U.S. Supreme Court decides to make the holding in ***Miller v. Alabama***, (No mandatory life sentence without parole for juveniles) retroactive.[Montgomery v. Louisiana](16-1-10)

On January 25, 2016, the United State Supreme Court held that the decision in Miller v. Alabama, prohibiting mandatory life sentences without parole for juvenile offenders, was retroactive on state collateral review, and that States must allow juvenile offenders (under 18) who were sentenced to mandatory life without parole to be considered for parole to allow those who demonstrate the truth of Miller’s central intuition—that children who commit even heinous crimes are capable of change.

¶ 16-1-10. **Montgomery v. Louisiana**, No. 14-280, 577 U. S. \_\_\_\_ (U.S. Sup.Ct., 1/25/16).

**Facts:** Petitioner Montgomery was 17 years old in 1963, when he killed a deputy sheriff in Louisiana. The jury returned a verdict of “guilty without capital punishment,” which carried an automatic sentence of life without parole. Nearly 50 years after Montgomery was taken into custody, this Court decided that mandatory life without parole for juvenile homicide offenders violates the Eighth Amendment’s prohibition on “ ‘cruel and unusual punishments.’ ” Miller v. Alabama, 567 U. S. \_\_\_, \_\_\_.

Montgomery sought state collateral relief, arguing that Miller rendered his mandatory life-without-parole sentence illegal. The trial court denied his motion, and his application for a supervisory writ was denied by the Louisiana Supreme Court, which had previously held that Miller does not have retroactive effect in cases on state collateral review. The question is does the U.S. Supreme Court’s decision in Miller v. Alabama, which held that the Eighth Amendment prohibits mandatory sentencing schemes that require children convicted of homicide to be sentenced to life in prison without parole, apply retroactively?

**Held**: Reversed and remanded

**Opinion**: This leads to the question whether Miller’s prohibition on mandatory life without parole for juvenile offenders indeed did announce a new substantive rule that, under the Constitution, must be retroactive.

As stated above, a procedural rule “regulate[s] only the manner of determining the defendant’s culpability.” Schriro, 542 U. S., at 353. A substantive rule, in contrast, forbids “criminal punishment of certain primary conduct” or prohibits “a certain category of punishment for a class of defendants because of their status or offense.” Penry, 492 U. S., at 330; see also Schriro, supra, at 353 (A substantive rule “alters the range of conduct or the class of persons that the law punishes”). Under this standard, and for the reasons explained below, Miller announced a substantive rule that is retroactive in cases on collateral review.

The “foundation stone” for Miller’s analysis was this Court’s line of precedent holding certain punishments disproportionate when applied to juveniles. 567 U. S., at \_\_\_, n. 4 (slip op., at 8, n. 4). Those cases include Graham v. Florida, supra, which held that the Eighth Amendment bars life without parole for juvenile nonhomicide offenders, and Roper v. Simmons, 543 U. S. 551, which held that the Eighth Amendment prohibits capital punishment for those under the age of 18 at the time of their crimes. Protection against disproportionate punishment is the central substantive guarantee of the Eighth Amendment and goes far beyond the manner of determining a defendant’s sentence. See Graham, supra, at 59 (“The concept of proportionality is central to the Eighth Amendment”); see also Weems v. United States, 217 U. S. 349, 367 (1910); Harmelin v. Michigan, 501 U. S. 957, 997–998 (1991) (KENNEDY, J., concurring in part and concurring in judgment).

Miller took as its starting premise the principle established in Roper and Graham that “children are constitutionally different from adults for purposes of sentencing.” 567 U. S., at \_\_\_ (slip op., at 8) (citing Roper, supra, at 569–570; and Graham, supra, at 68). These differences result from children’s “diminished culpability and greater prospects for reform,” and are apparent in three primary ways: “First, children have a ‘lack of maturity and an underdeveloped sense of responsibility,’ leading to recklessness, impulsivity, and heedless risk-taking. Second, children ‘are more vulnerable to negative influences and outside pressures,’ including from their family and peers; they have limited ‘control over their own environment’ and lack the ability to extricate themselves from horrific, crime-producing settings. And third, a child’s character is not as ‘well formed’ as an adult’s; his traits are ‘less fixed’ and his actions less likely to be ‘evidence of irretrievable depravity.’” 567 U. S., at \_\_\_ (slip op., at 8) (quoting Roper, supra, at 569–570; alterations, citations, and some internal quotation marks omitted).

