

JUVENILES SENTENCED TO LIFE WITHOUT PAROLE IN THE USA
(Case No. 12.866 , Inter-American Commission on Human Rights)

SUMMARY OF ARGUMENT FOR MERITS HEARING

March 25, 2014, 9:00 am

PROCEDURAL AND FACTUAL BACKGROUND

This petition was filed with the Commission on February 21, 2006. Petitioners filed Final Observations regarding the Merits on September 4, 2012. The petition is brought on behalf of 32 men and women from the State of Michigan who were charged, tried and sentenced to life sentences for offenses they committed as children. Because of the nature of the crimes for which they were convicted, the Michigan Parole Board has no jurisdiction to consider them for parole. Thus Petitioners have been condemned to spend the rest of their lives in prison. As a consequence of their life without parole sentences, many have been denied educational and other rehabilitative opportunities.

RELEVANT LEGAL STANDARDS

In *Graham v. Florida*, the U.S. Supreme Court ruled that life imprisonment without the possibility of release constitutes “cruel and unusual” punishment for non-homicide offenses committed by persons below 18 years of age.¹ In *Miller v. Alabama*, the Court later struck down as unconstitutional mandatory sentences of life imprisonment without possibility of parole for children convicted of homicide offenses.² However, the possibility of life imprisonment without the possibility of release remains for children in Michigan and other states in the U.S. In Michigan alone, since the Court’s ruling in *Miller*, two children have received life without parole sentences. Moreover, Michigan courts and others have refused to give retroactive effect to *Miller* and continue to impose sentences that exceed a child’s natural life. The reality is that despite *Graham* and *Miller*, thousands of individuals are serving sentences of life imprisonment without the possibility of release for crimes they committed as children.

The Charter of the Organization of American States and the American Declaration on the Rights and Duties of Man establish the human rights standards applicable in this case. The American Convention on Human Rights and the Court’s analysis of its provisions should also inform the Commission’s decision. Also applicable are international human rights treaties, including the Convention on the Rights of the Child, International Covenant on Civil and Political Rights, International Convention on the Elimination of All Forms of Racial Discrimination and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as

¹ *Graham v. Florida*, 130 S. Ct. 2011, 2030 (2010)

² *Miller v. Alabama*, 132 S. Ct. 2455 (2012)

comparative law and practice, which demonstrate a near universal consensus against the imposition of sentences of life imprisonment without the possibility of release on children.

VIOLATIONS OF THE AMERICAN DECLARATION

A. The Treatment of Petitioners within the Michigan Criminal Justice System Violates U.S. Obligations Under the American Declaration

1. Petitioners' Life Sentences Without Possibility of Parole Violate their Right to Special Measures of Protection Guaranteed Under Article VII

Article VII prohibits the treatment of children as if they were adults in the criminal justice system, including the imposition of sentences of life imprisonment without the possibility of release. Two of the most fundamental rights of children within the criminal justice system are: (a) their right to be incarcerated for the shortest possible duration; and (b) their right to rehabilitation and reintegration into society.³ Michigan's laws violate both.

2. Petitioners' Life Sentences Without Possibility of Parole Constitute Cruel, Infamous, or Unusual Punishment (Article XXVI) and Violate their Right to Humane Treatment Guaranteed Under Articles I and XXV

Given that persons below 18 years of age have greater vulnerability, lesser maturity and consequent lesser culpability than adults, sentences of life imprisonment without the possibility of parole -- which offer children no opportunity or hope for release -- constitute cruel and unusual punishment and violate their right to humane treatment guaranteed by the American Declaration. Each Petitioner's individual characteristics and state of mind at the time of they committed their offenses is relevant to this finding. Children sentenced to life imprisonment without the possibility of parole endure suffering that is heightened by two factors: (a) their placement in adult facilities, which is likely to result in physical harm; and (b) the severe psychological impacts that life without parole sentences have on children.

3. The Michigan Criminal Justice System Violates Petitioners' Rights to Due Process of Law Under Articles XVIII, XXV, and XXVI

Petitioners were all charged, tried and sentenced to life imprisonment under one of three sentencing schemes, which denied them due process guaranteed by the American Declaration. Procedures for children accused of crimes must incorporate specific safeguards that account for child status. This includes specialized courts and procedures that provide judges and juries an opportunity to take into consideration such factors as a

³ *Mendoza v. Argentina* Preliminary Objections, Merits, Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 260 (May 14, 2013), ¶¶ 162;165.

child's age, physical and mental health, potential lessened culpability, and unique capacity for rehabilitation. The three Michigan sentencing schemes violated Petitioners' due process rights by failing to give adequate (or, in some cases, any) consideration to their child status.

4. Life Without Parole Sentences Imposed Under Michigan Law Have Violated Petitioners' Right to be Free From Discrimination Guaranteed Under Article II

Article II of the American Declaration prohibits all forms of discrimination. Of the 362 Michigan inmates currently serving sentences of life imprisonment without possibility of parole, 261 (73%) are minorities and 248 (69%) are African American. These figures differ greatly from the proportion of minorities (29%) and African Americans (15%) in Michigan's general youth population. A range of factors contribute to the disparate imposition of life without the possibility of parole sentences on communities of color, including prosecutorial discretion at numerous stages in the Michigan criminal justice system with little independent and effective oversight or accountability.

B. Treatment of Petitioners While Incarcerated Violates U.S. Obligations Under the American Declaration

1. Denying Petitioners Access to Rehabilitative Programs Violates their Right to Rehabilitation Guaranteed Under Articles I and XVII

Articles I and XVII, interpreted in the light of Article VII and the right to be treated with dignity, guarantee Petitioners a right to rehabilitation. Michigan's policies and practices fail to provide Petitioners with opportunities for mental and social development while incarcerated. As a result, Petitioners are excluded from, or have restricted access to, programs that would support their reform and re-adaptation, violating their right to rehabilitation guaranteed by the Declaration.

2. Denying Petitioners Access to Educational Programs Violates their Right to Education Guaranteed Under Article XII

The American Declaration requires that states provide educational opportunities to incarcerated individuals, especially those sentenced to imprisonment when they are children. As inmates serving sentences of life imprisonment without the possibility of parole, Petitioners, as a matter of policy and practice, have been and continue to be denied many educational programming opportunities available to other inmates who are not serving such sentences. These policies and practices violate Petitioners' right to an education.

REQUESTS FOR RELIEF

The U.S. and the State of Michigan should provide proper remedies for the violations of Petitioners' human rights, including, but not limited to the following:

1. Individual relief, including monetary compensation and a prompt and meaningful opportunity for review and consideration of parole for the individual petitioners that properly takes into consideration their child status at the time they committed their offenses, their maturity and rehabilitation.
2. Legal and programmatic reforms to comport with the American Declaration on juvenile justice, special protections of children, and due process, at the federal, state and local levels, including measures designed to:
 - a. reform laws that allow persons below 18 years of age to be charged and tried as if they were adults;
 - b. reform laws, policies and practices that allow children to be sentenced to life imprisonment without the possibility of parole or to sentences of extreme length (*de-facto* life without possibility of parole sentences);
 - c. reform laws, policies and practices that restrict the access of inmates currently serving life sentences to educational and rehabilitative programming;
 - d. investigate, alleviate and provide redress for racial disparities in sentencing.