

From: Smith, Kathryn [mailto:Kathryn.smith1@courts.state.mn.us]
Sent: Monday, August 05, 2013 7:37 PM
To: Mitchell, Kelly (MSGC)
Subject: Fwd: JJAC Call for Comment

----- Original message -----

From: Carrie Wasley <carrie.wasley@state.mn.us>
Date: 07/29/2013 11:07 AM (GMT-06:00)
To: "Smith, Kathryn" <Kathryn.smith1@courts.state.mn.us>
Subject: JJAC Call for Comment



In the last ten years, the United States Supreme Court has addressed sentences imposed on juveniles convicted of heinous crimes. See.g. *Miller v. Alabama*, 132 S. Ct. 2455 (2012); *Graham v. Florida*, 130 S. Ct. 2011 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005). The Supreme Court has prohibited the imposition of the death penalty for offenders who committed their crimes before the age of 18 (

Roper), life without the possibility of parole when imposed on juvenile non-homicide offenders (*Graham*), and most recently, the imposition of a mandatory life sentence without the possibility of parole for offenders who committed murder while under the age of 18. These cases have all recognized that juveniles are constitutionally different than adults for purposes of sentencing.

The Court noted that juveniles may have a lack of maturity and an underdeveloped sense of responsibility leading them to recklessness, impulsivity and risk taking behavior. The Court also recognized that juveniles are more vulnerable to negative influences and have limited control over their environment. The Court determined that the Eighth Amendment requires that punishment for crime should be graduated and proportioned to both the offender and the offense. Sentencing provisions that prevent the judge from considering mitigating factors such as the age of the offender and the offender's background, mental and emotional development in these types of cases are unconstitutional.

Under current Minnesota laws, there are two types of cases that would subject a juvenile to life without the possibility of parole. These statutes are first degree murder and criminal sexual conduct in the first or second degree under certain circumstances. See Minn. Stat. § 609.106, subdivision 2 and Minn. Stat. § 609.3455, subdivision 2. These sentences are unconstitutional pursuant to *Miller* and *Graham*

and, therefore, Minnesota laws must be amended to be consistent with the holdings of these two Unites States Supreme Court decisions.

Several other states have already addressed the impact of these Supreme Court cases and modified their statutes. See <http://jjie.org/miller-v-alabama-one-year-later/> .

The Juvenile Justice Advisory Committee (JJAC) is seeking input from organizations or individuals interested in addressing the impact of these Supreme Court cases in Minnesota. JJAC invites submissions from you concerning this topic. JJAC would like to know whether your organization is adopting a position and, if so, how you propose to address the factors identified in the Miller and Roper decisions. If you have drafted specific language to revise Minnesota's statutes, please include the proposed revisions. Please submit the requested information by October 1, 2013 to the following address:

JJAC
445 Minnesota Street, Suite 2300
St. Paul, MN 55101

JJAC will convene a town hall meeting on November 8, 2013 to receive public comment on these issues. If you or your organization is interested in participating in the town hall meeting, please contact Carrie Wasley at 651.201.7348. Questions? Please call or e-mail her at carrie.wasley@state.mn.us.

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