



# Iowa General Assembly

## 2010 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.*

### CONSTITUTIONALITY OF JUVENILE LIFE SENTENCES

Filed by the United States Supreme Court

May 17, 2010

Graham v. Florida

No. 08–7412

<http://www.supremecourt.gov/opinions/09pdf/08-7412.pdf>

**Background Facts and Procedure.** The defendant from Florida committed armed burglary and another crime when the defendant was 16 years of age. The defendant entered into a plea agreement whereby the court withheld adjudication of guilt, and the defendant was sentenced to probation. After the plea agreement, the defendant violated the terms of probation by committing another burglary offense while still a juvenile. The defendant's probation officer subsequently requested the defendant's probation be revoked. The defendant was found guilty of the new charges and the trial court revoked the defendant's probation. Under Florida law the court had the discretion to sentence the defendant anywhere from five years to life in prison. The presentence report recommended four years in prison which is a downward departure from the minimum sentence of five years. The prosecution recommended 30 years in prison. The court sentenced the defendant to life in prison based upon an escalating pattern of criminal conduct. A life in prison sentence in Florida cannot be reduced because the state of Florida has abolished parole. The defendant may have been released if the Governor of Florida pardoned the defendant. On appeal the defendant argues the sentence handed down by the court violates the cruel and unusual punishment clause of the United States Constitution when the underlying criminal offense did not involve a homicide.

**Issue.** Does a life sentence for a juvenile violate the United States Constitution's prohibition against cruel and unusual punishment if the underlying criminal offense does not involve a homicide?

**Analysis.** The United States Supreme Court (Court) stated that within the cruel and unusual punishment clause is the principle that the punishment for the crime should be graduated and proportional. In cases involving cruel and unusual punishment claims the Court shall consider the "objective indicia of society's standards, as expressed in legislative enactments and state practice" to determine whether there is a national consensus against the sentencing practice at issue. The Court stated that nationally only 129 juvenile offenders are serving a life sentence without parole for crimes that do not involve a homicide. The Court further stated 77 juvenile offenders are imprisoned in Florida and the other 52 juvenile offenders are imprisoned in 10 other states. Based upon the low incarceration rate for such offenders and the number of jurisdictions incarcerating juveniles for life for nonhomicidal offenses the Court concluded there is no national consensus to incarcerate juveniles for life without parole who do not commit a homicide offense. In addition, the Court further concluded that the limited culpability of juvenile offenders coupled with the severity of the sentence leads to the conclusion that the sentencing practice of incarcerating juvenile offenders for life without parole is cruel and unusual punishment if the offense does not involve a homicide.

**Holding.** Under the ruling by the Court, a state is not required to guarantee eventual release of a juvenile serving a life sentence without parole for an offense that does not involve a homicide but the state must impose a sentence that provides some meaningful opportunity for release based upon the maturity and rehabilitative potential of the juvenile offender.

**Dissent.** Justice Thomas filed a dissent joined by Justice Scalia. Justice Alito concurred in part but filed a separate dissent. First, Thomas's dissent argues the text of the Constitution is silent regarding the permissibility of a lifetime sentence for a juvenile offender where the underlying criminal offense does not involve a homicide. Second, such a sentencing practice would not have offended the standards that prevailed at the time of our country's founding. Thomas's

dissent further argues that federal law and 37 out of 50 states permit the lifetime incarceration of juvenile offenders who do not commit a homicide even if many of these jurisdictions are not currently incarcerating such offenders. Thomas's dissent stated that the Court has never based an opinion upon how many state laws are necessary to show consensus. Moreover, Thomas argues that state legislatures over the past 20 years have consistently increased the severity of punishments for juveniles. These facts lead Thomas to conclude that there is widespread agreement that juveniles can act with the same culpability as an adult. Justice Alito dissented separately, emphasizing that the Court's holding applies only to sentences imposed without parole, not to sentences imposed for a specific term of years.

**Impact on Iowa Law.** The Supreme Court's decision effectively bans a life sentence for any offense committed by a juvenile that does not involve a homicide. Currently, Iowa has seven offenders who were sentenced to life in prison for such offenses. The criminal offenses that require a life sentence in Iowa but do not involve a homicide include Conspiracy to Manufacture for Delivery or Delivery or Intent or Conspiracy to Deliver Amphetamine or Methamphetamine to a Minor (Iowa Code §124.401D), Sexual Abuse in the First Degree (Iowa Code §709.2), Kidnapping in the First Degree (Iowa Code §710.2), and certain sexually predatory offenses (Iowa Code §901A). In a potentially related case, the Iowa Supreme Court recently heard cruel and unusual punishment arguments relating to lifetime sentences for juveniles who commit homicide. The Iowa Supreme Court did not conclude whether such a sentence constituted cruel and unusual punishment but remanded the case back to the district court to determine whether the defendant received an illegal sentence based upon cruel and unusual punishment grounds. See *Veal v. State of Iowa* 779 N.W.2d 63 (Iowa 2010).

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