

# *Sullivan v. Florida*

Argued: November 9, 2009

## **Facts**

Juvenile crime is a serious problem, and several states have enacted laws allowing convicted juveniles to be sentenced as adults for serious crimes. This case addresses the issue of whether sentencing youth to life in prison with no chance for parole for non-homicide crimes constitutes cruel and unusual punishment in violation of the Eighth Amendment.

Joe Sullivan, now 33 years old, is serving a life-without-parole (“LWOP”) sentence in a Florida jail for the rape and sexual assault of a 72-year-old woman – committed when Sullivan was 13 years old. In 1989, Sullivan and two other youths broke into and burglarized the victim’s home while she was away. Later that day, Sullivan and an accomplice returned to the victim’s home, where Sullivan was convicted of brutally beating and raping the woman. Since rape is a serious felony in Florida, state law required Sullivan to be tried as an adult. Accounting both for Sullivan’s age and his seventeen prior criminal offenses, the court concluded after a one-day trial that an adult sentence – life without parole – was appropriate for the 13-year-old.

Florida is one of six states that allows LWOP sentencing for non-homicide offenses, but there is no guidance on deciding whether to impose juvenile or adult penalties. Currently, there are nine individuals in the U.S. serving LWOP sentences for crimes committed at age 13, and 73 individuals serving LWOP sentences from crimes committed at age 13 or 14. In the past eighteen years no 13-year-old has been given a LWOP sentence for a non-homicide offence; however, 42 states permit LWOP sentencing for juveniles and 38 of those states permit such a sentence for non-homicide crimes.

In 2005, the U.S. Supreme Court decided a case that abolished the death penalty for juveniles (*Roper v. Simmons*) After that decision, Sullivan appealed to the Florida courts arguing that his situation – life without parole – was similar enough to the death penalty that his sentence should be overturned. The Florida Supreme Court disagreed and found that life imprisonment without parole is an acceptable penalty, even after the *Roper* decision. Sullivan appealed that decision to the U.S. Supreme Court, which agreed to hear the case.

## **Issue**

Is sentencing a minor to life-without-parole for a non-homicide crime considered “cruel and unusual” punishment under the Eighth Amendment?

## **Constitutional Amendments and Precedents**

### *Eighth Amendment*

“Excessive bail shall not be required, not excessive fines imposed, nor cruel and unusual punishments inflicted.”

### *Lockyer v. Andrade (2003)*

California law states that after two prior convictions for serious or violent felonies, a third conviction – even for a non-violent felony – will carry a sentence of at least 25 years to life (with no possibility of parole before 25 years). Leandro Andrade had committed two serious violent felonies when he was convicted of the theft of \$150 worth of merchandise. He was therefore sentenced to two consecutive 25-year-to-life sentences for the third crime. Andrade argued

that the sentence for his third crime was so “grossly disproportionate” to the crime that it violated the Eighth Amendment. While acknowledging conflicting precedents, the Supreme Court held that only in “exceedingly rare” and “extreme” cases would the sentence imposed violate the Constitution. This case also demonstrates the reluctance of the Supreme Court to second guess sentencing plans passed by state legislatures.

#### *Roper v. Simmons* (2005)

Seventeen-year-old Christopher Simmons murdered a woman after telling friends of his plan to burglarize a home and kill the occupants. Noting the brutal nature of the crime, the death penalty was recommended, and Simmons appealed. The Supreme Court held, in a 5-4 decision, that the juvenile death penalty is a violation of the Eighth Amendment. The lack of maturity, special vulnerability, and undeveloped character of juveniles make them less culpable (morally responsible) for their crimes. Additionally, the *Roper* court acknowledged the growing national consensus and international practice that the death sentence should not be imposed on juveniles.

#### **Arguments for Sullivan:**

- It is cruel and unusual punishment under the Eighth Amendment to sentence juveniles to death in prison for crimes committed at the tender age of 13. LWOP sentences are really the same as the death sentence, which *Roper* prohibits.
- The reasoning of the *Roper* court, that young adolescents require a modified application of the Eighth Amendment, should be applied here. Biologically and psychologically, early adolescence is a time of change, where peer pressure and risk-taking may influence youth to make bad decisions. To sentence a 13-year-old to life without parole does not take into account the possibility that an adolescent’s personality can change and that criminal tendencies can be outgrown.
- Other state and federal laws (e.g., imposing restrictions on driving, purchasing alcohol, and voting) account for the special deficiencies of young adolescence; sentencing standards should also be modified in this way.
- The United States and Somalia are the only places in the world where state law permits young adolescents to be convicted and sentenced as adults.
- There is a growing national consensus that young adolescents should not be subjected to the death penalty. Only six states have 13-year-old offenders serving LWOP sentences, though 27 states have statutes that could potentially be used in that way. In the past 18 years no 13-year-old has been given a LWOP sentence for a non-homicide offense.

#### **Arguments for Florida:**

- A LWOP sentence is not equivalent to the death penalty; reliance on *Roper* is misplaced because death is a different punishment than life without parole.
- The sweeping generalization that ALL juveniles lack full maturity and judgment is overbroad; there are some juveniles who plan and commit heinous “adult-like” crimes. For these juveniles, laws allow for filing “adult charges” and imposing “adult sentences.”
- Only rarely does the Supreme Court find that sentencing is grossly disproportional to the crime committed. The Supreme Court has upheld very long sentences for lesser, non-violent crimes, such as in the *Lockyer* case.

