Court allowed such a rehearing in another juvenile life-without-parole case decided at the same time as Miller.

Critics fear that allowing resentencing would increase violent crime. But courts may still impose life without parole, provided that the judge first gives proper consideration to the mitigating effects of youth. The Alabama Supreme Court set out guidelines last week that require a court to consider 14 factors, including a defendant's age, emotional maturity, family environment and potential for rehabilitation before issuing such a sentence.

Ideally, life without parole would never be a sentencing option for juveniles. The Supreme Court's own logic suggests this, even if it was not willing to go that far. After the Miller case, three states entirely eliminated juvenile life without parole, joining six other states that had already banned the sentence, and lawsuits on the retroactivity issue are pending in several states. As lawmakers and courts deal with this issue, they should remember — as the Supreme Court has declared — that adolescents are not adults, and that principle should apply regardless of the date of a conviction.

[Meet The New York Times's Editorial Board »](#)