

Sentencing youth in Michigan: Age matters

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Michigan has the unfortunate distinction of having the highest juvenile lifer population in the nation.¹ A recent Michigan Supreme Court decision have expanded constitutional protections for youth sentenced to mandatory life without parole, meaning that decades of mandatory life without parole sentences have produced hundreds of unconstitutional sentences against Michigan's youth. The Court's 5-2 decision in *People v Czarnecki*² and *People v Taylor*³ followed a series of United States Supreme Court decisions recognizing that – for sentencing purposes – “children are different.”⁴

EVOLVING STANDARDS OF DECENCY

To understand where we are now with youth resentencing in Michigan, we must begin with *Atkins v Virginia* (2002).⁵ Dar Atkins was convicted of abduction, armed robbery, and capital murder for crimes committed when he was 17 years old. When he was 18, he was sentenced to death. In support of the death penalty, the prosecutor argued “future dangerousness” and pointed to other felonies Atkins had committed.⁶ The defense relied on the testimony of a forensic psychologist who concluded that Daryl was “mildly mentally retarded” and had an IQ of 59.⁷ In 2002, the United States Supreme Court reversed Daryl's death sentence and held that the Eighth Amendment's prohibition against cruel and unusual punishment prevents use of the death penalty against the “mentally retarded.”⁸ The Court reasoned that the legal justifications recognized as a basis for the death penalty (retribution and deterrence) do not apply to the “mentally retarded,”⁹ who have “lesser culpability”¹⁰ due to their cognitive limitations. The Court limited the “death penalty to a narrow category of the most serious crimes” reserved for “the most deserving of execution.”¹¹

In 2005, the U.S. Supreme Court in *Roper v Simmons*¹² considered the constitutionality of executing children under 18. Christopher Simmons was 17 years old when he and a friend committed a callous burglary, kidnapping, and murder. Christopher was sentenced to death. The Court considered the constitutionality of such a sentence: “the evolving standards of decency that mark the progress of a maturing society’ to determine which punishments are so disproportionate as to be cruel and unusual.”¹³ The Court found that society views juveniles “as ‘categorically less culpable than the average criminal.’”¹⁴ Relying on its holding in *Atkins*, the Court held that the death penalty for those 17 and under is cruel and unusual and violates the Eighth Amendment.¹⁵

In 2010, the U.S. Supreme Court in *Graham v Florida*¹⁶ held that sentencing a child under 18 to life without parole for a non-homicide offense is unconstitutional. At 16, Terrance Graham was involved in two attempted robberies that violated his probation. He was sentenced to life in prison without the possibility of parole. The Court recognized that “life without parole is ‘the second most severe penalty permitted by law’”¹⁷ and “is an especially harsh punishment for a juvenile.”¹⁸ Recognizing a child's capacity for change and that they are “most . . . receptive to rehabilitation”¹⁹ in their youth, the Court imposed a categorical ban on life without parole for non-homicide offenses committed by those under 18.

In 2012, in *Miller v Alabama*,²⁰ the Court continued to build upon this body of law when it ruled that *mandatory* life without parole for those under 18 at the time of the offense violates the Eighth Amendment. At age 14, Evan Miller was convicted of murder after he and his friend beat a man and set fire to his trailer, causing the victim to die from injuries and smoke inhalation. Evan was sentenced to life without the possibility of parole. The defense argued this sentence was cruel and unusual, relying on *Roper* and *Graham*. The Supreme Court agreed, noting that those holdings were based not in common sense, but on undisputed scientific studies that establish adolescents are more prone to rash behavior and are unable to assess consequences.²¹ The nature of the adolescent brain, therefore, establishes that “children are different”²² and have “diminished culpability and heightened capacity for change”²³ when compared to adults. These “differences counsel against irrevocably sentencing them to a lifetime in prison”²⁴ without first considering the mitigating qualities of youth.

