



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

COURTS AND SENTENCING , YOUTH VIOLENCE

Supreme Court should rule against JLWOP

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Currently under consideration by the Massachusetts Joint Committee on the Judiciary is a pair of bills (S. 672 and H. 1346) that would eliminate sentences of life without parole for juvenile murderers. Under the existing statute, passed back in 1996, all juveniles as young as 14 convicted of first degree murder -- including felony-murder and acts committed by accomplices -- are hopelessly ineligible for parole consideration.

In its breadth and rigidity, Massachusetts law stands as one of the very stiffest in the nation. The proposed juvenile justice reform would directly impact the 59 juvenile murderers currently locked up for life in Massachusetts prisons. If the legislation is passed and signed into law, the Massachusetts parole board would be empowered to grant second chances to juvenile murderers, that is, of course, only if deserving of such after lengthy incarceration.

An amendment to the Senate parole reform bill (S.2054) debated today included a provision to grant parole eligibility to juveniles convicted of murder. Unfortunately, and to the disappointment of amender Sen. Harriette Chandler (D-Worcester), that provision was dropped.

But there is reason for hope, even if our state lawmakers fail to follow the lead of states like Texas and abolish juvenile life without parole. The U.S. Supreme Court has agreed to examine the constitutionality of mandatory life sentences in a pair of juvenile murder cases that will be heard jointly.

In *Jackson v. Hobbs*, a 14-year-old Arkansas boy was sentenced to life without parole for his role as an accomplice to the robbery of a video store during which an older teenager shot and killed the clerk. In *Miller v. Alabama*, a 14-year-old was engaged in a fight during which he and a buddy overpowered a 53-year-old man, and set fire to the victim's trailer with him lying inside too weak to escape.

While each of these two crimes is undoubtedly egregious, the Court will resolve whether a mandatory life sentence for someone as young as 14 constitutes cruel and unusual punishment. The petitioners will argue that the rarity of such sanctions and the inability to present mitigating circumstances violate the 8th and 14th Amendments.

If I were a betting man, I would wager heavily that the petitioners will indeed prevail. In earlier cases before it, the Court has ruled that executing juveniles is unconstitutional as is life without parole for non-homicide juvenile cases. In both instances, the Court was convinced that teenagers are different from

adults in terms of emotional maturity and cognitive development, making them less culpable no matter how heinous the crime. Clearly, adult time for adult crime, is little more than a catchy slogan.

In my view, the question is not so much whether the Court will overturn the sentences given Jackson and Miller, but how broadly the ruling will apply. The Court could limit its decision to the youngest of defendants rather than all juveniles. It also could apply its ruling to a narrow set of circumstances, such as only felony-murder, joint ventures, or cases with compelling mitigation.

Here's hoping that the Massachusetts legislature will be proactive, regardless of what may come of the cases before the U.S. Supreme Court. State lawmakers up on Beacon Hill should do the right thing now, rather than wait until next year to see if the Supreme Court makes the entire matter moot.