United States Supreme Court (U.S.S.C.) Decisions affecting Youth

In re. Gault[i]: The U.S.S.C. determined that the informal, *parens patriae* style of juvenile proceedings was unconstitutional in their lack of due process and procedural safeguards but could still retain their rehabilitative focus. Due process rights extended to youth include the right to notice, right to counsel, privilege against self-incrimination, right to confrontation and cross-examine witnesses. The Court noted that judges must still appropriately take account of a youth's "demeanor and conduct, of the emotional and psychological attitude of the juveniles with whom they are confronted."[ii] Although children are generally protected by the same constitutional guarantees against governmental deprivations as are adults, the state is entitled to adjust its legal system to account for children's vulnerability and their needs for "concern, . . . sympathy, and . . . paternal attention."[iii]

In the Matter of Samuel Winship[iv]: The U.S.S.C. extended to juvenile cases the constitutional right to have the State prove its case to the same standard of proof used in adult criminal cases, proof beyond a reasonable doubt.

McKeiver v. Pennsylvania[v]: The U.S.S.C. decided that youth accused of an offense do not have a constitutional right to a jury trial under the federal constitution but state's may enact statutes granting that right.

Eddings v. Oklahoma[vi]: This case involved the murder of a police officer by a 16-year old who shot the officer at point-blank range.[vii] The U.S.S.C. held that sentencing courts must take age and youth's characteristics into account as mitigating factors. This includes the background of the youth, if that background stunted growth or interfered with the youth's development.[viii]

Thompson v. Oklahoma[ix]: The U.S.S.C. determined that the national standards of decency do not permit the execution of any offender under the age of 16 at the time of the crime. The Court reasoned that juveniles have reduced culpability and enhanced potential for rehabilitation and imposing the death penalty on this age group "does not measurably contribute to the essential purposes underlying the penalty" (retribution and deterrence).[x] The Court cited its previous opinion that recognized juveniles, when compared to adults, as having less experience, less education, and less intelligence, making a teen less able to evaluate consequences of his or her conduct and more apt to act on emotion or peer pressure.[xi]

Stanford v. Kentucky[xii] (overruled by *Roper v. Simmons* in 2005): A 5-4 decision, the U.S.S.C. considered "contemporary standards of decency" in this country in concluding that the 8th and 14th amendments did **not** prohibit the execution of juvenile offenders over 15 but under 18. The Court, in weighing the meaning of cruel and unusual punishment, considered the fact that 22 out of 37 death penalty states permitted 16-year-old offenders to be sentenced to death and 25 states permit it for 17-year-olds. In 1989, these numbers were not sufficiently low to convince the majority to label the particular punishment "cruel and unusual."[xiii]

Atkins v. Virginia[xiv]: The U.S.S.C. held that the U.S. Constitution prohibits the execution of a mentally retarded 18 year old defendant who'd been convicted of homicide. The Court considered "objective indicia of consensus" significant in determining the "national standard of decency" in wading through the meaning of "cruel and unusual" punishment. At the time of decision, 18 of the 38 death penalty states exempted mentally disabled offenders from the death penalty. The Court found that mental retardation diminishes personal culpability even if the offender can distinguish right from wrong and be held personally responsible.[xv] The Court concluded that the death penalty for a mentally retarded person does not meet the sentencing purposes of retribution or deterrence and is therefore an excessive sanction. (Subsequently narrowed by *Hall v. Florida*, 572 U.S. 701 (2014), which held that state court's may not use an IQ test as a bright line test to determine if someone was too intellectually incapacitated to be executed).

