

**YOUTH BEHIND BARS:
ANALYZING THE CONSTITUTIONAL IMPLICATIONS IN
STATE OF TENNESSEE V. BOOKER'S JUVENILE
SENTENCING DILEMMA**

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INTRODUCTION

In 2015, then sixteen-year-old Tyshon Booker robbed and murdered G'Metrik Caldwell.¹ Because of his actions, a jury later convicted Mr. Booker of two counts of first-degree felony murder.² According to Tennessee's sentencing scheme, this conviction triggered an automatic life sentence, encompassing a sixty-year term with the provision for release after fifty-one years, contingent upon the acquisition and preservation of all applicable sentencing credits.³ Therefore, as a minor, Mr. Booker received a sentence without the benefit of a sentencing hearing, condemning him to incarceration until at least the age of sixty-six years old.⁴ Under Tennessee law, Mr. Booker's age, maturity, or any other mitigating circumstances were irrelevant when receiving this sentence.

On appeal, the Tennessee Supreme Court found this automatic sentencing requirement violated the Eighth Amendment when applied to minors.⁵ The Tennessee Supreme Court, aligning with the

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1. *State v. Booker*, 656 S.W.3d 49, 54 (Tenn. 2022).

2. *Id.* at 55.

3. TENN. CODE ANN. § 40-35-501(h)(2).

4. *Booker*, 656 S.W.3d at 55.

5. *Id.* at 52.

U.S. Supreme Court's decision in *Miller v. Alabama*,⁶ deemed this fifty-one-year term tantamount to a life sentence without parole for minors.⁷ However, in the aftermath of *Booker*, a crucial legal question remains: when does a term-of-years sentence for a juvenile offender equate to life without parole?

Prior to *Booker*, Tennessee's sentencing scheme allowed for the possibility of parole after fifty-one years for minors convicted of first-degree felony murder. The Tennessee Supreme Court found that a fifty-one-year sentence, delaying parole eligibility, equated to a de facto life sentence without parole.⁸ However, to address this constitutional violation, the Tennessee Supreme Court opted to defer to the state legislature's unrepealed sentencing scheme,⁹ which mandated parole hearings for minors serving life sentences after twenty-five years, thereby lowering the parole threshold.¹⁰ Whether the Tennessee legislature retains this sentencing structure or not, this dilemma poses a pivotal question for upcoming legislative decisions: what benchmark should govern them?

Here, rather than merely adjusting the parole term in isolation, the court missed an opportunity to impose mandatory sentencing hearings and create clarity in addressing these vital juvenile justice concerns. Moving forward, courts or legislatures must adopt mandatory sentencing hearings for minors to better align with Eighth Amendment principles. Instituting mandatory hearings for minors would provide an avenue for nuanced evaluation, considering factors such as age, maturity, circumstances, and rehabilitation potential—aligning with the U.S. Supreme Court and well-established Eighth Amendment principles. This approach avoids the creation of an ambiguous standard for the legislature, fostering a more individualized and constitutionally sound process.

I. *STATE V. BOOKER'S* CENTRAL ISSUE

In *Booker*, the core issue revolves around the constitutionality of Tennessee's mandatory life sentence for juveniles convicted of homicide, which requires a minimum of fifty-one years of incarceration before parole eligibility. Mr. Booker argued that Tennessee's sentencing scheme violates the Eighth Amendment's

6. 567 U.S. 460, 465 (2012) (holding that a mandatory life without parole sentence for those under the age of 18 at the time of their crimes violates the Eighth Amendment's prohibition on "cruel and unusual punishments").

7. *Booker*, 656 S.W.3d at 63.

8. *Id.* at 81.

9. *Id.* at 66.

10. *Id.*

prohibition against cruel and unusual punishment as interpreted by the U.S. Supreme Court. In deciding this issue, the majority and dissent used two different constitutional frameworks.

