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Supreme Court Revisits Issue of Harsh Sentences for Juveniles

By ADAM LIPTAK

WASHINGTON — At a pair of Supreme Court arguments on Tuesday, the justices returned to the question of what the Constitution has to say about harsh sentences imposed on juvenile offenders.

A majority of them appeared prepared to take an additional step in limiting such punishments, but it was not clear whether it would be modest or large. The court's precedents have created so many overlapping categories — based on age, the nature of the offense and whether judges and juries have discretion to show leniency — that much of the argument was devoted to identifying the possible lines the court could draw.

In 2005, in Roper v. Simmons, the court abolished the juvenile death penalty, a decision that affected about 70 prisoners. "It is worth noting," that decision said, "that the punishment of life imprisonment without the possibility of parole is itself a severe sanction, in particular for a young person."

In 2010, in Graham v. Florida, the court ruled that sentencing juvenile offenders to life without the possibility of parole also violated the Eighth Amendment's ban on cruel and unusual punishment — but only for crimes that did not involve killings. The decision affected about 130 prisoners convicted of crimes like rape, armed robbery and kidnapping.

The majority opinions in both cases were written by Justice Anthony M. Kennedy, who said teenagers deserved more lenient treatment than adults because they are immature, impulsive, susceptible to peer pressure and able to change for the better over time. Bryan A. Stevenson, a lawyer with the Equal Justice Initiative, which represented both defendants in Tuesday's arguments, said that logic should apply in at least some cases involving killings.

The two cases the justices considered concerned defendants who were 14 when they were involved in killings. According to the Equal Justice Initiative, there are about 80 prisoners serving sentences of life without parole for murders committed when they were 14 or younger.

One case, Miller v. Alabama, No. 10-9646, involved Evan Miller, an Alabama man who was 14 in

2003 when he and an older youth beat a 52-year-old neighbor and set fire to his home after the three had spent the evening smoking marijuana and playing drinking games. The neighbor died of smoke inhalation.

The other, Jackson v. Hobbs, No. 10-9647, concerned Kuntrell Jackson, an Arkansas man who was 14 when he and two older youths tried to rob a video store in 1999. One of the other youths shot and killed a store clerk.

Kent G. Holt, an assistant state attorney general in Arkansas, said the victim, Laurie Troup, was 28. Her body was found by her mother and her 11-year-old son.

“The punishment for this crime reinforces the sanctity of human life,” Mr. Holt said, “and it expresses the state’s moral outrage that something like this could happen.”

Justice Ruth Bader Ginsburg responded that there were important values on Mr. Jackson’s side, too.

“You say the sanctity of human life,” she told Mr. Holt, “but you’re dealing with a 14-year-old being sentenced to life in prison, so he will die in prison without any hope. I mean, essentially, you’re making a 14-year-old throwaway person.”

Mr. Stevenson later picked up on the point. He said his request was in one sense modest.

“We are not suggesting that states should not be able to impose very harsh punishments and very severe sentences on even children who commit these kinds of violent crimes,” he said.

“They can even impose sentences that give them the authority to maintain control of the lives of these children for the rest of their natural lives,” he said. “What we are arguing is that they cannot do so with no hope of release, that that would be incompatible with child status.”

John C. Neiman Jr., Alabama’s solicitor general, said the sorts of parole hearings that Mr. Stevenson sought imposed burdens.

“There’s really no cost to society at least in allowing that process to occur,” Mr. Neiman said, “but the cost is to the victims and their families, who have to endure what are often very painful hearings.”

Much of the argument concerned the lines the court might draw. It could prohibit sentences of life without parole for offenders younger than 15. Or it could bar the punishment for all juvenile offenders, which would affect more than 2,000 prisoners.

The court could also bar sentences of life without parole for defendants like Mr. Jackson, who

was an accomplice and not the gunman, while leaving them available for defendants like Mr. Miller, who actually committed the killing. Or it could bar mandatory sentences, which are common, and require judges and juries to take account of the defendant's youth.

Mr. Stevenson said the court should extend its ruling in the Graham case to bar all sentences of life without parole for crimes committed by juveniles.

If the court is not prepared to do that, he said, it should bar such sentences for offenders younger than 15 and bar mandatory sentences of life without parole for all juvenile offenders.