Roper v. Simmons[xvi]: The U.S.S.C. held it was unconstitutional to sentence a juvenile (16 or 17 years of age at the time of the crime) to death pursuant to the 8th and 14th Amendments, overruling *Stanford*. The Court considered "objective indicia of consensus" in weighing the "national standard of decency," consistent with *Stanford* and *Atkins* analyses. The Court then referenced three general differences between youth under 18 and adults that has come to be known as the "diminished culpability/enhanced potential theory" later broadened by the *Graham* decision.[xvii] This theory posits that juveniles have, "qualities that often result in impetuous and **ill-considered actions and decisions**; juveniles are **more vulnerable or susceptible to negative influences** and outside pressures, including **peer pressure**; and the **character** of a juvenile is **not as well formed** as that of an adult."[xviii] Due to these general traits, the Court concludes that "their irresponsible conduct is **not as morally reprehensible as that of an adult**."[xix] Quoting an adolescent brain science article, "[o]nly a relatively small proportion of adolescents who experiment in risky or illegal activities develop entrenched patterns of problem behavior that persist into adulthood."[xx]

Graham v. Florida[xxi]: The U.S.S.C. held that the 8th Amendment prohibits a sentence of life without possibility of parole for a nonhomicide crime committed when the offender was under the age of 18. The majority opinion goes further than *Roper* by citing

to amicus briefs from multiple medical associations regarding developments in psychology and brain science, specifically regarding the part of the brain linked to behavior control and how it continues to mature through late adolescence, endorsing the diminished culpability/enhanced potential theory.[xxii] The court's decision "likened life without parole for juvenile to the death penalty, thereby evoking a second line of cases"[xxiii] requiring sentencing authorities to consider the characteristics of a defendant and the details of the offense before sentencing to death.[xxiv]

Miller v. Alabama[xxv]: The U.S.S.C. held that a *mandatory* sentence of life without parole for a juvenile convicted of homicide violated the 8th amendment. "Such mandatory penalties, by their nature, preclude a sentencer from taking account of an offender's age and the wealth of characteristics and circumstances attendant to it."[xxvi] The *Miller* case considered two cases, Evan Miller's (in Alabama) and Kuntrell Jackson's (in Arkansas), both 14 years old when convicted of murder and sentenced to a mandatory term of life imprisonment without the possibility of parole. The Court discusses four factors about adolescents: (1) Immaturity, impetuosity, and risk-taking; (2) Familial/Peer involvement/influence; (3) Understanding legal proceedings, including the inability to deal with police officers or prosecutors and incapacity to assist one's own attorney; and (4) Greater potential for rehabilitation. The *Miller* decision accepted adolescent brain science as reliable, undeniable and applicable. The Court's reference to familial and peer pressures was informed by the studies of adolescent brain science cited in the amicus briefs. The Court was also convinced that juveniles are more prone than adults to falsely confess to crimes, a fact attributed to immaturity of judgment. Studies that question the effect of harsher criminal sanctions on juvenile recidivism were referenced by the Court and treated like persuasive research.[xxvii]

Montgomery v. Louisiana[xxviii]: The U.S.S.C. made *Miller* retroactive in cases on collateral review by concluding that the *Miller* holding was a new *substantive* constitutional rule.

Jones v. Mississippi[xxix]: Jones, who was 15 years old at the time, stabbed his grandfather to death after an argument over Jones' girlfriend sleeping over in Jones' room. Jones did not call 911 after stabbing his grandfather; instead, he tried to destroy and cover up evidence, and he and his girlfriend gave the police fake names when stopped later at a gas station. A jury found him guilty of murder, not the lesser included offense of manslaughter. Murder carried a mandatory life sentence without parole under Mississippi law. Jones was sentenced accordingly but appealed under *Miller.* The State Supreme Court ordered a new sentencing to consider Jones' youth and exercise discretion in selecting an appropriate sentence. The Judge re-sentenced Jones to life without parole and did not make any findings regarding "transient immaturity" of the youth or "permanent incorrigibility." The appeal of the re-sentencing centered around the lack of *Miller*-type findings by the re-sentencer. The Court affirmed the life without parole re-sentence of a juvenile convicted of a homicide offense. The U.S.S.C. held: Sentencer not required to make finding of "permanency incorrigibility" prior to sentencing to life without parole.