As a corollary to a child’s lesser culpability, Miller recognized that “the distinctive attributes of youth diminish the penological justifications” for imposing life without parole on juvenile offenders. 567 U. S., at \_\_\_ (slip op., at 9). Because retribution “relates to an offender’s blameworthiness, the case for retribution is not as strong with a minor as with an adult.” Ibid. (quoting Graham, supra, at 71; internal quotation marks omitted). The deterrence rationale likewise does not suffice, since “the same characteristics that render juveniles less culpable than adults— their immaturity, recklessness, and impetuosity—make them less likely to consider potential punishment.” 567 U. S., at \_\_\_–\_\_\_ (slip op., at 9–10) (internal quotation marks omitted). The need for incapacitation is lessened, too, because ordinary adolescent development diminishes the likelihood that a juvenile offender “‘forever will be a danger to society.’” Id., at \_\_\_ (slip op., at 10) (quoting Graham, 560 U. S., at 72). Rehabilitation is not a satisfactory rationale, either. Rehabilitation cannot justify the sentence, as life without parole “forswears altogether the rehabilitative ideal.” 567 U. S., at \_\_\_ (slip op., at 10) (quoting Graham, supra, at 74).

These considerations underlay the Court’s holding in Miller that mandatory life-without-parole sentences for children “pos[e] too great a risk of disproportionate punishment.” 567 U. S., at \_\_\_ (slip op., at 17). Miller requires that before sentencing a juvenile to life without parole, the sentencing judge take into account “how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison.” Ibid. The Court recognized that a sentencer might encounter the rare juvenile offender who exhibits such irretrievable depravity that rehabilitation is impossible and life without parole is justified. But in light of “children’s diminished culpability and heightened capacity for change,” Miller made clear that “appropriate occasions for sentencing juveniles to this harshest possible penalty will be uncommon.” Ibid.

Miller, then, did more than require a sentencer to consider a juvenile offender’s youth before imposing life without parole; it established that the penological justifications for life without parole collapse in light of “the distinctive attributes of youth.” Id., at \_\_\_ (slip op., at 9). Even if a court considers a child’s age before sentencing him or her to a lifetime in prison, that sentence still violates the Eighth Amendment for a child whose crime reflects “ ‘unfortunate yet transient immaturity.’” Id., at \_\_\_ (slip op., at 17) (quoting Roper, 543 U. S., at 573). Because Miller determined that sentencing a child to life without parole is excessive for all but “‘the rare juvenile offender whose crime reflects irreparable corruption,’” 567 U. S., at \_\_\_ (slip op., at 17) (quoting Roper, supra, at 573), it rendered life without parole an unconstitutional penalty for “a class of defendants because of their status”—that is, juvenile offenders whose crimes reflect the transient immaturity of youth. Penry, 492 U. S., at 330. As a result, Miller announced a substantive rule of constitutional law. Like other substantive rules, Miller is retroactive because it “‘necessarily carr[ies] a significant risk that a defendant’”—here, the vast majority of juvenile offenders— “‘faces a punishment that the law cannot impose upon him.’” Schriro, 542 U. S., at 352 (quoting Bousley v. United States, 523 U. S. 614, 620 (1998)).

Louisiana nonetheless argues that Miller is procedural because it did not place any punishment beyond the State’s power to impose; it instead required sentencing courts to take children’s age into account before condemning them to die in prison. In support of this argument, Louisiana points to Miller’s statement that the decision “does not categorically bar a penalty for a class of offenders or type of crime—as, for example, we did in Roper or Graham. Instead, it mandates only that a sentencer follow a certain process—considering an offender’s youth and attendant characteristics—before imposing a particular penalty.” Miller, supra, at \_\_\_ (slip op., at 20). Miller, it is true, did not bar a punishment for all juvenile offenders, as the Court did in Roper or Graham. Miller did bar life without parole, however, for all but the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility. For that reason, Miller is no less substantive than are Roper and Graham. Before Miller, every juvenile convicted of a homicide offense could be sentenced to life without parole. After Miller, it will be the rare juvenile offender who can receive that same sentence. The only difference between Roper and Graham, on the one hand, and Miller, on the other hand, is that Miller drew a line between children whose crimes reflect transient immaturity and those rare children whose crimes reflect irreparable corruption. The fact that life without parole could be a proportionate sentence for the latter kind of juvenile offender does not mean that all other children imprisoned under a disproportionate sentence have not suffered the deprivation of a substantive right. To be sure, Miller’s holding has a procedural component. Miller requires a sentencer to consider a juvenile offender’s youth and attendant characteristics before determining that life without parole is a proportionate sentence. See 567 U. S., at \_\_\_ (slip op., at 20). Louisiana contends that because Miller requires this process, it must have set forth a procedural rule. This argument, however, conflates a procedural requirement necessary to implement a substantive guarantee with a rule that “regulate[s] only the manner of determining the defendant’s culpability.” Schriro, supra, at 353. There are instances in which a substantive change in the law must be attended by a procedure that enables a prisoner to show that he falls within the category of persons whom the law may no longer punish. See Mackey, 401 U. S., at 692, n. 7 (opinion of Harlan, J.) (“Some rules may have both procedural and substantive ramifications, as I have used those terms here”). For example, when an element of a criminal offense is deemed unconstitutional, a prisoner convicted under that offense receives a new trial where the government must prove the prisoner’s conduct still fits within the modified definition of the crime. In a similar vein, when the Constitution prohibits a particular form of punishment for a class of persons, an affected prisoner receives a procedure through which he can show that he belongs to the protected class. See, e.g., Atkins v. Virginia, 536 U. S. 304, 317 (2002) (requiring a procedure to determine whether a particular individual with an intellectual disability “fall[s] within the range of [intellectually disabled] offenders about whom there is a national consensus” that execution is impermissible). Those procedural requirements do not, of course, transform substantive rules into procedural ones.

