

JLWOP PROJECT

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What is the JLWOP Project?

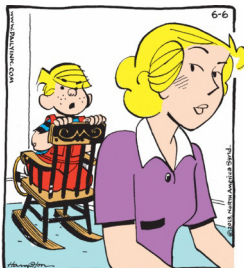
A collaboration between Office of the State Public Defender (OSPD) and Southern Poverty Law Center (SPLC) with funding from the Vital Projects Fund.

Collaboration also includes Jake Howard, Legal Director of MacArthur Justice Center.

CHILDREN ARE DIFFERENT



Research in Developmental Psychology and Neuroscience documents Juveniles' Greater Immaturity, Vulnerability, And Changeability



"YOU SHOULDN'T TELL ME TO USE MY IMAGINATION IF YOU DON'T MEAN IT."

- Juveniles are less capable of mature judgment than adults
- Juveniles are more vulnerable to negative external influences
- Juveniles have a greater capacity for change and reform
- Juveniles' psychosocial immaturity is consistent with recent research regarding adolescent brain development

The United States Supreme Court has Ruled Children are different. These cases focus on juvenile offenders because of their lesser culpability.

- Roper v. Simmons*, 543 U.S. 551 (2005)
- Graham v. Florida*, 560 U.S. 48 (2010)
- Miller v. Alabama*, 567 U.S. 460 (2012)
- Montgomery v. Louisiana*, 136 S. Ct. 718 (2016)

Miller v. AL

The Eight Amendment forbids a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders.

MS Supreme Court adopted *Miller* in *Parker v. State* and adopted a stopgap mechanism to Annul MS Code 47-7-3

The *Miller* decision “require[s] [the sentencing authority] to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison.” *Parker v. State*, 119 So.3d 987, 995 (Miss. 2013)

Conditional Release is NOT a Meaningful Opportunity for Parole

Miss. Code Ann. § 47-5-139

(1) An inmate shall not be eligible for the earned time allowance if:

(a) The inmate was sentenced to life imprisonment; but an inmate, except an inmate sentenced to life imprisonment for capital murder, who has reached the age of sixty-five (65) or older and who has served at least fifteen (15) years may petition the sentencing court for conditional release;

Conditional Release is NOT a Meaningful Opportunity for Parole

- Akin to clemency
- Not determined by the sentencer at the time of sentencing
- Does not take into account the Miller Factors

Juveniles charged with murder are entitled to an individualized *Miller v. Al* hearing.

The Miller Factors



AGE/YOUTH



"YOU GUYS BOUGHT THE 'SUPER SOAKER' FOR ME. DID YOU SERIOUSLY THINK I WOULDN'T USE IT?"

- Biological Fact
- Immaturity
- Impetuosity
- Failure to appreciate risks
- Susceptible to peer Pressure
- Need Expert testimony on brain development

Family and Home Environment



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- Lack of parental supervision
- Absent father
- Family history of Mental Illness
- Family History of Addiction
- Child Abuse
- Trauma
- Family involvement in crime

FACTS OF THE CRIME



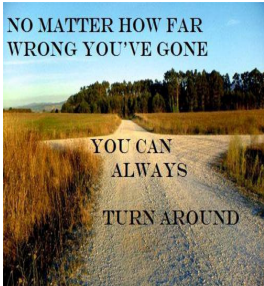
TAT TAKES CARE OF THE MURDER AND MURDER. ASK: HOW TO USE THE LAMP?

- Role In the Crime
- Role of Peer Pressure
- Ability to deal with Police and Prosecutors
- Ability to Assist in his own defense

The Possibility of Lesser Charges

According to the Court, "[i]t follows that, when compared to an adult murderer, a juvenile who did not kill or intend to kill has a twice diminished moral culpability."
Graham v. Florida (emphasis added)

The Possibility of Rehabilitation



The sentencer may impose a life-without-parole sentence only after making a properly informed, forward-looking determination that the particular child "exhibits such irretrievable depravity that rehabilitation is impossible."
Montgomery v. Louisiana

No expert can say with certainty that a person is irreparably corrupt.

Miller likens life-without-parole sentences for juveniles to the death penalty

What does this mean for my client?
Individualized sentencing hearing
Need for investigation
Need for expert assistance
Need for a jury determination

What if I don't have a homicide case?

De Facto life sentences? How long is too long?



Miller expansion- apply the principles of Miller to any case involving a person under the age of 26.

