



Physical Anthropology Section - 2013

I28 Evolution of the Adolescent Brain: Science, Sentencing, and the United States Supreme Court

*Eugene Lee, MD**, 118 W Spring St, Fayetteville, AR 72701; and *D'lorah L. Hughes, JD**, Univ of Arkansas, Robert A. Leflar Law Center, Waterman Hall, 1045 W Maple St, Office 130, Fayetteville, AR 72701

After attending this presentation, attendees will be able to: (1) compare and contrast the outcomes of three recent landmark juvenile justice cases from the United States Supreme Court; (2) explain the scientific basis, reasoning, and principles which informed these opinions; and, (3) briefly describe how one state (Arkansas) is mobilizing to respond to the most recent of these landmark cases.

This presentation will impact the forensic science community by increasing awareness of how advances in the understanding of adolescent brain development are impacting juvenile justice sentencing guidelines.

The United States Supreme Court has had an active decade in the matters of juvenile justice. In *Roper v. Simmons* (2005), the Court found that the Eighth and Fourteenth Amendments forbid imposition of the death penalty on offenders who were under the age of 18 when their crimes were committed. In *Graham v. Florida* (2010), the Court held that, for non-homicide crimes, the Eighth Amendment does not permit a juvenile offender to be sentenced to life in prison without parole. And, most recently, in two cases (*Evan Miller v. Alabama* and *Kuntrell Jackson v. Ray Hobbs, Director, Arkansas Department of Correction*) which were decided together on June 25, 2012, the Court decided that the Eighth Amendment forbids sentencing schemes which mandate life in prison without possibility of parole for juvenile homicide offenders.

These three opinions have direct implications on state sentencing guidelines for juvenile offenders. This presentation will focus on the Court's use of science in formulating these opinions, and the role of factors such as an adolescent's maturity, development of sense of responsibility, vulnerability to negative influences and outside pressures, control over environment, and fixedness of character traits. As these factors can serve to inform the forensic evaluation of adolescent culpability, this presentation will include discussion through the lens of the 2011 Presidential Address at the Annual Meeting of the American Academy of Psychiatry and the Law, as well as "the evolving standards of decency that mark the progress of a maturing society" (*Trop v. Dulles* as cited in *Miller* and *Jackson*) in the context of contemporary psychiatry's bio-psycho-social framework.

Both the *Miller* and *Jackson* cases involved 14-year-olds convicted of murder and sentenced to mandatory terms of life imprisonment without the possibility of parole. Arkansas charged Jackson as an adult, and Miller was initially charged as a juvenile but his case was waived up to adult court. Discussion will include the implications of which court adolescents are tried in, as this also may hinge on the forensic evaluation of adolescent culpability.

Lastly, as the authors are faculty at the University of Arkansas School of Law, the presentation will include an opportunity for the audience to learn about how one state (Arkansas) is mobilizing to respond to the *Miller* and *Jackson* rulings, in terms of juvenile homicide offenders in Arkansas currently serving what until recently were mandatory life sentences without parole. As life-without-parole sentences are thought to "share some characteristics with death sentences that are shared by no other sentences" (*Graham*), these characteristics invite discourse when parole becomes a possibility.

Adolescent Development, Juvenile Justice, Sentencing Guideline