



HOPE FOR MERCY

Ending Life Sentences for Juvenile Offenders

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In his address to the U.S. Congress last September, Pope Francis declared that “a just and necessary punishment must never exclude the dimension of hope and the goal of rehabilitation.”¹ Two U. S. Supreme Court cases involving juvenile offenders from Gulf Coast states, *Evan Miller* and *Henry Montgomery*, have given hope to hundreds of men and women serving mandatory life sentences for homicides they committed as juveniles.²

In 2002 *Evan Miller* was 14-years-old when he and another youth attacked their 52-year-old neighbor, *Cole Cannon*, in Lawrence County, Alabama, after the three had spent the evening smoking marijuana and playing drinking games. The youths then set fire to his home, and *Cannon* died of smoke inhalation.³ Court testimony revealed that *Miller* had a deeply troubled life, having attempted suicide four times, starting at age six. He was placed in foster care at age ten, but was returned to the custody of his mother, who suffered from alcoholism and drug addiction, three years later. Soon after he began using drugs himself.⁴

In a June 2012 decision *Miller v. Alabama*, which included *Evan Miller*’s and another juvenile offender’s cases, a closely divided Supreme Court ruled that sentencing juveniles to die in prison violates the Constitution’s Eighth Amendment ban on cruel and unusual punishment. The Court declared that a sentencing evaluation must take into account juvenile offenders’

age and maturity, upbringing, and likelihood to reoffend, citing their lessened culpability as minors at the time of their crimes. Although the court did not ban all juvenile-for-life sentences for homicide, Justice Elena Kagan, writing for the majority, said the judicial system must distinguish between “the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption.”⁵

The *Miller* decision meant that courts could no longer automatically sentence a juvenile offender found guilty of murder to mandatory life-without-parole, but it was unclear if this ruling could apply retroactively. Some states, including Florida, Mississippi, and Texas, passed laws or made rulings that allow offenders who received mandatory sentences before *Miller* to apply for parole or petition for resentencing hearings.⁶

Other states, including Louisiana and Alabama, decided automatic juvenile-life-without-parole sentences before 2012 were still legitimate.⁷ When the Louisiana Supreme Court denied *Henry Montgomery*’s resentencing request in 2013 for a 1963 homicide he committed when he was 17-years-old, *Montgomery* appealed his case to the U.S. Supreme Court.

Henry Montgomery grew up in Scotlandville, Louisiana, which was the largest majority-black town in Louisiana before it was annexed by the city of Baton Rouge in 1970. His mother was autistic and he was raised by his grandparents. *Montgomery* had just turned 17 two weeks earlier to when he skipped school on November 13, 1963, and was discovered by East Baton Rouge Sheriff’s Deputy *Charles Hurt* in a park near *Montgomery*’s home. When being patted down for weapons by Deputy *Hurt*, *Montgomery* panicked and shot him. Because of *Montgomery*’s diminished intellectual abilities, his lawyers, including renowned civil rights attorney *Johnnie Jones*, insisted that *Montgomery* had never intended to kill Deputy *Hurt*. An all-white, all male jury convicted *Montgomery*, who is black, of the murder of *Charles Hurt*, who was white; and he received the death penalty. Five years later *Montgomery*’s lawyers appealed his sentence and he was given a mandatory sentence of life without possibility of parole and sent to the Louisiana State Penitentiary at Angola. At age 69, *Montgomery* has been at Angola for over fifty years where he is considered a model prisoner, coaching young inmates and working in the gym.⁸

On January 25, 2016, the U.S. Supreme Court ruled in *Montgomery v. Louisiana* that its earlier decision, *Miller v. Alabama*, must be applied retroactively. Writing for the six-justice majority, Justice Anthony Kennedy held that states may choose either to hold resentencing hearings, or keep current sentences in place but provide opportunities to apply for parole.⁹

Table 1. Numbers of JLWOP Sentences by Gulf Coast State and Race/Ethnicity in 2015 from the Phillips Black Project

State	Number of Persons with JLWOP Sentences	Black	Hispanic	White	Other Unknown
Alabama	19	15	0	4	0
Florida*	227	135	12	78	2
Louisiana	247	199	0	47	1
Mississippi**	68	47	0	21	0
Texas***	17	13	4	0	0
Gulf Coast Total	578	409	16	150	3
National Total	2295	1303	120	531	27

*Florida dramatically narrowed JLWOP eligibility in 2014, allowing a juvenile offender convicted of capital murder to a sentencing review after 15 years if the victim did not die, or 25 years if the victim died.¹²

** As of May, 2015, Mississippi courts had reevaluated 17 JLWOP cases. Eight individuals were resentenced to life with parole, two were resentenced to life without parole, and seven were still waiting to be resentenced.¹³

***Texas abolished JLWOP in June, 2013. However, juveniles convicted of a homicide must serve 40 years before parole can be considered.¹⁴

The Phillips Black Project¹⁰ found that from May to October 2015 almost 2,300 persons were serving life sentences without parole for homicides they committed as juveniles. Above is a breakdown of juvenile-life-without-parole (JLWOP) sentences in Gulf Coast States by race or ethnicity.¹¹