After looking at the U.S. Supreme Court's previous decisions on this issue, the majority considered whether "the punishment for the crime conforms with contemporary standards of decency," "whether the punishment is grossly disproportionate to the offense," and whether the sentence goes beyond what is necessary to accomplish "legitimate penological objectives."¹¹ The U.S. Supreme Court's evolution of juvenile sentencing reveals one foundational principle: "juveniles are constitutionally different from adults for sentencing purposes; juveniles have lesser culpability and greater amenability to rehabilitation."¹² The court noted that Tennessee's sentencing requirement was the harshest when compared to the other forty-nine states, that it lacked any individualized sentencing, and that because juveniles are less culpable than adults, it goes beyond any penological purpose.¹³ Because of those reasons, the court found that the sentencer must have discretion to "impose a lesser punishment and to properly consider an offender's youth and other attendant circumstances."¹⁴

The dissent takes a different approach. Conversely, the dissent focuses on whether the mandatory sentence is unconstitutional as interpreted in *Miller v. Alabama*.¹⁵ In *Miller*, the U.S. Supreme Court found that the Eighth Amendment forbids a sentencing scheme that requires life in prison without the possibility of parole for juvenile homicide offenders.¹⁶ However, as the dissent points out, Tennessee's sentencing scheme is not the same as the one in *Miller* because a minor can be released after fifty-one years.¹⁷ The ambiguity in the law surrounding this issue, however, makes it unclear when a term of years sentence transforms into the functional equivalent of a life sentence without the possibility of parole. Additionally, the dissent did not want to change or modify the sentencing scheme because it recognized that it is the "distinct job of

11. *Booker*, 656 S.W.3d at 61 (first quoting *Abdur'Rahman v. Bredesen*, 181 S.W.3d 292, 306 (Tenn. 2005); and then citing *Roper v. Simmons*, 543 U.S. 551, 560-61 (2005); *Atkins v. Virginia*, 536 U.S. 304, 311-12 (2002); and *Solem v. Helm*, 463 U.S. 277, 292 (1983)).

12. *Id.* at 65; see also *Miller v. Alabama*, 567 U.S. 460, 471 (2012) ("[C]hildren are constitutionally different from adults for purposes of sentencing.").

13. *Booker*, S.W.3d at 66.

14. *Id.*

15. *Booker*, 656 S.W.3d at 80 (Bivins, J., dissenting).

16. *Miller*, 567 U.S. at 479.

17. *Booker*, 656 S.W.3d at 90 (Bivins, J., dissenting).

the legislature to make policy decisions and to determine the appropriate sentence or punishment for a crime.”¹⁸

Finally, to remedy the constitutional violation without encroaching too far into the legislature’s duty, the majority decided to apply the sentencing policy already adopted by the Tennessee General Assembly.¹⁹ This decision upheld Mr. Booker’s existing sentence while granting him eligibility for a parole hearing after completing a term ranging from twenty-five to thirty-six years. This parole hearing would finally consider Mr. Booker’s age, rehabilitation, and other circumstances. Nevertheless, while the court ensured that these factors would be considered at some point, it missed an opportunity to solidify these considerations right after conviction.

II. DEVELOPMENT OF YOUTH SENTENCING PRIOR TO BOOKER

The way the American justice system views children has shifted dramatically throughout its history. In the early eighteenth and nineteenth centuries, an era marked by progressive reform movements, a distinctive juvenile court system emerged to address offenses committed by minors.²⁰ Central to the bedrock principles of Progressive-Era juvenile courts was the acknowledgment that children differed from adults which emphasized the intrinsic value of protecting childhood.²¹ In 1967, the U.S. Supreme Court in *In re Gault*, 387 U.S. 1 (1967) solidified the idea that children were entitled to due process, even in juvenile court.²²

In response to rising crime rates and tense race relations in the 1990s, both political parties began to push the idea that courts should treat children as adults for their crimes.²³ Consequently, all but one state amended its transfer laws to make it easier for children to be tried in adult court.²⁴ In effect, these changes reflect the tough stance that the American legal system took on crime, even when children were involved.

Nevertheless, as evolving standards of decency have progressed under the American legal system, minors have started to receive more protections under the Eighth Amendment. Notably, *Roper v. Simmons* began the trend that prohibited the death penalty for

18. *Id.* at 92.

19. *Booker*, 656 S.W.3d at 66; *see also* TENN. CODE ANN. § 40-35-501.

20. Juliet Liu, *Closing the Door on Permanent Incurability: Juvenile Life Without Parole After Jones v. Mississippi*, 91 FORDHAM L. REV. 1033, 1041 (2022).

