



High court to look at life in prison for juveniles

By MARK SHERMAN Associated Press Writer | Posted: Wednesday, November 4, 2009 10:10 am

WASHINGTON -- Joe Sullivan was sent away for life for raping an elderly woman and judged incorrigible though he was only 13 at the time of the attack.

Terrance Graham, implicated in armed robberies when he was 16 and 17, was given a life sentence by a judge who told the teenager he threw his life away.

They didn't kill anyone, but they effectively were sentenced to die in prison.

Life sentences with no chance of parole are rare and harsh for juveniles tried as adults and convicted of crimes less serious than killing. Just over 100 prison inmates in the United States are serving those terms, according to data compiled by opponents of the sentences.

Now the Supreme Court is being asked to say that locking up juveniles and throwing away the key is cruel and unusual -- and thus, unconstitutional. Other than in death penalty cases, the justices never before have found that a penalty crossed the cruel and unusual line. They will hear arguments Monday.

Graham, now 22, and Sullivan, now 33, are in Florida prisons, which hold more than 70 percent of juvenile defendants locked up for life for nonhomicide crimes. Although their lawyers deny their clients are guilty, the court will consider only whether the sentences are permitted by the Constitution.

The Supreme Court's latest look at how to punish young criminals flows directly from its 4-year-old decision to rule out the death penalty for anyone younger than 18.

In that 2005 case decided by a 5-4 vote, Justice Anthony Kennedy's majority opinion talked about "the lesser culpability of the juvenile offender."

"From a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed," Kennedy said.

Yet Kennedy also acknowledged the possibility that for the worst crimes and the worst offenders, "the punishment of life imprisonment without the possibility of parole is itself a severe sanction, in particular for a young person."

Both sides point to the same basic facts -- the rare imposition of Draconian prison terms on people so young -- to make their point.

The state of Florida, backed by 19 other states, argues it should retain flexibility in sentencing so that "particularly heinous acts that stop short of causing death" can be punished vigorously.

Life without parole "is appropriately rare and reserved only for the worst of the worst offenders," crime victims' groups said in court papers.

Most victims of juvenile violence also are young, the victims groups said, citing Justice Department statistics. "Softening sentences for juvenile offenders puts actual children in harm's way -- innocent ones, not those who have committed violent crimes," the victims' groups said.

Opponents of such sentences said, however, that most states have in practice rejected life terms for juveniles when no one was killed. The 109 juveniles serving terms of life without parole are in Florida and seven other states -- California, Delaware, Iowa, Louisiana, Mississippi, Nebraska and South Carolina -- according to a Florida State University study. More than 2,000 other juveniles are serving life without parole for killing someone.

Only 9 people in the country are serving life sentences for crimes committed when they were 13. The number rises to 73 when 14-year-olds are added in.

No other country allows life sentences for young offenders, opponents say.

Beyond the infrequency of such punishment, lawyers for Graham and Sullivan argue that it is a bad idea to render a final judgment about people so young.

"They are unfinished products, works-in-progress," said Bryan Stevenson, who will argue Sullivan's case at the high court.

Actor Charles Dutton, former U.S. Sen. Alan Simpson and others who committed crimes as teenagers have weighed in against life without parole sentences. Corrections officials, psychologists, educators and even some victims also have taken Graham's and Sullivan's side.

"The crimes that these guys committed were grotesque," Simpson said in a telephone interview with The Associated Press. "I'm sure people will say Simpson's gone soft in the head."

The Wyoming Republican served 18 years in the Senate, but as a teenager, he pleaded guilty to setting fire to an abandoned building on federal property and later spent a night in jail for slugging a police officer.

Simpson said he sees no good argument for refusing even to review their sentences after the passage of time.

"When they get to be 30 or 40 and they been in the clink for 20 years or 30 or 40 and they have learned how to read and how to do things, why not?"

If a prisoner shows he is not fit to be released, "throw him back in," he said. "That's better than saying 'Sorry, we can't look at that file because you were sent here for life.'"

As their cases come to the court, Sullivan's and Graham's interests are not strictly aligned. The justices could, for example, decide that life sentences may be inappropriate for 13-year-olds, but allow them for older teenagers.

Such a decision could help Sullivan and another Florida inmate, Ian Manuel, who wounded a woman in a shooting when he was 13. But it could leave Graham with his sentence unchanged.

The cases are Sullivan v. Florida, 08-7621, and Graham v. Florida, 08-7412.