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Loyola Public Interest Law Reporter

FEATURE ARTICLE
**CHANGES TO THE ILLINOIS
JUVENILE JUSTICE LAWS
FOCUS ON REHABILITATION
AND SENTENCING OF YOUTH**

by ALEXANDRA HUNSTEIN

When he was just 14 years old, an Illinois court sentenced Addolfo Davis to a mandatory life sentence without parole.¹ In March, 23 years later, the Illinois Supreme Court held that he, along with approximately 100 other prisoners, is entitled to a new sentencing hearing.² The Court decided that the United States Supreme Court's decision in *Alabama v. Miller* should be applied retroactively.³ In that Supreme Court decision, the Court held that

mandatory life sentences for juveniles are unconstitutional.⁴ As Davis' case was proceeding to the Illinois Supreme Court, the Illinois legislature passed a new law requiring that 17-year-olds be tried in the juvenile justice system, rather than as adults.⁵ This new law, as well as the decision of the Illinois Supreme Court in Davis' case, represents critical changes to the juvenile justice system within this state that place emphasis on rehabilitation of youth offenders and provide justice to those adults who were convicted as minors.

17-YEAR OLDS IN THE JUVENILE JUSTICE SYSTEM

Davis was not the only teenager in Illinois to receive a harsh sentence as a juvenile in the early 1990's.⁶ In the 1980's and 1990's, the War on Drugs turned law enforcement's attention on "super predators," or young, violent offenders.⁷ Most states enacted harsh punishments for juveniles convicted of violent crimes.⁸ But Illinois was one of only 10 states that automatically tried 17-year-olds facing felony charges as adults, rather than granting jurisdiction to the juvenile courts.⁹ As the War on Drugs continued, youth convictions rose rapidly.¹⁰ By 2012, Chicago had more arrests of 17-year-olds than any other city in the U.S.¹¹ Between 2007 and 2012, 4,352 17-year-olds were convicted of a felony.¹² However, the national rate of violent crime among youth fell 33 percent between 2001 and 2008.¹³

An unintended consequence of treating juveniles as adults in the justice system is that the youth are more likely to reoffend.¹⁴ Being convicted of a felony at a young age only makes it harder for juveniles to return to their communities and find employment, education, and housing.¹⁵ In 2009, advocates in Illinois attempted to transfer the jurisdiction of all 17-year-olds to the juvenile court in an effort to rehabilitate the minors.¹⁶ The Illinois General Assembly passed a compromise: all 17-year-olds charged with misdemeanors would be within the juvenile court's jurisdiction, but those charged with felonies would remain in the adult court system.¹⁷ The legislature charged the Illinois Juvenile Justice Commission (IJJC) with conducting research about the impact of this change as well as the possibility of moving 17-year-olds charged with felonies to juvenile court as well.¹⁸

The IJJC released its study in February of 2013 after looking at scientific research, data of criminal arrests, and speaking with attorneys who work with youth.¹⁹ It concluded that not only was the juvenile justice system able to

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handle the influx of 17-year-olds charged with misdemeanors, but that it would be in keeping with legal trends, adolescent behavior research, public safety, and cost efficiency to transfer jurisdiction to juvenile courts.²⁰ Lisa Jacobs, the Program Director of Illinois Models for Change, and the Vice-Chair of the IJJC said that the study answered many of the objections from those opposing the change.²¹ She noted that “a lot of groundwork had been laid and a lot of thought went into it.”²²

Illinois’ new law returning 17-year-olds facing felony charges back to the juvenile court system went into effect January 1, 2014.²³ The Illinois legislature passed the bill with the support of the IJJC, Cook County Board President, Toni Preckwinkle, Cook County Sherriff Tom Dart, and many youth advocates.²⁴ The law places more focus on rehabilitating juveniles, rather than simply punishing them, because social services are made available to offenders in juvenile court.²⁵ However, the law will not apply retroactively to pending felony cases.²⁶ It will only apply to those juveniles charged after January 1, 2014.²⁷ According to the Sherriff’s Office, the 197 minors who are currently in Cook County’s Jail awaiting trial will remain in the adult court system.²⁸ Although the offenders could be charged with similar or identical crimes to those charged after the first of the year, the Illinois State’s Attorneys Office has declined to comment about how it will handle the pending cases.²⁹



