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Juveniles Locked Up for Life for Non-Homicides: Cruel & Unusual or an Appropriate Punishment?

PANEL SUMMARY

BY JULIE SWANEY

The Criminal Law Society and Criminal Law Brief co-hosted a panel discussion on November 19, 2009 at the Washington College of Law (WCL) in Washington, D.C., entitled, “Juveniles Locked Up for Life for Non-Homicides: Cruel & Unusual or an Appropriate Punishment?” The two organiza-

tions brought together leading voices on both sides of the controversial issue of sentencing juveniles to life without parole for non-homicide offenses. Held just one week after the Supreme Court heard oral arguments in two cases addressing the issue, the panelists debated the cases of *Graham v. Florida*¹ and *Sullivan v. Florida*². In both cases, Florida convicted young men of non-homicide crimes, aggravated assault and battery and rape respectively, and sentenced each to life imprisonment without the possibility of parole. The Supreme Court was asked to decide whether this sentence violated the Eighth Amendment’s prohibition against cruel and unusual punishment when imposed upon juveniles. The Petitioners’ fundamental argument was that juveniles are different because their personalities have not yet fully formed, reminding the Court that it used that same reasoning when deciding *Roper v. Simmons*³, which prohibited sentencing juveniles to death. The Respondents asserted that states should maintain the discretion to administer their respective criminal sentencing systems and that life without parole for a juvenile is not cruel and unusual because many states permit the sentence.

The four panelists, moderated by WCL Criminal Law Professor Mary Fan, engaged in a lively debate about juvenile sentencing. Arguing for the Petitioners’ side were Jody Kent, National Coordinator of the Campaign for the Fair Sentencing of Youth, and Vincent Southerland, Associate Counsel for the NAACP Legal Defense and Education Fund. Ms. Kent asserted that juveniles have scientifically been found to have less reasoning and moral aptitude than adults. Therefore, she argued, they are not as culpable for the crimes they commit. Mr. Southerland maintained that young people make bad choices all the time, but that there is still the opportunity to rehabilitate

that society’s purpose for sentencing juveniles is different. As opposed to adult prison sentences, in which the primary goals are to deter crime and punish offenders, the main objective of the juvenile criminal justice system is to rehabilitate.

Arguing the Respondent’s position were Cully Stimson, Senior Legal Fellow at the Heritage Foundation, and Scott Burns, Executive Director of the National District Attorneys Association. Mr. Stimson contended that even though the perpetrators may be juveniles, they committed very serious adult-like crimes. He further reasoned that if the crime was serious, then the punishment should be serious as well. Mr. Burns discussed the stories of victims



of grave crimes committed by juveniles and asked that the impact of the crimes upon victims not be forgotten. He stressed the need for victims to see offenders punished harshly for the purpose of achieving closure.

After presenting their arguments and responding to each other, the panelists fielded questions from the audience, which consisted of WCL students, faculty, and community members.



To listen to the full podcast of the panel, visit the following link:

http://www.wcl.american.edu/podcast/podcast.cfm?uri=http://www.wcl.american.edu/podcast/audio/20091124_WCL_JSLP.mp3

The Criminal Law Society and Criminal Law Brief will be hosting a Symposium on Monday, March 29, 2010 from 9:00am-12:00pm to explore what society should do when the practical enforcement of criminal law conflicts with constitutional protections. More details about the symposium will be posted at <http://www.wcl.american.edu/org/criminal/>.

¹ 130 S.Ct. 357 (Mem).

² 129 S.Ct. 2157 (Mem).

³ 543 U.S. 551 (2005).

ABOUT THE AUTHOR

Julie Swaney is a second year law student at the Washington College of Law, focusing on criminal law. Working as a Dean's Fellow for WCL Professor Angela Davis has given her exposure to a broad range of criminal justice issues and has further developed her passion for criminal defense. As current President of the WCL Criminal Law Society, she hopes to help fellow students interested in the field of criminal law gain a deeper understanding of the issues and build a network of contacts within the legal community.