Three significant findings emerged from the Philips Black Project’s data analyses. First, stark racial disparities were found to exist for juveniles arrested for homicides, with African American youth receiving JLWOP sentences twice as often as their white counterparts. Second, a small number of counties are responsible for a significant proportion of JLWOP sentences in ways greatly disproportionate to their populations. (Of the seven counties responsible for over a quarter of all JLWOP sentences in the last five years, four are in the Gulf South: Orleans, Jefferson, and East Baton Rouge Parishes in Louisiana and Miami-Dade County in Florida.) Third, JLWOP sentencing dramatically increased during the period (1992 to 1999) in which now discredited theories about “super-predator” youths spurred state legislatures to pass harsh sentencing laws for juvenile offenders.¹⁵

The options for reconsideration of one’s sentence post *Miller* and *Montgomery* are fraught with difficulties and uncertainties. If a state opts for resentencing, resentencing requests must be initiated by inmates. Although many offenders with JLWOP

sentences lack the resources to pay for a lawyer, the Supreme Court has ruled that prisoners seeking new hearings have no constitutional right to counsel.¹⁶

States can opt to provide offenders with JLWOP sentences a chance to be considered for parole, but winning parole can be very difficult. The Marshall Project found that parole boards nationwide tended to be secretive, driven by politics, and vested with almost unlimited discretion, with “hearsay, rumor and instinct... all fair game.”¹⁷

“Mercy is not opposed to justice but rather expresses God’s way of reaching out to the sinner, offering him a new chance to look at himself, convert, and believe,” Pope Francis observed in *Misericordia Vultus*.¹⁸ This begs the question: can a criminal justice system that systematically fails to honor the rights of poor people, especially people of color, ensure that opportunities for mercy are realized for the men and women with JLWOP sentences?

ENDNOTES

- 1 See <http://www.usccb.org/about/leadership/holy-see/francis/papal-visit-2015/media-resources/upload/11-EN-congressional-address.pdf>
- 2 In yet another monumental case involving a Gulf Coast juvenile offender, in 2010 the Supreme Court abolished life-without-parole sentences for juvenile offenders in non-homicide crimes in *Graham v Florida*.
- 3 Adam Liptak and Ethan Bronner, “Justices bar mandatory life terms for juveniles,” *The New York Times*, June 25, 2012, at <http://www.nytimes.com/2012/06/26/us/justices-bar-mandatory-life-sentences-for-juveniles.html>.
- 4 Matt Smith, “Alabama inmate Evan Miller awaits resentencing four years after landmark decision,” *Juvenile Justice Information Exchange*, March 18, 2016, at http://www.al.com/news/index.ssf/2016/03/after_landmark_decision_alabam.html
- 5 Matt Ford, “A retroactive break for juvenile offenders,” *The Atlantic*, January 26, 2016, at <http://www.theatlantic.com/politics/archive/2016/01/montgomery-alabama-supreme-court/426897/>
- 6 Liliana Segura, “Supreme Court gives new hope to juvenile offenders, but will states deliver?” *The Intercept*, January 26, 2016, at <https://theintercept.com/2016/01/26/montgomery-v-louisiana-supreme-court-gives-new-hope-to-juvenile-lifers-will-states-deliver/>
- 7 *Ibid.*
- 8 Katy Reckdahl, “Man jailed 50 years for murder is at center of Supreme Court hearing on youth life sentences,” *Juvenile Justice Information Exchange*, October 11, 2015 at <http://jjiie.org/henry-montgomery-imprisoned-for-50-years-for-killing-a-deputy-is-at-center-of-supreme-court-hearing-on-youth-life-sentences/142562/>
- 9 Ford, *op. cit.*
- 10 The Phillips Black Project is a public interest law practice. See <http://www.phillipsblack.org/>
- 11 John R. Mills, Anna M. Horn, and Amelia Courtney Hritz, “Juvenile life without parole in law and practice: Chronicling the rapid change underway,” *American University Law Review*, Vol. 65, pp 535-605, 2016 at http://www.aulawreview.org/index.php?option=com_content&view=article&id=2067:juvenile-life-without-parole-in-law-and-practice-chronicling-the-rapid-change-underway&catid=296:vol-65-issue-3&Itemid=182
- 12 See <https://www.flsenate.gov/Committees/BillSummaries/2014/html/635>
- 13 Mills, *et al. op. cit.*, p. 570.
- 14 Joshua Rovner, *Juvenile Life Without Parole: An Overview*, The Sentencing Project, July 2016 at <http://www.sentencingproject.org/wp-content/uploads/2015/12/Juvenile-Life-Without-Parole.pdf>
- 15 Mills, *et al. op. cit.*, pp. 560-581.
- 16 Liptak and Bonner, *op. cit.*
- 17 Segura, *op. cit.*
- 18 Pope Francis, *Misericordiae Vultus: Bull of Indiction of the Extraordinary Jubilee Year of Mercy*, April 11, 2015, at https://w2.vatican.va/content/francesco/en/apost_letters/documents/papa-francesco_bolla_20150411_misericordiae-vultus.html