

Miller v. Alabama

(2012) 567 U.S. ____ [132 S.Ct 2455]

LIFE (and Death) BEFORE MILLER

No death penalty for juveniles

Roper v. Simmons (2005) 543 U.S. 551

No LWOP for non-homicide case

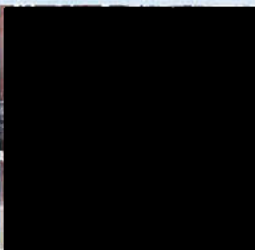
Graham v. Florida (2010) 560 U.S. 48



Miller v. Alabama

(2012) 567 U.S. ____ [132 S.Ct 2455]

- 5-4 Opinion
- Miller was 14 years old
- Robbed and beat drug dealer victim
- Set fire to trailer, killing victim
- LWOP



Even Miller was 14 years old at the time of his crime. Miller had by then been in and out of foster care because his mother suffered from alcoholism and drug addiction and his stepfather abused him. Miller, too, regularly used drugs and alcohol; and he had attempted suicide four times, the first when he was six years old.



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HOLDING:

The 8th Amendment forbids mandatory LWOP for juvenile homicide offenders

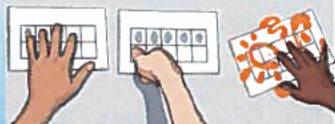


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REASONING:

Children have diminished capacity and greater prospects for reform



A lifetime in prison is a disproportionate sentence for all but the rarest of children, those whose crimes reflect "irreparable corruption"

Quoting *Roper v. Simmons* (2005), 543 U.S. 551, 573

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Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him... It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him...And finally, this mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it.

Life after Miller

WHAT'S NEXT?

People v. Caballero (2012) 55 Cal.4th 262

110-life violates 8th Amendment

De facto LWOP (remedied by PC §3051)

"Sentencing a juvenile offender for a nonhomicide offense to a term of years with a parole eligibility date that falls outside the juvenile offender's natural life expectancy constitutes cruel and unusual punishment in violation of the Eighth Amendment."



Penal Code §1170(d)(2) (2013)

Defendant who was under 18 (at the time of the commission of the offense)

Sentenced to LWOP

Been in prison for at least 15 years

May submit to the sentencing court a petition for recall and resentencing



Penal Code §1170(d)(2) (2013)

D shall file a petition which states that one of the following is true:

- (i) Convicted pursuant to felony murder or aiding and abetting murder
- (ii) No prior juvenile felony adjudications for assault or other violent felony crimes
- (iii) At least one adult codefendant.
- (iv) Performed acts that tend to indicate rehabilitation or the potential for rehabilitation

*Burden is on D to prove this by preponderance

Penal Code §1170(d)(2) (2013)

If the court grants a resentencing hearing

The factors court may consider include, but are not limited to, the following:



Penal Code §1170(d)(2) (2013)

- (i) Convicted pursuant to felony murder or aiding and abetting murder
- (ii) No prior juvenile felony adjudications for assault or other violent felony crimes
- (iii) At least one adult codefendant
- (vi) Performed acts that tend to indicate rehabilitation or the potential for rehabilitation
- (v) Insufficient adult support or supervision and suffered from psychological or physical trauma, or significant stress.
- (vi) Suffers from cognitive limitations due to mental illness, developmental disabilities, or other factors that did not constitute a defense, but influenced the defendant's involvement in the offense.
- (vii) Maintained family ties or connections, or eliminated contact with individuals outside of prison who are currently involved with crime.
- (viii) No disciplinary actions for violent activities in the last five years in which the defendant was determined to be the aggressor.


Penal Code §1170(d)(2) (2013)

If petition is denied,

D can submit another petition after serving 20 years

If that petition is denied,

D can submit another petition after serving 24 years



Penal Code §3051 (2014)

"Youth Offender Parole Hearings"

Applies to inmates

1. Under 23 years old at time of offense
2. Determinate or life sentences (No LWOP)


Penal Code §3051 (2014)

Parole Eligibility:

Determinate sentence = 15 years

Life term less than 25-life = 20 years

Life term greater than 25-life = 25 years





People v. Gutierrez (2014) 58 Cal.4th 1354

PC §190.5 has no presumption in favor of LWOP

The penalty for a defendant found guilty of murder in the first degree, in any case in which one or more special circumstances has been found to be true..., who was 16 years of age or older and under the age of 18 years at the time of the commission of the crime, shall be confinement in the state prison for life without the possibility of parole or, at the discretion of the court, 25 years to life.

Montgomery v. Louisiana (2016)
577 U.S. ____ [136 S.Ct. 718]

1. *Miller* applies retroactively

2. The stringent standard set forth in *Montgomery* cannot be satisfied unless the trial court, in imposing an LWOP term, determines that in light of all the *Miller* factors, the juvenile offender's crime reflects irreparable corruption resulting in permanent incorrigibility, rather than transient immaturity.

People v. Franklin (2016) 63 Cal.4th 261

Mandatory 50-life sentence is not de facto LWOP

- Pursuant to PC §3051, eligible for parole after 25 years

D may place on the record any documents, evaluations, or testimony (subject to cross-examination) that may be relevant at his eventual youth offender parole hearing

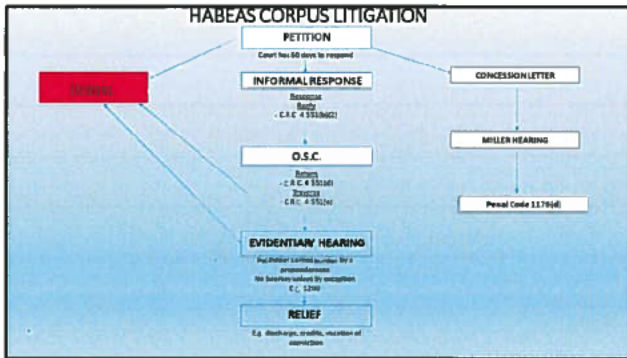
People v. Padilla (2016) 4 Cal.App5th 656

A juvenile LWOP sentence requires a determination crime reflects permanent incorrigibility arising from irreparable corruption, and

Trial court's failure to make such a finding required remand for resentencing



**APPEAL
VS.
HABEAS**



Miller Factors

1. Maturity at time of crime
2. Family Environment
3. Circumstances of crime
4. Youth-related incompetency that prevented conviction of lesser crime
5. Possibility of Rehabilitation

What do you need?

1. Transcripts of JT
2. Prior cases
3. Criminal history
4. C File



MUTUAL DISCOVERY

In re Scott
29 Cal4th 783
- P.C. 1054 applies



Order Appellate Opinion

- <http://appellatecases.courtinfo.ca.gov/index.html>
- Locate Appellate Case number
- Search in Westlaw and/or LexisNexis
- No unpublished cases predating Oct. 2001



Transcripts?

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213-830-1760

Judicial Notice: E.C. 452(d)



Litigation Coordinator

[illegible]

C File

- 1) Inmate locator
<http://www.cdcr.ca.gov/>
- 2) SDT Litigation Coordinator
 - Exhibits under seal
 - E.C. 1271 & 1280



IRREPARABLY CORRUPT?