The mitigating factors (*Miller* factors) that must be considered before determining if life without parole is a constitutionally sound sentence for a child 17 and under include (1) the “hallmark features” of youth, such as a child's “immaturity, impetuosity, and failure to appreciate risks and consequence”;²⁵ (2) the “family and home environment . . . from which [a child] cannot

usually extricate”;²⁶ (3) “the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected”²⁷ the child; (4) “incompetencies associated with youth,”²⁸ such as the “inability to deal with police officers or prosecutors . . . or [a child’s] incapacity to assist his own attorneys”;²⁹ and (5) “the possibility of rehabilitation . . . when the circumstances most suggest it.”³⁰

In 2016, the Court in *Montgomery v Louisiana*³¹ held that *Miller* was a substantive change in law, and therefore applied retroactively, entitling thousands of people in the country to resentencing.

NEW LINES ARE DRAWN

In 2022, the Michigan Supreme Court in *People v Parks*³² considered whether *Miller*’s holding extended to 18-year-olds. The Court recognized that the Court in *Roper, Graham, and Miller* drew a clear line in its holding between what society viewed as children (those under 18) and adults (18 and older).³³ And the Court in *Jones v Mississippi* “recently indicate that states have a wide latitude in providing greater *Miller* protections,”³⁴ allowing states to draw their own lines. The Court noted that Michigan’s constitutional prohibition against “cruel or unusual punishment”³⁵ is broader than the federal constitution’s prohibition against “cruel and unusual punishment,”³⁶ and that sentencing in Michigan is dictated by the Court’s long-standing “principle of proportionality.”³⁷ “Therefore, in addition to protections guaranteed under the Eighth Amendment, Michigan’s Constitution has historically afforded greater bulwarks against barbaric and inhumane punishments.”³⁸ Referencing the same adolescent brain development science relied upon in *Roper, Graham, and Miller*, and recognizing that that scientific research applies to young adults “up to the age of 25,”³⁹ the Michigan Supreme Court drew its own line, holding that mandatory life without parole for those 18 and under violated Michigan’s constitution.⁴⁰ Given that Mr. Parks was 18 at the time of the crime, the Court limited its opinion to 18-year-olds.

The need to address the constitutionality of sentencing for people over the age of 18 came earlier this year (2025) in *People v Czarnecki* and *People v Taylor*.⁴¹ Andrew Czarnecki was charged with homicide when he was 19 years old, and Montario Taylor was charged with homicide when he was 20 years old. Both were sentenced to mandatory life without parole. In the Michigan Supreme Court’s combined opinions in *Czarnecki* and *Taylor*, the Court found that, with respect to neurological development and culpability, there are no meaningful differences between those who are 18 years old and those who are 19 or 20 years old.⁴² The Court held that their mandatory life sentences were unconstitutional.

This decision was held to be retroactive, meaning that nearly 600 people in Michigan who were 19- and 20-years old at time of the homicide offense and sentenced to mandatory life without parole are entitled to resentencing.

In Michigan, a mandatory life without parole sentence for anyone under age 21 is now unconstitutional. Instead, sentencing courts are required to consider mitigating evidence regarding youth and rehabilitation before imposing a sentence, which could be life without parole, but could also be a term of years sentence that could result in a future parole.

These new Michigan cases help close a gap left by the U.S. Supreme Court. Under existing U.S. Supreme Court precedent a “child” is defined as a person 17 years old or younger. However, adolescent brain development research draws no such bright line. Brain development scientists agree that developmental characteristics contributing to diminished culpability and increased potential for rehabilitation extend through childhood and all stages of adolescence — early (ages 10 to 13), middle (ages 14 to 17), late (ages 18 to 21), and even extended adolescence (through age 25). In other words, the human brain is not fully developed until age 25.⁴³ Why then should a 19-year-old be required to receive a mandatory life sentence if an 18-year-old cannot?⁴⁴ This was recognized by Justice Bernstein in *Czarnecki* and *Taylor* who, in a partial dissent, disagreed with drawing a bright-line rule for those under 21. Justice Bernstein noted that the Court should follow the “scientific studies that serve as the foundation” for the Court’s holding and apply this ruling more broadly to those under age 25.⁴⁵

RESENTENCINGS IN MICHIGAN

The process of correcting unconstitutional mandatory life without parole sentences is nothing new in Michigan. Youth resentencings have been ongoing since 2016 following *Montgomery*, when nearly 365 Michiganders were entitled to resentencing. Starting in 2016 through the present day, advocates in the Michigan State Appellate Defender Office’s Juvenile Lifer Unit began representing approximately 200 people entitled to resentencing. Private practitioners, many of whom serve on the Michigan Appellate Assigned Counsel System roster, pro bono counsel, and trial-level public defenders, represented dozens of others. The resentencing process in 2016 began just as it will for the new group of people entitled to resentencing under *Czarnecki* and *Taylor*.

