Supreme Court split on whether life without parole constitutes a mandatory life without parole after a remand from an unconstitutional death sentence. [Adams V. Alabama] (16-3-6)

On remand from the Supreme Court for a juvenile death sentence, does the lower court need to determine whether juvenile’s crimes reflected “transient immaturity” or “irreparable corruption” or does using age as a mitigating factor in original punishment satisfy Miller v. Alabama (no mandatory life without parole).

¶ 16-3-6. **Adams v. Alabama**, No. 15-6289, 577 U.S., \_\_\_, \_\_\_S.Ct. \_\_\_, 2016 WL 2945697 (Sup.Ct., 5/23/16).

**Facts:** In the present case, petitioner committed a heinous murder in 1997 when he was 17 years old. See 955 So.2d 1037, 1047–1049 (Ala.Crim.App.2003). Wielding a knife and wearing a stocking mask to conceal his face, petitioner climbed through a window into the home of Melissa and Andrew Mills. Petitioner demanded money, but the Mills family had only $9 on hand. While petitioner remained in the Mills home with Melissa Mills and her three young children, Andrew Mills raced to an ATM and withdrew $375, the maximum amount available. Petitioner then demanded more money, so Andrew went to a nearby grocery store to cash a check. While holding her at knife point, petitioner raped Melissa Mills, who was four months pregnant, before stabbing her repeatedly in the neck, upper and lower chest, and back. The stab wounds pierced her liver and lungs, and she eventually succumbed.

When police arrived at the Mills’ home, summoned by the grocery store clerk, Melissa Mills was gasping for breath and bleeding profusely. Petitioner fled but was captured nearby 20 minutes later. His clothes were covered in Melissa Mills’ blood, and he had in his possession the knife used to kill her, which was also covered in her blood. Nine blood-smeared dollar bills were located nearby. Petitioner’s DNA matched the semen recovered from the rape kit performed as part of Melissa Mills’ autopsy.

A jury found petitioner guilty of murder and then proceeded to decide whether he should be sentenced to death or life imprisonment without parole. Id., at 1048; see Ala. Code § 13A–5–45 (1982). Under the Alabama law then in force, “[t]he age of the defendant at the time of the crime” was one of the statutory “[m]itigating circumstances” that the jury was required to consider. § 13A–5–51(7). The jury nevertheless concluded that petitioner’s age did not warrant a sentence of less than death. After Roper, however, petitioner’s sentence was commuted to life without parole. See Ex parte Adams, 955 So.2d 1106 (Ala.2005).

**Held:** The motion of petitioner for leave to proceed in forma pauperis and the petition for writ of certiorari are granted. The judgment is vacated, and the case is remanded to the Court of Criminal Appeals of Alabama for further consideration in light of Montgomery v. Louisiana, 577 U.S. ––––, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016).

**Opinion:** **Justice THOMAS, with whom Justice ALITO joins, concurring in the decision to grant, vacate, and remand.**

In cases like this, it can be argued that the original sentencing jury fulfilled the individualized sentencing requirement that Miller subsequently imposed. In these cases, the sentencer necessarily rejected the argument that the defendant’s youth and immaturity called for the lesser sentence of life imprisonment without parole. It can therefore be argued that such a sentencer would surely have felt that the defendant’s youth and immaturity did not warrant an even lighter sentence that would have allowed the petitioner to be loosed on society at some time in the future. In short, it can be argued that the jury that sentenced petitioner to death already engaged in the very process mandated by Miller and concluded that petitioner was not a mere “‘child’” whose crimes reflected “‘unfortunate yet transient immaturity,’” post, at –––– (SOTOMAYOR, J., concurring in decision to grant, vacate, and remand), but was instead one of the rare minors who deserves life without parole.†

**Conclusion 1:** In cases in which a juvenile offender was originally sentenced to death after the sentencer considered but rejected youth as a mitigating factor, courts are free on remand to evaluate whether any further individualized consideration is required.

