U.S. Supreme Court

In four decisions—Roper v. Simmons (2005), Graham v. Florida (2010), Miller v. Alabama (2012), and Montgomery v. Louisiana (2016)—the Supreme Court of the United States established that “children are constitutionally different from adults for purposes of sentencing.” Roper, Graham, Miller, and Montgomery are critical in defining Eighth Amendment limitations for sentencing a child to die in prison.

Roper struck down the death penalty for children. Graham struck down life without parole for children who commit non-homicide offenses, requiring a meaningful opportunity to obtain release. Miller struck down life-without-parole sentences for the vast majority of youth who commit homicide—all but those deemed incapable of positive growth and change—and five years ago in Montgomery, the Court applied Miller retroactively.

“In light of what [the Supreme] Court has said in Roper, Graham, and Miller about how children are constitutionally different from adults in their level of culpability . . . prisoners like Montgomery must be given the opportunity to show their crime did not reflect irreparable corruption; and, if it did not, their hope for some years of life outside prison walls must be restored.” Montgomery v. Louisiana
A majority of the 2,800 individuals serving juvenile life without parole (JLWOP) following *Miller* and *Montgomery* have been resented in court or had their sentences amended via legislation, depending on the jurisdiction in which they were convicted.

Yet despite the over 75 percent reduction in people serving JLWOP, jurisdictions have varied significantly in their implementation of *Miller* and *Montgomery*. As a result, relief afforded to individuals serving JLWOP is based more on jurisdiction than on whether the individual has demonstrated positive growth and maturation.

The uneven implementation of *Miller* and *Montgomery* disproportionately impacts Black individuals, who represent 61 percent of the total JLWOP population. The chart below reflects the current status of the approximately 2,800 people serving JLWOP when *Montgomery* was decided. Within that population, 25 percent have been released, nearly 49 percent have had their sentences reduced from JLWOP, about 23 percent have not yet been afforded relief, and approximately 3 percent have been resented to JLWOP.

**Fast facts**

**700**
Over 700 people originally sentenced to JLWOP have been released since *Montgomery*

**30**
30 states now ban JLWOP or have no one serving the sentence

**75%**
The national JLWOP population has been reduced by 75 percent in five years

**61%**
Sixty-one percent of children sentenced to JLWOP pre-*Miller* are Black, and the proportion of Black children sentenced to JLWOP has increased increased in new cases post-*Miller*
In the nine years since *Miller* was decided in June 2012, the United States has experienced sweeping change in the practice of sentencing children to die in prison. When *Miller* was decided, 45 states and the District of Columbia permitted life without parole as a sentencing option for children. In many states, life without parole was the only sentence available if a child was convicted of homicide.

Remarkably, the number of states that do not allow life without parole to be imposed on children has more than quadrupled since 2012, from five states to twenty-four states and the District of Columbia. And in at least six additional states, no one is serving the sentence for an offense committed as a child. Today a majority of states ban life without parole for children or have no one serving the sentence.

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### Jurisdictions that ban JLWOP

- Alaska
- Arkansas
- California
- Colorado
- Connecticut
- Delaware
- District of Columbia
- Hawaii
- Iowa
- Kansas
- Kentucky
- Massachusetts
- Nevada
- New Jersey
- North Dakota
- Ohio
- Oregon
- South Dakota
- Texas
- Utah
- Vermont
- Virginia
- Washington
- West Virginia
- Wyoming