The procedure Miller prescribes is no different. A hearing where “youth and its attendant characteristics” are considered as sentencing factors is necessary to separate those juveniles who may be sentenced to life without parole from those who may not. 567 U. S., at \_\_\_ (slip op., at 1). The hearing does not replace but rather gives effect to Miller’s substantive holding that life without parole is an excessive sentence for children whose crimes reflect transient immaturity.

Louisiana suggests that Miller cannot have made a constitutional distinction between children whose crimes reflect transient immaturity and those whose crimes reflect irreparable corruption because Miller did not require trial courts to make a finding of fact regarding a child’s incorrigibility. That this finding is not required, however, speaks only to the degree of procedure Miller mandated in order to implement its substantive guarantee. When a new substantive rule of constitutional law is established, this Court is careful to limit the scope of any attendant procedural requirement to avoid intruding more than necessary upon the States’ sovereign administration of their criminal justice systems. See Ford v. Wainwright, 477 U. S. 399, 416–417 (1986) (“[W]e leave to the State[s] the task of developing appropriate ways to enforce the constitutional restriction upon [their] execution of sentences”). Fidelity to this important principle of federalism, however, should not be construed to demean the substantive character of the federal right at issue. That Miller did not impose a formal fact-finding requirement does not leave States free to sentence a child whose crime reflects transient immaturity to life without parole. To the contrary, Miller established that this punishment is disproportionate under the Eighth Amendment.

For this reason, the death penalty cases Louisiana cites in support of its position are inapposite. See, e.g., Beard v. Banks, 542 U. S. 406, 408 (2004) (holding nonretroactive the rule that forbids instructing a jury to disregard mitigating factors not found by a unanimous vote); O’Dell v. Netherland, 521 U. S. 151, 153 (1997) (holding nonretroactive the rule providing that, if the prosecutor cites future dangerousness, the defendant may inform the jury of his ineligibility for parole); Sawyer v. Smith, 497 U. S. 227, 229 (1990) (holding nonretroactive the rule that forbids suggesting to a capital jury that it is not responsible for a death sentence). Those decisions altered the processes in which States must engage before sentencing a person to death. The processes may have had some effect on the likelihood that capital punishment would be imposed, but none of those decisions rendered a certain penalty unconstitutionally excessive for a category of offenders.

The Court now holds that Miller announced a substantive rule of constitutional law. The conclusion that Miller states a substantive rule comports with the principles that informed Teague. Teague sought to balance the important goals of finality and comity with the liberty interests of those imprisoned pursuant to rules later deemed unconstitutional. Miller’s conclusion that the sentence of life without parole is disproportionate for the vast majority of juvenile offenders raises a grave risk that many are being held in violation of the Constitution.

Giving Miller retroactive effect, moreover, does not require States to relitigate sentences, let alone convictions, in every case where a juvenile offender received mandatory life without parole. A State may remedy a Miller violation by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them. See, e.g., Wyo. Stat. Ann. §6–10–301(c) (2013) (juvenile homicide offenders eligible for parole after 25 years). Allowing those offenders to be considered for parole ensures that juveniles whose crimes reflected only transient immaturity—and who have since matured—will not be forced to serve a disproportionate sentence in violation of the Eighth Amendment.

Extending parole eligibility to juvenile offenders does not impose an onerous burden on the States, nor does it disturb the finality of state convictions. Those prisoners who have shown an inability to reform will continue to serve life sentences. The opportunity for release will be afforded to those who demonstrate the truth of Miller’s central intuition—that children who commit even heinous crimes are capable of change.

Petitioner has discussed in his submissions to this Court his evolution from a troubled, misguided youth to a model member of the prison community. Petitioner states that he helped establish an inmate boxing team, of which he later became a trainer and coach. He alleges that he has contributed his time and labor to the prison’s silkscreen department and that he strives to offer advice and serve as a role model to other inmates. These claims have not been tested or even addressed by the State, so the Court does not confirm their accuracy. The petitioner’s sub­ missions are relevant, however, as an example of one kind of evidence that prisoners might use to demonstrate rehabilitation.

**Conclusion:** Henry Montgomery has spent each day of the past 46 years knowing he was condemned to die in prison. Perhaps it can be established that, due to exceptional circumstances, this fate was a just and proportionate punishment for the crime he committed as a 17-year-old boy. In light of what this Court has said in Roper, Graham, and Miller about how children are constitutionally different from adults in their level of culpability, however, prisoners like Montgomery must be given the opportunity to show their crime did not reflect irreparable corruption; and, if it did not, their hope for some years of life outside prison walls must be restored.

The judgment of the Supreme Court of Louisiana is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.