**Justice SOTOMAYOR, with whom Justice GINSBURG joins, concurring in the decision to grant, vacate and remand.**

The petitioners in these cases were sentenced to death for crimes they committed before they turned 18. In most of these cases, petitioners’ sentences were automatically converted to life without the possibility of parole following our decisions outlawing the death penalty for juveniles. See Roper v. Simmons, 543 U.S. 551, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005); Thompson v. Oklahoma, 487 U.S. 815, 108 S.Ct. 2687, 101 L.Ed.2d 702 (1988). Today, we grant, vacate, and remand these cases in light of Montgomery v. Louisiana, 577 U.S. ––––, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016), for the lower courts to consider whether petitioners’ sentences comport with the exacting limits the Eighth Amendment imposes on sentencing a juvenile offender to life without parole.

Justice ALITO suggests otherwise, noting that the juries that originally sentenced petitioners to death were statutorily obligated to consider the mitigating effects of petitioners’ youth. “In cases like this,” he writes, it can “be argued that the original sentencing jury fulfilled the individualized sentencing requirement that Miller subsequently imposed.” Ante, at –––– (concurring opinion).

But Miller v. Alabama, 567 U.S. ––––, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012), did not merely impose an “individualized sentencing requirement”; it imposed a substantive rule that life without parole is only an appropriate punishment for “the rare juvenile offender whose crime reflects irreparable corruption.” Montgomery, 577 U.S., at ––––, 136 S.Ct., at 735 (internal quotation marks omitted). “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 –––– – ––––, 136 S.Ct., at 734 (same). There is no indication that, when the factfinders in these cases considered petitioners’ youth, they even asked the question Miller required them not only to answer, but to answer correctly: whether petitioners’ crimes reflected “transient immaturity” or “irreparable corruption.” 577 U.S., at –––– – ––––, 136 S.Ct., at 734.

The last factfinders to consider petitioners’ youth did so more than 10—and in most cases more than 20—years ago. (Petitioners’ post-Roper resentencings were generally automatic.) Those factfinders did not have the benefit of this Court’s guidance regarding the “diminished culpability of juveniles” and the ways that “penological justifications” apply to juveniles with “lesser force than to adults.” Roper, 543 U.S., at 571, 125 S.Ct. 1183. As importantly, they did not have the benefit of this Court’s repeated exhortation that the gruesomeness of a crime is not sufficient to demonstrate that a juvenile offender is beyond redemption: “The reality that juveniles still struggle to define their identity means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character.” Id., at 570, 125 S.Ct. 1183; see also id., at 573, 125 S.Ct. 1183; Miller, 567 U.S., at ––––, 132 S.Ct., at 2475.

When petitioners were sentenced, their youth was just one consideration among many; after Miller, we know that youth is the dispositive consideration for “all but the rarest of children.” Montgomery, 577 U.S., at ––––, 136 S.Ct., at 726. The sentencing proceedings in these cases are a product of that pre-Miller era. In one typical case, a judge’s sentencing order—overruling a unanimous jury verdict recommending life without parole instead of death—refers to youth only once, noting “the court finds that the age of the defendant at the time of the crime is a mitigating circumstance” and then that “[t]he [c]ourt rejects the advisory verdict of the jury, and finds that the aggravating circumstances in this case outweigh the mitigating circumstances and that the punishment should be death.” Sentencing Order, Alabama v. Barnes, No. CC 94–1401 (C.C. Mobile Cty., Ala., Dec. 12, 1995), 2 Record 225. Other sentencing orders are similarly terse. In at least two cases, there is no indication that youth was considered as a standalone mitigating factor.3 In two others, factfinders did not put “great weight”4 on considerations that we have described as particularly important in evaluating the culpability of juveniles, such as intellectual disability, an abusive upbringing, and evidence of impulsivity and immaturity. Miller, 567 U.S., at ––––, 132 S.Ct., at 2467.

**Conclusion 2:** Standards of decency have evolved since the time petitioners were sentenced to death. See Roper, 543 U.S., at 561, 125 S.Ct. 1183. That petitioners were once given a death sentence we now know to be constitutionally unacceptable tells us nothing about whether their current life-without-parole sentences are constitutionally acceptable. I see no shortcut: On remand, the lower courts must instead ask the difficult but essential question whether petitioners are among the very “rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility.” Montgomery, 577 U.S., at ––––, 136 S.Ct., at 734.