

2-2-2023

The Supreme Court Rolls Back the Clock for Juvenile Justice

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For decades, the Supreme Court has protected juveniles from harsh punishments, such as mandatory life without parole (LWOP), by acknowledging that children are [different](#) and must be sentenced accordingly. The developmental differences in children make it nearly impossible to determine that a child who commits a crime is beyond hope for rehabilitation. [Jones v. Mississippi](#) turned back the clock on juvenile justice by holding that sentencers need not find a child is “permanently incorrigible” before sentencing them to life without parole.

Brett Jones, the appellant in *Jones v. Mississippi*, was sentenced to life without parole for killing his grandfather in self-defense when he was only fifteen years old. Prior to this incident, his stepfather abused him, both physically and verbally. The physical abuse included being choked, threatened and whipped to the point of bleeding. With his father in prison, Jones endured this abuse at the hands of his stepfather for years causing him to engage in self-harm to cope with the trauma. After missing curfew one night, Jones’ stepfather grabbed Jones by the throat and threatened him with a belt. In the heat of the moment, Jones punched his stepfather, resulting in Jones being kicked out of his home and forced to live with his grandparents.

From here, things only became worse. One morning Jones’ grandfather began yelling at him upon finding Jones in his room watching television with his girlfriend. Jones left the bedroom

and went to the kitchen, where the situation escalated further. While the verbal abuse continued, Jones' grandfather intensified the situation and threw a punch at Jones. In response to this violence, and likely triggered by past physical abuse, Jones threw the knife he was using to make a sandwich at his grandfather. Unrelenting, Jones' grandfather came at him again, causing Jones to grab a second knife and stab his grandfather in self-defense. Jones immediately called the police for help and attempted CPR. Upon realizing the gravity of the situation, Jones hid his grandfather's body and fled the house. Jones was arrested shortly thereafter and charged with murder. In just four hours, the jury found Jones guilty of murder, triggering a mandatory sentence of life without parole.



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***Miller* Banned Mandatory LWOP Sentences for Juveniles**

After [Miller v. Alabama](#), a case that held that mandatory life without parole sentences for juvenile homicide offenses is unconstitutional under the Eighth Amendment's prohibition against cruel and unusual punishment, was decided in 2012, the Mississippi Supreme Court ordered that Jones be resentenced. While *Miller* doesn't outright ban sentences of life without parole for juveniles, it requires that the sentencer have discretion to be able to impose a lesser punishment and that youth be taken into consideration as a factor in determining the sentence. This discretion takes into account what we know about the developmental stage of the teenage [brain](#) and acknowledges the fact that "[children are different](#)." At Jones' [resentencing](#) hearing, the judge acknowledged that he had the discretion to impose a lesser sentence, but that life without parole was still the appropriate sentence for Jones.

***Miller* Applies Retroactively**

Four years later, the Supreme Court held, in [Montgomery v. Louisiana](#), that *Miller* applied retroactively to juveniles who were convicted and sentenced prior to the *Miller* decision. Since 2016, juvenile advocates across the country have used *Miller* and *Montgomery* to appeal cases where juveniles received mandatory LWOP sentences. The gray area in the *Miller* holding is that the Court did not define what it means for youth to be taken into consideration as a mitigating factor. As a result, juvenile advocates have successfully [appealed](#) cases where the LWOP sentence failed to include language around how youth was considered. In 2021, the [Jones](#) decision invalidated this argument.

The holding in *Jones* specified that as long as youth was considered as a factor, a separate factual finding that the juvenile is “permanently incorrigible” is not required for a sentencer to impose LWOP. This means that if a judge says that youth was taken into account, there is no further burden to explain how or in what manner it was considered. This holding has eliminated the gray area that allowed advocates to argue that youth was not adequately considered as a mitigating factor when sentencing someone to life without parole. It also allows and encourages sentencers to make an “[artificial distinction](#)” between youth that are considered redeemable and those that are not worth an opportunity to rehabilitate. Despite this constitutional distinction lacking any scientific or psychological backing, sentencers are given complete discretion to decide which children are “permanently incorrigible.” What this means for Brett Jones is that despite his original sentence being an unconstitutional mandatory life without parole sentence, and despite *Miller* applying retroactively, he will still serve the rest of his life in prison for a crime he committed in self-defense at the age of fifteen.