MANDATORY LIFE SENTENCES FOR JUVENILES

In mid-January, on the heels of the enactment of the new law, the Illinois Supreme Court heard oral arguments for Davis' case.³⁰ His case was the first case to successfully reach the Illinois Supreme Court to determine how this state will apply the Supreme Court decision in *Alabama v. Miller*.³¹ While the U.S. Supreme Court held that mandatory life sentences without parole for juveniles are unconstitutional as cruel and unusual punishment, it did not completely rule them out.³² Juveniles can still be sentenced to life without parole; it just cannot be *mandatory* for a court to do so.³³ The U.S. Supreme Court found that mandatory sentences don't allow judges to consider the circumstances surrounding the crime like a person's home life, involvement in the act, and potential for rehabilitation.³⁴ The Court did not, however, specify whether the law should be applied retroactively to the 2,500 inmates across the country.³⁵

At the time of the *Miller* decision 37 states had mandatory youth sentencing laws on the books, and those states have either chosen to address the change through legislation or litigation.³⁶ Thus far nine states have decided to apply the law retroactively.³⁷ Just a few months before the Illinois Supreme Court decision, the Nebraska Supreme Court also held three life sentences unconstitutional because the offenders were sentenced when they were minors, and remanded the cases to the district courts for sentencing.³⁸ Similarly, a federal judge in Michigan ordered that such inmates be made eligible for parole if they had served 10 years of their sentence.³⁹

The ruling of the Illinois Supreme Court affected approximately 100 prisoners in Illinois prisons who were convicted as minors.⁴⁰ Some of the prisoners were convicted as young as 14 years old, about half were 17 years old, and most were convicted of multiple murders.⁴¹ The prisoners will receive a new sentencing hearing in which he or she can present evidence, including their circumstances at the time of the crime and their subsequent efforts at rehabilitation in prison.⁴² The prospect of new hearings is raising concern for some victims' families, who feel the proceedings will reopen emotional wounds from the past.⁴³

Jodi Cates, Chicago Director of the Human Rights Watch, stated that the goal of fighting for people like Addolfo Davis is not to absolve them of responsibil-

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ity, but to restore their humanity and spare them the death sentence that is life without the possibility of parole.⁴⁴ In fact, prisoners often refer to life without parole as “the other death penalty.”⁴⁵ But Cates noted that applying the Miller decision retroactively would “help some young offenders find a path to becoming productive members of society.”⁴⁶

Youth advocates point to research indicating that teenagers do not have the ability to consider long-term consequences of their actions, have less impulse control, and are easily influenced than adults in arguing that they should be treated differently than adults in the legal system.⁴⁷ Research shows that juveniles who are sent to a juvenile detention center rather than a prison have a greater chance of improving their behavior.⁴⁸ “Youth are capable of tremendous positive change,” Jacobs noted, “Even kids who have made serious mistakes can learn and grow and come back to their communities.”⁴⁹ Nearly 50 academics wrote to the U.S. Supreme Court before its decision in 2012, pointing to flaws in the “super predator” theory of juvenile sentencing.⁵⁰

Since his original sentence Davis has renounced his gang membership, started encouraging youth to avoid gang life, written poetry, and completed writing his own book.⁵¹ Davis’ attorneys say that these developments in prison will be fundamental in demonstrating his capacity for rehabilitation.⁵² It is still unclear when the new sentencing hearings will take place.⁵³