[i] *In re. Application of* Gault, 387 U.S. 1, 87 S. Ct. 1428, 18 L. Ed. 2d 527 (1967).
[ii] *Gault* at 26–27, at 1443 (emphasis added).
[iii] *McKeiver v. Pennsylvania*, 403 U.S. 528, 550, 91 S.Ct. 1976, 1989 (1971)(plurality opinion), followed by *Bellotti v. Baird*, 443 U.S. 622, 635, 99 S. Ct. 3035 (1979).
[iv] ***In the Matter of Samuel Winship,*** 397 U.S. 358 (1970)
[v] ***McKeiver v. Pennsylvania***, 403 U.S. 528 (1971).
[vi] ***Eddings v. Oklahoma***, 455 U.S. 104, 102 S.Ct. 869 (1982).
[vii] *Eddings* at 115-16, 877.
[viii] *Eddings* at 116, 877 (emphasis added).
[ix] ***Thompson v. Oklahoma***, 487 U.S. 815, 108 S. Ct. 2687 (1988).
[x] ***Thompson*** at 833, 2698.
[xi] *Bellotti* (1979) (regarding the constitutionality of requiring parental notification and consent to their unmarried pregnant child's abortion; requiring the court to make factual findings regarding the "maturity" of the youth and if she's well enough "informed"); citing *Eddings.*
[xii] ***Stanford v. Kentucky***, 492 U.S. 361, 109 S.Ct. 2969 (1989).
[xiii] *Stanford* at 370-371, 2969.
[xiv] ***Atkins v. Virginia***, 536 U.S. 304, 122 S. Ct. 2242 (2002).
[xv] ***Atkins*** at 320, 2251.
[xvi] ***Roper v. Simmons***, 543 U.S. 551, 125 S.Ct. 1183 (2005).
[xvii] Terry A. Maroney, *Adolescent Brain Science after Graham v. Florida*, 86 Notre Dame L. Rev. 765, 782 (2013).
[xviii] *Roper* at 569-570, 1195.
[xix] *Roper* at 570, 1195 citing *Thompson* at 835, 2699.
[xx] Steinberg & Scott, Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty, 58 Am. Psychologist 1009, 1014 (2003).
[xxi] *Graham v. Florida*, 560 U.S. 48, 130 S. Ct. 2011 (2010).
[xxii] *Graham* at 68, 2026.
[xxiii] *Miller v. Alabama,* 567 U.S. 460, 470, 132 S. Ct. 2455, 2463 (2012).
[xxiv] One author was convinced that *Graham* represented the extent to which the Court considered brain science of adolescents in expanding constitutional protections. In the Notre Dame Law Review article, *Adolescent Brain Science after Graham*, the author makes this observation of the Court's treatment of science in the juvenile justice context: Assessment of blameworthiness hinges partially on the degree to which the defendant's behavior was subject to deliberate control. Similarly, assessment of dangerousness hinges partially on the degree to which capacity for such control is likely to increase and be exercised. The former assessment informs moral judgment as to the offender's intent and character, while the latter informs utilitarian determination of the most effective response. More, that juveniles tend for this reason to be both less blameworthy and (eventually) less dangerous affects the likelihood that the same will be true of any given juvenile. Terry A. Maroney, *Adolescent Brain Science after Graham v. Florida*, 86 Notre Dame L. Rev. 765 (2013). http://scholarship.law.nd.edu/ndlr/vol86/iss2/6.
[xxv] ***Miller v. Alabama,*** 567 U.S. 460, 132 S.Ct.2455 (2012).
[xxvi] *Miller* at 476, 2467.
[xxvii] The APA and the Missouri Psychological Association filed an amicus brief in the *Roper* case, pointing to significant research findings from the previous three years about the correlation between adolescence and risk-taking. These briefs cited research much of which is mentioned throughout this chapter because it was also relied upon in *Graham*.
[xxviii] ***Montgomery v. Louisiana***, 577 U.S. 190, 136 S. Ct. 718 (2016).
[xxix] ***Jones v. Mississippi***, 141 S. Ct. 1307 (2021)