

LWOP in the Supreme Court

On November 9, 2009, the Supreme Court heard arguments regarding the constitutionality of sentencing children to life without parole. The following 2 cases were up for review:

1. **Graham v. Florida:** a 17 year old sentenced to life imprisonment without possibility of parole after his conviction for violating a probationary sentence, imposed a year earlier, for felony robbery.
 - a. **Issue:** Whether the Eighth Amendment's ban on cruel and unusual punishments prohibits the imprisonment of a juvenile for life without the possibility of parole as punishment for the juvenile's commission of non-homicide.
2. **Sullivan v. Florida:** a 13 year old who received the sentence following conviction for sexual battery.
 - a. **Issue:** Does imposition of a life without parole sentence on a thirteen-year-old for a non-homicide violate the prohibition on cruel and unusual punishments under the Eighth and Fourteenth Amendments, where the freakishly rare imposition of such a sentence reflects a national consensus on the reduced criminal culpability of children?

A key part of the proceedings will be how the Court views the 2005 precedent in *Roper v. Simmons* where the majority of Justices held that execution of juveniles violates the ban on cruel and unusual punishment in the 8th Amendment of the U.S. Constitution. Because the reasoning in *Simmons* led to a less-harsh sentence, will either of these 2 cases also receive less-harsh sentences? This largely depends on if Justices consider LWOP cruel and unusual punishment.

Questions Critics are Asking:

1. Will it matter that the offenses were not homicides?
2. Will Justices focus less on the nature of the child and more on the nature of the sentences?
3. Will they consider international law that suggests J-LWOP would be considered cruel and unusual punishment?

For briefs and argument transcripts:

<http://www.abanet.org/publiced/preview/briefs/nov09.shtml#graham>

<http://www.abanet.org/publiced/preview/briefs/nov09.shtml#sullivan>