

Graham v. Florida

Argued: November 9, 2009

Decided: May 17, 2010

Facts

Juvenile crime is a problem throughout the country and most states have enacted laws allowing convicted juveniles to be sentenced as adults for serious crimes. This case addresses the issue of whether sentencing youth to life in prison with no chance for parole for non-homicide crimes is cruel and unusual punishment in violation of the Eighth Amendment.

When Terrance Graham was 16 he pled guilty to armed burglary and was sentenced to three years of probation including twelve months in juvenile detention. This was Graham's first conviction. For a year, Graham followed all conditions of his probation, including attending self-improvement courses, performing community service, and abiding by a 10:00 PM curfew. However, he later committed a robbery at gunpoint and eluded police in a car chase. A Florida court ruled that Graham violated the terms of his probation and began sentencing proceedings against him.

The State of Florida, arguing that Graham could not be rehabilitated, recommended a sentence of 45 years. There was no expert testimony regarding Graham's capacity for rehabilitation. Graham's counsel recommended the minimum sentence of 60 months. The judge sentenced Graham to life without parole, saying that Graham's "escalating pattern of criminal conduct" and inability to be deterred from future crimes justified the sentence.

Graham appealed his sentence, arguing that life without parole is cruel and unusual punishment, similar to the juvenile death sentence which had recently been abolished by the U.S. Supreme Court (*Roper v. Simmons* (2005)). The Florida Supreme Court disagreed and found that life imprisonment without parole is an acceptable penalty, even after the *Roper* decision. Graham appealed that decision to the U.S. Supreme Court, which agreed to hear the case.

Issue

Is sentencing a minor to life without parole for a non-homicide crime "cruel and unusual" punishment under the Eighth Amendment?

Constitutional Amendments and Precedents

Eighth Amendment

"Excessive bail shall not be required, not excessive fines imposed, nor cruel and unusual punishments inflicted."

Lockyer v. Andrade (2003)

California law states that after two prior convictions for serious or violent felonies, a third conviction – even for a non-violent felony – will carry a sentence of at least 25 years to life (with no possibility of parole before 25 years). Leandro Andrade had committed two serious violent felonies when he was convicted of the theft of \$150 worth of merchandise. He was sentenced to

two consecutive 25-years-to-life sentences for the third crime. Andrade argued that the sentence for his third crime was so “grossly disproportionate” to the crime that it violated the Eighth Amendment. The U.S. Supreme Court concluded that only in “exceedingly rare” and “extreme” cases would a sentence imposed for a crime violate the Constitution. This decision demonstrates the reluctance of the Court to second guess sentencing plans passed by state legislatures.

Roper v. Simmons (2005)

Seventeen-year-old Christopher Simmons murdered a woman after telling friends of his plan to burglarize a home and kill the occupants. Noting the brutal nature of the crime, Simmons was given the death penalty, and Simmons appealed. The U.S. Supreme Court concluded that sentencing a person to the death penalty for a crime committed before age 18 is a violation of the Eighth Amendment. The lack of maturity, special vulnerability, and undeveloped character of juveniles make them less culpable (morally responsible) for their crimes. Additionally, the Court acknowledged the growing national consensus and international practice that the death sentence should not be imposed on juveniles.

Kennedy v. Louisiana (2008)

In 2003, Patrick Kennedy was convicted of raping his eight-year-old stepdaughter. Under Louisiana law, the death penalty is allowed for rape of a child under age 12. Kennedy was given the death penalty and appealed his sentence. The U.S. Supreme Court noted that the history of the death penalty, contemporary norms, and current state laws demonstrate a national consensus against capital punishment for child rape. The Court argued that punishments must fall “within the limits of civilized standards” and that imposing the death penalty for a crime that does not result in the death of the victim violates the Eighth Amendment.

Arguments for Graham:

- It is cruel and unusual punishment under the Eighth Amendment to sentence juveniles to death in prison. Life without parole is really the same as the death sentence, which *Roper* prohibits for juveniles.
- The reasoning of the *Roper* court, that adolescents require a modified application of the Eighth Amendment, should be applied here. Biologically and psychologically, early adolescence is a time of change, where peer pressure and risk-taking may influence youth to make bad decisions. To sentence a juvenile to life without parole does not take into account the possibility that an adolescent’s personality and judgment are still developing and that criminal tendencies can be outgrown.
- Other state and federal laws (e.g., imposing restrictions on driving, purchasing alcohol, and voting) account for the special deficiencies of juveniles in decision-making and maturity; sentencing standards should also be modified to reflect the special realities of youth.

- The United States and Israel are the only two countries in the world that ever actually impose life without parole sentences on juveniles, and only twelve nations even allow for the sentencing practice by law. Moreover, in the United States, although 36 states, the District of Columbia, and the federal government allow life without parole sentences for some non-homicide crimes by juveniles, Florida is one of only six states where non-homicide juvenile offenders actually serve such sentences.
- The rare incidence of states sentencing non-homicide juvenile offenders to life without parole indicates a general agreement that such a sentence is inappropriate for individuals under age 18.
- Since *Kennedy*, adults can no longer be sentenced to death for non-homicide crimes. Therefore, the maximum adult sentence for this crime would be the same as the sentence a juvenile received – life without parole.