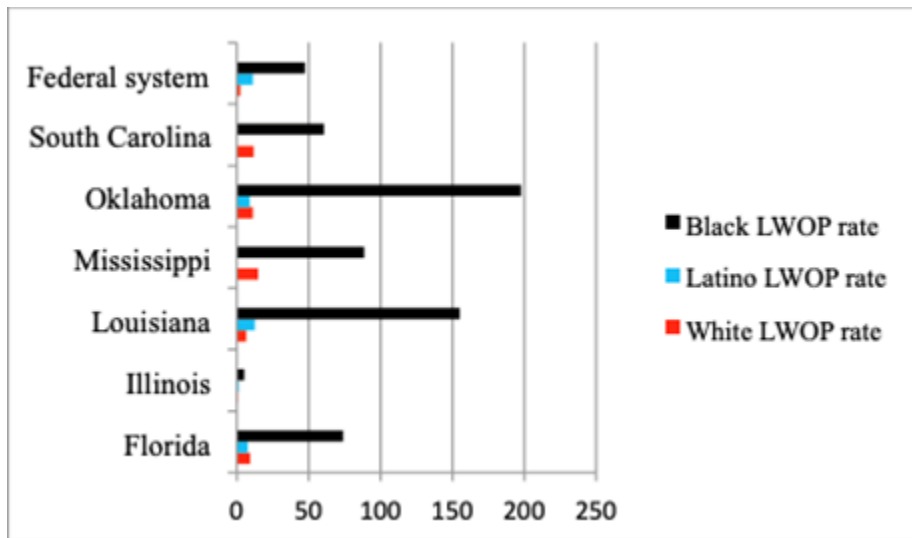
***Jones* Weakens the Meaningful Opportunity for Release Standard**

Jones goes completely against the spirit of *Miller*, which relied heavily on the reasoning of [Roper v. Simmons](#) and [Graham v. Florida](#), frequently referred to as the [Miller Trilogy](#). In 2005, *Roper* found that “once the diminished culpability of juveniles is recognized,” youth should not be penalized with the harshest of punishments because this ultimately fails to deter youth from committing crimes. Apart from the justification of deterrence, the Court is left with little reason to impose severe punishments on youth, who inherently have a “[lesser culpability](#).” This means that for almost two decades the Court has recognized that youth who commit crimes do not do so from a place of rational thought, but instead from a place of “immaturity and irresponsibility.” *Graham*, decided in 2010, acknowledged that “incorrigibility is inconsistent with youth.” Accordingly, *Graham* noted that juvenile life without parole is not appropriate in light of juveniles’ “[capacity for change and limited moral culpability](#).” This case established that juveniles convicted of nonhomicide crimes must have a “meaningful opportunity for release.”

Analogous to the conservative Court’s decision regarding reproductive health in [Dobbs v. Jackson](#), *Jones* rolls back the clock for juvenile justice. Contrary to what we know about youth brain development as it relates to [poor impulse control](#), the Court decided to continue imposing harsh punishments on children, as long as the sentencer considered the fact that they are a child. This decision will allow judges across the country to sentence children to life without parole at their discretion, without any sort of metric or accountability to ensure that the child is beyond hope for rehabilitation. There is no doubt that this decision will disproportionately impact Black, Brown, and poor communities. In California, “Black youth are serving [life without parole] at a

rate that is [18 times higher](#) than the rate for white youth.” The ambiguous standard in *Jones* will increase the existing racial disparities in sentencing, that range from state to state, with Illinois coming in at the highest with a Black LWOP rate [33 times higher](#) than the White LWOP rate for nonviolent offenses. Figure 1 below illustrates the devastating consequence sentencers’ bias about the prospects of rehabilitation has on Black and Brown communities.

Figure 1: Rate of prisoners serving LWOP for nonviolent offenses per 1,000,000 residents, classified by race and compared by jurisdiction



[Graph](#) by ACLU in 2014.

Should the Court decide to consider racial disparities and childhood brain development seriously, the nonexistent standard for permanent incorrigibility established in *Jones* must be overturned. Sentencers must be held liable for proving youth are beyond repair. As the *Miller* Trilogy indicates, LWOP sentences are not appropriate for children since the crimes committed by those under the age of 18 are merely a reflection of immaturity, not a sign of [“irreparable corruption.”](#)



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