NOTES

1 Kim Geiger, *Mandatory life sentences for juveniles at issue before state high court*, CHI. TRIB., Jan. 15, 2014, http://articles.chicagotribune.com/2014-01-15/news/ct-juvenile-life-sentence-met-20140116_1-adolfo-davis-sentences-illinois-supreme-court; Trymaine Lee, *Young and in prison, with no chance of parole*, MSNBC (Jan. 15, 2014), <http://www.msnbc.com/msnbc/young-and-jail-no-chance-parole>; Linda Paul, *Addolfo Davis’ Story*, WBEZ (April 9, 2008) [hereinafter *Addolfo Davis’ Story*], <http://www.wbez.org/story/news/local/addolfo-davis-story>.

2 Geiger, *supra* note 1; *Addolfo Davis’ Story*, *supra* note 1; Steve Mills and Duaa Eldeib, *Ruling allows new hearings for 100 convicted killers*, CHI. TRIB., March 20, 2014, www.chicagotribune.com/news/local/breaking/chi-juvenile-sentences-20140320,0,154217.story; *People v. Davis*, __ N.E.3d __, 2014 IL 115595 (Ill. March 20, 2014).

3 Geiger, *supra* note 1; Linda Paul, *Should ban on mandatory life without parole encompass old juvie cases?*, WBEZ (Jan. 15, 2014) [hereinafter *Should ban encompass old juvie cases?*], <http://www.wbez.org/news/should-ban-mandatory-life-without-parole-encompass-old-juvie-cases-109516>; *Miller v. Alabama*, 132 S.Ct. 2455, 2475 (2012); Duaa Eldeib and Steve Mills, *Ruling offers hope to some imprisoned as youths*, CHI. TRIB., March 22, 2014, <http://arti->

- cles.chicagotribune.com/2014-03-22/news/ct-juvenile-life-prison-met-20140322_1_co-defendant-sentence-john-diulio; People v. Davis, *supra* note 2.
- 4 Miller, 132 S.Ct. at 2455; Geiger, *supra* note 1; *Should ban encompass old juvie cases?*, *supra* note 3.
- 5 Erin Meyer, *17-Year-Olds Accused of Felonies to be Treated as Juveniles*, DNAINFO (Dec. 31, 2013, 6:21 AM), <http://www.dnainfo.com/chicago/20131231/chicago/17-year-olds-accused-of-felonies-be-treated-as-juveniles>; Carolyn Taft Grosboll, *Call of the Docket January Term 2014*, SUP. CT. OF ILL. (Dec. 27, 2013), <http://www.state.il.us/court/SupremeCourt/OralCal/2014/01-14.pdf>.
- 6 Lee, *supra* note 1; *Should ban encompass old juvie cases?*, *supra* note 3.
- 7 See Lee, *supra* note 6.
- 8 *Id.*
- 9 Angela Caputo, *Minor misconduct*, CHI. REP. (Nov. 1, 2012) [hereinafter *Minor misconduct*], http://www.chicagoreporter.com/minor-misconduct#.Uwlln_RdVG6.
- 10 Angela Caputo, *Illinois Takes Huge Step in Juvenile Justice Reform*, HUFFINGTON POST (Jan. 9, 2014) [hereinafter *Illinois Juvenile Justice Reform*], http://www.huffingtonpost.com/angela-caputo/illinois-juvenile-justice-reform_b_4570884.html.
- 11 *Minor misconduct*, *supra* note 9; *Illinois Juvenile Justice Reform*, *supra* note 10.
- 12 See *supra* note 11.
- 13 STEPHANIE KOLLMANN, ILLINOIS JUVENILE JUSTICE COMMISSION, STATE OF ILLINOIS DEPARTMENT OF HUMAN SERVICES, RAISING THE AGE OF JUVENILE COURT JURISDICTION 31 (2013), available at https://www.dhs.state.il.us/OneNetLibrary/27897/documents/CHP/Reports/JuvenileJustice/IJJC_Raising_the_Age_Report_w_covers.pdf.
- 14 *Minor misconduct*, *supra* note 9.
- 15 *Id.*
- 16 KOLLMANN, *supra* note 13 at 6.
- 17 *Id.*
- 18 *Id.* at 10; Interview with Lisa Jacobs, Program Director of Illinois Models for Change and Vice-Chair of the Illinois Juvenile Justice Commission, in Chi., Ill. (March 12, 2014).
- 19 Interview with Lisa Jacobs, *supra* note 18.
- 20 KOLLMANN, *supra* note 13 at 6-7.
- 21 Interview with Lisa Jacobs, *supra* note 18.
- 22 *Id.*
- 23 Meyer, *supra* note 5.
- 24 *Id.*
- 25 David Ormsby, *Expert: Law Diverting 17-Year-Olds Facing Felony Charges to Juvenile Court Boosts Rehabilitation*, CHI. TRIB., July 19, 2013, <http://www.chicagotribune.com/news/local/suburbs/chi-ugc-article-new-law-diverting-17-year-olds-facing-felony-2013-07-19,0,1052772.story>.
- 26 Meyer, *supra* note 5.
- 27 *Id.*
- 28 *Illinois Juvenile Justice Reform*, *supra* note 10.
- 29 Meyer, *supra* note 5.
- 30 Geiger, *supra* note 2; Grosboll, *supra* note 5.
- 31 Geiger, *supra* note 2.
- 32 Miller v. Alabama, 132 S.Ct. 2455, 2475 (2012); Lee, *supra* note 1.
- 33 *Id.*
- 34 Geiger, *supra* note 2; Lee, *supra* note 1; *Should ban encompass old juvie cases?*, *supra* note 3.
- 35 Geiger, *supra* note 2; Miller v. Alabama, 132 S.Ct. 2455 (2012).