Arguments for Florida:

- A life without parole sentence is not equivalent to the death penalty. *Roper* should not apply to this case because death is a different punishment than life without parole.
- The sweeping generalization that ALL juveniles lack full maturity and judgment is overbroad; there are some juveniles who plan and commit heinous “adult-like” crimes. For these juveniles, laws allow for filing “adult charges” and imposing “adult sentences” so that justice is properly served. It would not serve justice to create a blanket requirement that no one under 18 could be sentenced to life without parole.
- Only rarely does the Supreme Court find that sentencing is grossly disproportional to the crime committed. The Supreme Court has upheld very long sentences for lesser, non-violent crimes, such as in the *Lockyer* case.
- State sentencing laws and criminal justice systems do take into account age of the offender. There are, for example, procedures that examine juveniles and then certify them for treatment as adults in the court system.
- If anything, there is a national consensus **in favor of** the use of life without parole sentencing for juveniles. Forty-two states permit life without parole sentencing for juveniles, and the District of Columbia, the federal government, and 36 states permit such a sentence for non-homicide crimes. Additionally, the practice is consistent with a national trend of imposing harsher sentences for juveniles.
- The federal government should respect the states’ rights to set their own sentencing laws and the sentencing judge’s discretion to determine the appropriate sentence.

Decision

Justice Kennedy delivered the opinion of the Court, in which Justices Stevens, Ginsburg, Breyer, and Sotomayor joined. Justice Stevens filed a concurring opinion, in which Justices Ginsburg and Sotomayor joined. Chief Justice Roberts filed an opinion concurring in the judgment.

Justice Thomas filed a dissenting opinion, in which Justice Scalia joined and Justice Alito joined in part. Justice Alito filed a dissenting opinion.

The Court ruled 6-3 that Graham's life without parole sentence violated the Eighth Amendment's Cruel and Unusual Punishment Clause. However, the Court also ruled 5-4 that the Eighth Amendment's Cruel and Unusual Punishment Clause prohibits sentencing any juvenile offender to life in prison without parole for a non-homicide crime.

Majority

Writing for the majority, Justice Kennedy reviewed the Court's Eighth Amendment precedent and concluded that Graham's case, like *Roper*, required the Court to set a rule for all offenders under age 18. The Court considered whether there was a national consensus against sentencing juvenile non-homicide offenders to life without parole and whether, in light of precedent and the Court's understanding of the Eighth Amendment, the sentencing practice violates the Constitution. It determined that current sentencing practices, which rarely imposed life without parole sentences for juvenile non-homicide offenders, showed a consensus against the practice. The Court also noted that juvenile non-homicide offenders have limited moral culpability and the sentence is the most severe non-capital punishment possible. For these reasons, the Court concluded that life without parole for juvenile non-homicide offenders was cruel and unusual. While states are not required to guarantee defendants like Graham their eventual release, they must give them "some realistic opportunity to obtain release"

Additionally, the Court asserted that using discretionary laws or age as a factor in sentencing young offenders both failed to provide enough protection or accuracy. Thus, a rule for all non-homicide offenders under age 18 was required. The Court also briefly examined international trends in juvenile sentencing. The Court noted that the practice of sentencing juvenile non-homicide offenders to life without parole had been "rejected the world over" and that the new rule announced brought the United States in line with global practices.

Concurrence (Stevens)

Justice Stevens, joined by Justices Ginsburg and Sotomayor, emphasized the long-standing role of "evolving standards of decency" in the Court's interpretation of the Eighth Amendment and the proportionality of sentences. Countering the dissent by Justice Thomas, Stevens argued against a static, unchanging view of the amendment.

Concurrence (Roberts)

Chief Justice Roberts, concurred in the judgment, but not in the ruling that life without parole for non-homicide crimes is banned for all juveniles. While he agreed that Graham's sentence violated the Eighth Amendment, he argued against creating a categorical rule prohibiting life without parole sentences for juvenile offenders of non-homicide crimes. According to Roberts, the Court's precedent on the proportionality of sentences and the decreased moral culpability of juveniles made possible a case-by-case approach requiring courts to consider the particular defendant and the particular crime with youth as a factor. He determined that Graham's status as a juvenile, his criminal conduct (which was less serious than murder and rape), and the "unusual severity" of his punishment made Graham's sentence unconstitutional. However, Roberts argued that a decision in favor of Graham, an exceptional case, should not decide the cases of other juvenile offenders who committed other non-homicide crimes. He argued that successful challenges to non-capital sentences have been and should be "exceedingly rare."

Dissent (Thomas)

In dissent, Justice Thomas argued that the Court has completely strayed from the original meaning of the Cruel and Unusual Punishment Clause, a ban on torture. Furthermore, he described the Court's creation of categorical rules as an intrusion on "areas that the Constitution reserves to other (state and federal) organs of government." Regarding Graham, Thomas reasoned that the Court's creation of a categorical rule for non-homicide juvenile offenders was misplaced because the death penalty was not involved. Additionally, Thomas found the Court's justifications for the categorical rule unconvincing. He concluded that a consensus against the punishment simply did not exist given the number of states that allowed it, the upward trend in punishing juveniles severely for their crimes, and the practice of state abolition of parole. Thomas also challenged the Court's assertion that youth always reduces culpability. Finally, Thomas argued that a life without parole sentence did not violate the Eighth Amendment as applied to Graham because his sentence was not "grossly disproportionate."