- State sentencing laws and criminal justice systems account for age of the offender, but for particularly “heinous adult-like crimes,” adult sentencing should be used. Rape is second only to murder in its brutality. Florida law has allowed for juveniles to be tried as adults for first-degree felonies, which are comparable to Sullivan’s crime.
- There is no national consensus regarding the use of LWOP sentencing for juveniles. Forty-two states permit LWOP sentencing for juveniles and 38 states permit such a sentence for non-homicide crimes.
- The federal government should respect the states’ rights to set their own sentencing laws.

# *Florida v. Powell*

Argued: December 7, 2009

## **Facts**

Television shows about police have made Americans familiar with their rights when it comes to being questioned by police: “You have the right to remain silent. You have the right to talk to a lawyer before answering any of our questions.” These warnings, called *Miranda* warnings, aim to protect people’s rights to be free from self incrimination and to have assistance of a lawyer. However, the *Miranda* warnings are somewhat unclear – do the words suggest that the accused has the right to talk to a lawyer prior to questioning? To actually have a lawyer present during questioning? Both? These questions are raised in *Florida v. Powell*, where the defendant was confused about when he could have his lawyer present.

Kevin Powell, a former felon, was charged with unlawful possession of a firearm, arrested and taken to the police department. Before questioning, Powell was advised of his right to remain silent and his right to an attorney, and that he had “the right to use any of these rights at any time you want during this interview.” He was not directly told that he could have a lawyer present *during* questioning. Powell willingly agreed to talk to the officers, without any threats or force from the police. He signed a form saying he would talk without an attorney present, and then made incriminating statements to the officers. Powell was found guilty and sentenced to ten years in prison.

Powell appealed his conviction, arguing that his *Miranda* rights were violated. He contends that the last piece of advice the interviewing police gave him – that he could use his right to remain silent or right to an attorney “at any time” during the interview – was unclear. Did these words reasonably convey Powell’s rights under *Miranda*? Or is a clearer warning needed?

The lower courts reversed Powell’s conviction, deciding that the *Miranda* warnings given were unclear. The Supreme Court of Florida determined that *Miranda* warnings stating 1) the right to an attorney before questioning, and 2) the ability to use that right during the interview did not help Powell understand that he could have a lawyer present *during* questioning. The confession the police officers secured violated Powell’s constitutional rights. The state appealed the Florida Supreme Court’s decision and the U.S. Supreme Court agreed to hear the case.

## **Issue**

Do suspects have a constitutional right to be given clear, explicit instructions about the right to a lawyer *during* police interrogation?

## Constitutional Provisions and Precedents

### *Fifth Amendment*

“No person shall be ... compelled in any criminal case to be a witness against himself; nor shall be deprived of life, liberty, or property, without due process of law ...”

This has been interpreted to mean that there is a right against “self-incrimination,” or being forced to make statements about one’s guilt.

### *Miranda v. Arizona* (1966)

In 1963, Ernesto Miranda was arrested for kidnapping and rape. After two hours of questioning by the police, Miranda confessed in writing to the crimes. Miranda appealed his case, arguing that his confession should have been excluded from trial because he did not have an attorney present during his interrogation.

The Supreme Court ruled for Miranda. It stated that the Constitution allows individuals to talk with an attorney both before and during police questioning, and that these rights must be clearly stated to the accused. If the police interrogation happens before the accused can talk to an attorney, the right to an attorney is less effective.

### *Duckworth v. Eagan* (1989)

When Jack Duckworth was arrested in 1982, he was told by the police interrogating him that he had the right to an attorney and if he went to court, the court would appoint one for him. The Supreme Court held that the attorney doesn’t need to “be producible on call” but that the accused must know of his *right* to have an attorney. The Court also held that the exact language in the *Miranda* opinion does not need to be repeated by the police officer. As long as the *Miranda* rights were reasonably conveyed, Duckworth’s constitutional rights were protected and the police interrogation can continue.

### Arguments for Florida:

- To balance the interests of a suspect's constitutional rights and the need for police officers to secure voluntary statements from suspects, the test should be that the *Miranda* rights were "reasonably conveyed" and "reasonably clear."
- *Miranda* does not require police officers to utter any "magic words" to convey the *Miranda* rights to a suspect. This would be too hard for police officers to do and goes beyond the intent of *Miranda*.
- The language the officers used in this case lead to the common sense conclusion that Powell could talk to a lawyer at any time. Any time should mean any time. Several lower courts agree that *Miranda* warnings don't need to specifically state that the right to an attorney applies both before and during police interrogation.
- The police did not coerce a confession. Powell was a convicted felon and had been interrogated by the police previously. He knowingly waived his right to have a lawyer present during the interrogation.
- Looking at the *Miranda* warnings given to Powell in context, they were clear enough to convey Powell's rights.

### Arguments for Powell:

- The lower court ruling is consistent with *Miranda* and should be upheld. While other courts have said that police officers are not required to use any "magic words" in giving *Miranda* warnings, the warnings must be clear.
- *Miranda* holds that a suspect has a right to a lawyer during questioning. Police officers will not be burdened by a requirement to directly tell suspects of this right because in practice, police officers already do it.
- The *Miranda* warning given to Powell was misleading because the officer stated that Powell could talk to a lawyer *before* answering any questions, but didn't inform Powell of his right to have an attorney present *during* questioning. When he was told he could "use any of these rights at any time," Powell could not reasonably have known *when* he could have an attorney present. The *Miranda* warnings he was given did not directly state that right.
- The psychological stress of interrogation plus a general distrust of police officers would make it difficult for any suspect to fully understand their *Miranda* rights unless those rights were communicated in plain, straightforward language.
- Given the context, the unclear language and psychological factors made the *Miranda* warnings confusing as to *when* Powell had the right to an attorney.