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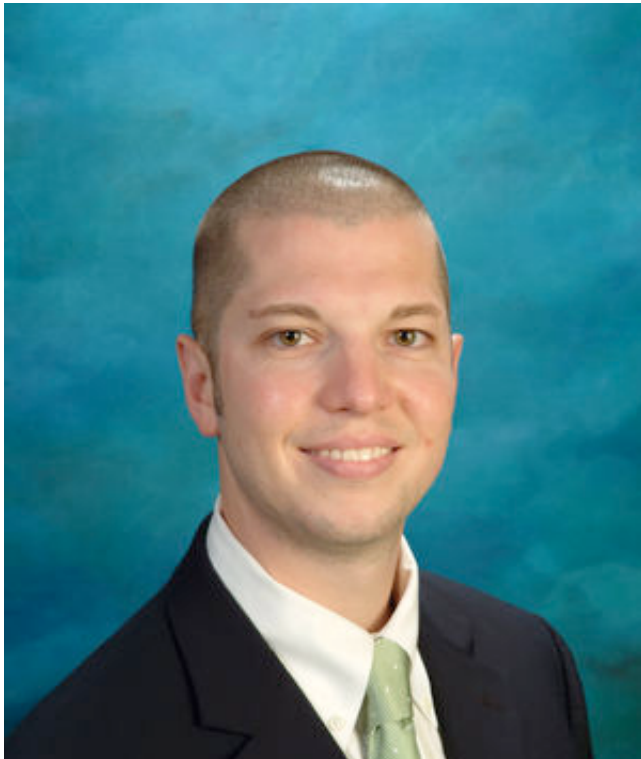
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## Supreme Court and 8th Amendment Fail to Provide Direction on Sentencing of Juveniles, New Study Finds

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A quick survey of cases demonstrates that U.S. trial courts impose identical and harsh sentences on juvenile murder accomplices, regardless of the circumstances of the homicide or their degree of participation in it. In a new study, a University of Arkansas law professor argues that this occurs because the U.S. Supreme Court and the Eighth Amendment – the section of the U.S. Constitution that addresses “cruel and unusual punishment” – do not provide direction to lower courts on sentencing juvenile accomplices in murder cases.

A quick survey of cases demonstrates that U.S. trial courts impose identical and harsh sentences on juvenile murder accomplices, regardless of the circumstances of the homicide or their degree of participation in it. In a new study, a University of Arkansas law professor argues that this occurs because the U.S. Supreme Court and the Eighth Amendment — the section of the U.S. Constitution that addresses “cruel and unusual punishment” — do not provide direction to lower courts on sentencing juvenile accomplices in murder cases.



“Courts still impose identical sentences on juvenile offenders who have drastically different roles in the crimes for which they were convicted,” said Brian Gallini, assistant professor of law. “This is because current Eighth Amendment standards, as interpreted by the Supreme Court, do not provide sentencing courts with the analytical tools necessary to account for stark differences in fact scenarios. In other words, the Court’s Eighth Amendment jurisprudence does not resolve a juvenile nonkiller’s constitutional challenge to a life-without-parole sentence.”

The deficiency, Gallini argues, leads to a further erosion of the ideals underlying punishment of juveniles in the United States. It subverts the conventional ideology that they deserve a shot at rehabilitation. The lack of guidance from the highest court also reflects a growing trend over the past 25 years of trying and sentencing juveniles as adults.

“The determinate sentencing of juvenile accomplice nonkillers is inconsistent with what is left of the rehabilitation-based approach to juvenile criminal justice,” Gallini said. “The trend of punishing more minors like adults for a growing number of crimes reflects a philosophical shift in juvenile punishment ideology from rehabilitative to punitive. And I think this shift has inappropriately exposed less-culpable juvenile nonkillers to mandatory life without parole sentences.”

To illustrate the problem, Gallini studied many cases in which sentences were similar or identical for juveniles whose roles were dramatically different in their respective crimes. For example, one juvenile defendant participated in the killing of a shop employee by helping the shooter enter the shop under false pretenses (the defendant’s father owned the shop), robbing the shop after the shooter killed the victim and manipulating the crime scene so that it appeared that someone had forcibly entered the shop. In a different case, a 14-year-old defendant, who had a history of physical and sexual abuse, was forced by her boyfriend to lure a man into their house to rob him. After doing so, the defendant left a room in which the boyfriend stabbed the man to death.

In both cases above, the defendants received sentences of life without parole. Gallini said it is important to understand how often this occurs.

“The potential prevalence of this phenomenon cannot be underestimated,” he said. “This can happen with any number of juvenile defendants waived into adult court. These are not exceptions.”

Gallini discussed many other cases in which sentencing was identical but the participation of the defendants varied greatly. Related to two legal rules dealing with juvenile sentencing — felony-murder doctrine and accomplice/coconspirator theories of liability — he found no precedent clarifying whether it is cruel and unusual to impose life in prison on juvenile offenders with minimal involvement in a victim’s death.

The felony-murder rule imposes first-degree murder liability upon a defendant who causes a death while committing a felony. Accomplice and coconspirator theories of liability address degrees of participation, from minimal to substantial.

The author also discussed the history and evolution of the Supreme Court’s interpretation of the Eighth Amendment’s cruel and unusual clause and its application to juveniles. He emphasized that the Court has never precisely defined “cruel and unusual.”

Gallini's study, "Equal Sentences for Unequal Participation: Should the Eighth Amendment Allow All Juvenile Murder Accomplices to Receive Life Without Parole?" was published in the Oregon Law Review. An electronic copy of the article is available upon request.

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