The process begins with prosecutors deciding whether they want to seek life without parole again, or whether they’re agreeable to a term of years. If the prosecutor chooses to seek a life without parole sentence, there will be a *Miller* hearing — a multi day evidentiary hearing where evidence of the previously discussed “*Miller* factors” is put before the judge. Prosecutors tend to focus on the circumstances of the offense as a factor that favors a life without parole sentence and may point to prison misconduct records to argue a lack of rehabilitation. By contrast, the defense typically focuses on factors that provide context to the circumstances of the offense, such as family and home environment, and on positive prison records, such as programming, education, and employment the person has taken part in while in prison. Depending on the case, reports from experts including forensic psychologists, neuropsychologists, correctional experts, and adolescent brain development experts, can also be key. Victim family members are also afforded an opportunity to address the court prior to sentencing.

The resentencing process focuses on the factors discussed above, and it begins with a legal presumption that a life without parole sentence is disproportionate and unconstitutional when imposed against a young person.⁴⁶ It is the prosecutor's burden to overcome that presumption by clear and convincing evidence before a court may legally reimpose life without parole.⁴⁷

If a person is resentenced to a term of years, after serving at least the minimum term, the Michigan Parole Board determines whether a person has been rehabilitated and can safely return home to the community. Keeping people incarcerated who could safely return to the community is expensive; it costs the state more than \$50,000 per person, per year to keep someone incarcerated.⁴⁸ Since 2016, over \$94 million dollars in incarceration costs have been saved as a result of only a portion of resentencings conducted by the State Appellate Defender Office.⁴⁹

Over the next few years, Michigan courts will revisit hundreds of sentences imposed under the former mandatory life without parole scheme. Although many people who were under 18 at the time of their offense have been resentenced, more than 800 people in Michigan remain incarcerated under unconstitutional mandatory life without parole sentences for crimes committed when they were 18, 19, and 20 years old.

The Michigan Supreme Court's decisions may not only be principled in theory but may also be effective in practice. The overwhelming majority of the people who have returned to their families and communities since 2016 have not recidivated. Studies of released juvenile lifers in Michigan, Pennsylvania, Maryland, New York, and California "find recidivism rates less than 5% among people who previously committed violence and were sentenced to life," and that "people released from prison who were originally convicted of homicide are less likely than other released prisoners to be arrested for a violent crime."⁵⁰ This is in stark contrast with Michigan's current recidivism rate for all released prisoners, which is 21%.⁵¹ These outcomes reinforce what the research suggests: young people who commit crimes overwhelmingly do not grow up to be adults who commit crimes. In light of the Michigan Supreme Court's decision, courts must assess of these mitigating factors in the resentencing hearings that lie ahead.

Hot Topics is a new Michigan Bar Journal column edited by Gerard V. Mantese, and dedicated to significant and recent developments in the law. To contribute an article, contact Mr. Mantese at gmantese@manteselaw.com.

ENDNOTES

1. *Juvenile Life Without Parole by State*, The Campaign for the Fair Sentencing of Youth <https://cfsy.org/media-resources/states-that-ban-juvenile-life-without-parole/> (all websites last accessed October 31, 2025); *Ending Juvenile Life without Parole (JLWOP) in Michigan*, The Campaign for the Fair Sentencing of Youth <https://cfsy.org/ending-juvenile-life-without-parole-jlwop-in-michigan/#:~:text=Michigan%20has%20the%20largest%20population,/HB%204160%2D64%20here>.

2. *People v Taylor* and *People v Czarnecki*, ___ Mich ___; ___ N W 3d ___ (2025) (Docket Nos. 166428 and 166654).

3. *Id.*

4. *Miller v Alabama*, 567 US 460, 480; 132 S Ct 2455; 183 L Ed 2d 407 (2012).

