



Iowa General Assembly

2013 Legal Updates

Legislative Services Agency – Legal Services Division

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Purpose. *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

CRUEL AND UNUSUAL PUNISHMENT - JUVENILE OFFENDERS

Filed by the Iowa Supreme Court

August 16, 2013

State of Iowa vs. Desirae Monique Pearson

No. 11-1214

[http://www.iowacourts.gov/About the Courts/Supreme Court/Supreme Court Opinions/Recent Opinions/20130816/11-1214.pdf](http://www.iowacourts.gov/About%20the%20Courts/Supreme%20Court/Supreme%20Court%20Opinions/Recent%20Opinions/20130816/11-1214.pdf)

Facts. On November 25, 2010, the defendants in this case, Desirae Pearson and Devon Lukinich, armed themselves with BB guns that looked like handguns and went on a robbery and burglary spree in Burlington, Iowa. At the time the offenses were committed, Pearson was 17 years and 3 months old, and Lukinich was 17 years old. During the first incident, the defendants knocked on a door in a residential neighborhood and when the occupant of the residence opened the door, Pearson pointed one of the BB guns at the occupant and announced that they were committing a robbery. The defendants entered the residence and proceeded to take various items. Later that same day, Lukinich entered another residence through an open window and opened the door to allow Pearson to enter. The elderly homeowner of the residence heard a noise and confronted the two defendants while they were in the process of stealing items. Both defendants opened their jackets to reveal the BB guns. The homeowner screamed and Lukinich pushed the homeowner backwards into a doorframe fracturing the homeowner's shoulder. The defendants fled the house but were caught by the police a short time later. The defendants were charged in adult court with robbery in the first degree and burglary in the first degree. Both offenses are punishable by 25 years in prison and are categorized as 70 percent sentences which require service of 70 percent of the 25-year-sentence in prison before becoming eligible for parole.

Procedure. Pearson was convicted of both robbery in the first degree and burglary in the first degree and was sentenced to serve 25 years in prison consecutively on both counts rather than concurrently on each count. In this type of sentence, service of two sentences that run consecutively in effect means the defendant must serve 70 percent of a 50 year (25 + 25) sentence or a 35-year (50 x 70 percent) sentence in prison before becoming eligible for parole. Pearson had a previous juvenile record that included assault and theft.

Pearson appealed the sentence and the case was assigned to the Court of Appeals. The Court of Appeals agreed with the findings of the district court and concluded that Pearson was nearly an adult, that she had a history of assaultive behavior, and that she ignored opportunities for rehabilitation. Pearson appealed the Court of Appeals decision and the Iowa Supreme Court (Court) granted further review.

Issue. Whether the sentence imposed violates the core principles relating to juvenile sentences established under the United States Supreme Court decision *Miller v. Alabama*, 305 U.S. 1043, and constitutes cruel and unusual punishment under the 8th Amendment to the United States Constitution and Article I, section 17 of the Iowa Constitution?

Holding. The Court held that the district court's sentence imposed in this case does violate the core principles relating to juvenile sentencing established under *Miller v. Alabama* and constitutes cruel and unusual punishment under the 8th Amendment to the United States Constitution and Article I, section 17 of the Iowa Constitution. The core principles under *Miller* require an individualized sentencing hearing to determine whether the juvenile could be eligible for parole prior to the expiration of any mandatory minimum sentence. The Court further stated that it should be a relatively rare occurrence for a juvenile to be sentenced to such a lengthy prison sentence without the possibility of parole for the offenses committed in this case. The Court specified that the lengthy sentence in this case ignores the developing line of cases that limit lengthy juvenile prison sentences because juveniles have less culpability than an adult and have a greater potential for rehabilitation.

The Court thus vacated the decisions of the Court of Appeals and the district court and remanded the case to the district court for application of the *Miller v. Alabama* principles.

Concurring Opinion. Justice Cady concurred with the majority opinion but wrote separately to emphasize that the opinion issued in this case should not be applicable only when sentencing a juvenile for a serious offense but also for a minor offense too. Justice Cady further emphasized that recent advances in neuroscience have illustrated the decreased culpability of juvenile offenders and taking this decreased culpability into account is the right thing to do.

Dissent. The dissent acknowledged the sentence in this case is a harsh sentence. However, the dissent argued that the severity of the sentence is the result of the General Assembly's decision to require a person who commits robbery or burglary in the first degree to serve 70 percent of a 25-year-sentence prior to becoming eligible for parole and the district court's desire to run the sentences consecutively rather than concurrently. The dissent further argued that the sentence in this case does not violate the principles of *Miller v. Alabama* because this case does not involve a life sentence nor is the sentence so "grossly disproportionate" as to render it cruel and unusual punishment and a violation of the 8th Amendment to the United States Constitution and Article I, section 17 of the Iowa Constitution.

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