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36 Lee, *supra* note 1.

37 Illinois, California, Delaware, Iowa, Mississippi, North Carolina, Massachusetts, Nebraska, Michigan are the states that have decided to apply the *Miller* ruling retroactively. Lee, *supra* note 1. See also *Nebraska holds Miller retroactive*, THE CAMPAIGN FOR THE FAIR SENTENCING OF YOUTH (Feb. 7, 2014), <http://fairsentencingofyouth.org/2014/02/07/nebraska-holds-miller-retroactive>; *People v. Davis*, *supra* note 2.

38 *Nebraska holds Miller retroactive*, *supra* note 37.

39 Lee, *supra* note 2; *Federal judge order Michigan to implement parole process for children serving life sentences*, THE CAMPAIGN FOR THE FAIR SENTENCING OF YOUTH (Nov. 27, 2013), <http://fairsentencingofyouth.org/2013/11/27/federal-judge-orders-michigan-to-implement-parole-process-for-children-serving-life-sentences>.

40 *Ruling allows new hearings for 100 convicted killers*, *supra* note 2.

41 *Ruling allows new hearings for 100 convicted killers*, *supra* note 2; *Ruling offers hope to some imprisoned as youths*, *supra* note 3.

42 *Ruling allows new hearings for 100 convicted killers*, *supra* note 2.

43 *Ruling allows new hearings for 100 convicted killers*, *supra* note 2.

44 Lee, *supra* note 1.

45 Geiger, *supra* note 2.

46 Lee, *supra* note 1.

47 Geiger, *supra* note 2.

48 Meyer, *supra* note 5.

49 Interview with Lisa Jacobs, *supra* note 18.

50 *Ruling offers hope to some imprisoned as youths*, *supra* note 3.

51 Geiger, *supra* note 2.

52 *Ruling allows new hearings for 100 convicted killers*, *supra* note 2.

53 *Ruling allows new hearings for 100 convicted killers*, *supra* note 2; *Ruling offers hope to some imprisoned as youths*, *supra* note 3.