5. *Atkins v Virginia*, 536 US 304; 122 S Ct 2242; 153 L Ed 2d 335 (2002).

6. *Id.* at 308.

7. *Id.* at 308-309.

8. *Id.* at 321.

9. *Id.* at 318-319.

10. *Id.* at 319.

11. *Id.*

12. *Roper v Simmons*, 543 US 551; 125 S Ct 1183; 161 L Ed 2d 1 (2005).

13. *Id.* at 561 (citations omitted).

14. *Id.* at 567 (citations omitted).

15. *Roper*, *supra* n 13.

16. *Graham v Florida*, 560 US 48; 130 S Ct 2011; 175 L Ed 2d 825 (2010).

17. *Id.* at 69.

18. *Id.* at 70.

19. *Id.* at 74.

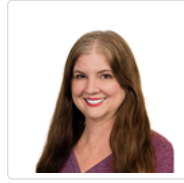
20. *Miller*, *supra* n 5.

21. *Id.* at 472.
22. *Id.* at 480.
23. *Id.* at 479.
24. *Id.* at 480.
25. *Id.* at 477.
26. *Id.*
27. *Id.*
28. *Id.*
29. *Id.* at 477-478.
30. *Id.* at 488.
31. *Montgomery v Louisiana*, 577 US 190, 208; 136 S Ct 718; 193 L Ed 2d 599 (2016).
32. *People v Parks*, 510 Mich 225; 987 NW2d 161 (2022).
33. *Id.* at 247.
34. *Id.* at 247 citing *Jones v Mississippi*, 593 US 98, 120; 141 S Ct 1307; 209 L Ed 2d 390 (2021).
35. Const 1963, art 1, § 16 (emphasis added).
36. US Const, Am VIII (emphasis added).
37. *Parks*, *supra* n 33.
38. *Id.* at 243.
39. *Id.* at 244.
40. In *People v Poole*, ___ Mich ___; ___ NW3d ___ (2025) (Docket No. 166813) the Court held that *Parks* was retroactive.
41. *Taylor*, *supra* n 3.
42. *Id.* at slip op 10.
43. This point is well recognized in other domains. For example, according to the National Highway Traffic Safety Administration, drivers who are younger than 25 are significantly more likely to get into accidents than older drivers; that is why rental car companies often impose “young driver fees” if they do not outright prohibit rentals to drivers under age 25. *Young Drivers*, National Highway Traffic Safety Administration <https://www.nhtsa.gov/book/countermeasures-that-work/young-drivers>.
44. The Michigan Supreme Court previously applied *Miller's* holdings to those aged 18 at time of offense. See *Parks*, *supra* n 33. This too was held to be retroactive.
45. *Taylor*, *supra* n 3 (BERNSTEIN, J., concurring in part, dissenting in part); slip op at 2-3.
46. *People v Taylor*, 510 Mich 112; 987 NW2d 132 (2022).
47. *Id.*
48. Riehle, *Michigan Department of Corrections Reports New Historic Low in State's Recidivism Rate*, Department of Corrections (July 02, 2025) <<https://www.michigan.gov/corrections/press-releases/2025/07/02/michigan-department-of-corrections-reports-new-historic-low>>.
49. *Sado Juvenile Lifer Unit Report: 2024*, State Appellate Defender Office https://www.sado.org/content/pub/12182_2024-Juvenile-Lifer-Unit-Appropriations-Report.pdf.
50. *No End in Sight: America's Enduring Reliance on Life Imprisonment*, The Sentencing Project (2021) <https://www.sentencingproject.org/app/uploads/2022/08/No-End-in-Sight-Americas-Enduring-Reliance-on-Life-Imprisonment.pdf>; see also Prescott, Pyle, & Starr, *Understanding Violent-Crime Recidivism*, 95 Notre Dame L Rev 1643 (2020).
51. Riehle, *supra* n 49.



Marilena David is the Director at the State Appellate Defender Office. Marilena led and launched SADO's Project Reentry, which is primarily focused on supporting juvenile lifers on their journey home from prison. Marilena was appointed by the Michigan Supreme Court to serve on the Michigan Judicial Council, and

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