21. *Id.*

22. *Id.* at 1042.

23. *Id.*

24. *Id.* at 1043.

offenders who were under the age of eighteen at the time of their crimes.²⁵ Later, propelled by the idea that children have certain youthful characteristics, such as diminished culpability and increased change for rehabilitation,²⁶ the U.S. Supreme Court in *Graham v. Florida* ruled that sentencing minors to life without parole for nonhomicide crimes was unconstitutional.²⁷ Similarly, in *Miller v. Alabama* the U.S. Supreme Court found that mandatory sentences of life without parole for juvenile homicide offenders were unconstitutional.²⁸ By striking down this type of sentence, the Supreme Court restored discretion to sentencing judges to consider certain mitigating factors such as youth, maturity, and rehabilitation ability.²⁹

After *Miller*, states began to ascertain when a sentence essentially becomes the functional equivalent of life without parole. However, the idea behind *Miller* was not to determine when a term of years becomes the equivalent of a life sentence without parole; instead, it was to guarantee that sentencing judges would consider mitigating factors when sentencing juveniles. The foundational principle behind *Miller* is that states cannot impose their most severe penalties on juvenile offenders as if they were adults without considering certain factors.³⁰ Therefore, the solution is to require a sentencing hearing that considers mitigating circumstances before sentencing. In *Miller*, the U.S. Supreme Court determined that this was a substantive guarantee to protect against disproportionate punishment of juveniles.³¹ In Tennessee, as the majority in *Booker* correctly found, the mandatory sentencing requirement did not consider the diminished culpability and potential for reformation that are unique to minors. However, instead of granting juveniles this substantive guarantee before beginning their sentence, the Tennessee Supreme Court deferred the considerations until a parole hearing that would take place decades after a conviction.

III. THE MISSED OPPORTUNITY IN STATE V. BOOKER

25. Kallee Spooner & Michael S. Vaughn, *Sentencing Juvenile Homicide Offenders: A 50-State Survey*, 5 VA. J. CRIM. L. 130, 134–35 (2017); see *Roper v. Simmons*, 543 U.S. 551, 578 (2005).

26. Spooner & Vaughn, *supra* note 25, at 136.

27. Spooner & Vaughn, *supra* note 25, at 136; see *Graham v. Florida*, 560 U.S. 48 (2010).

28. *Miller v. Alabama*, 567 U.S. 460, 479 (2012).

29. Spooner & Vaughn, *supra* note 25, at 138–39.

30. *Miller*, 567 U.S. at 483.

31. Spooner & Vaughn, *supra* note 25, at 142–43.

To exercise judicial restraint, the court in *Booker* refrained from definitively addressing the issue of when a term of years transforms into the functional equivalent of a life sentence without parole. Instead, the court merely lowered the number of years before requiring a parole hearing. Because of the constitutional principles and protections that apply to minors in these cases, the court should have taken the initiative to require a sentencing hearing after conviction. While the majority acknowledges that the Eighth Amendment necessitates considerations like age, maturity, and rehabilitation ability when sentencing minors, the chosen remedy postpones the court's obligation to contemplate these factors until twenty-five years later—a delay that undermines the timeliness and efficacy of such considerations right after trial.³²

Some scholars argue that courts must go as far as to categorically ban all life sentences when imposed against minors.³³ The argument is that these sentencing hearings essentially become an analysis of whether a child is capable of rehabilitation.³⁴ Not only is this analysis seemingly impossible, but also it opens the door for judges to consider some children as irredeemable.³⁵ While such arguments should be considered, this is a decision for the state legislature, not the courts. As Justice Kavanaugh notes in *Jones v. Mississippi*, “The States, not the federal courts, make those broad moral and policy judgments in the first instance when enacting their sentencing laws.”³⁶ Therefore, while courts must safeguard the substantive guarantee that minors undergo a sentencing hearing post-conviction, in line with the Eighth Amendment protections, it falls within the purview of the legislature to ascertain whether a categorical ban against life sentences without parole is justified.

In *Booker*, the Tennessee Supreme Court had an opportunity to require sentencing hearings post-conviction. If the state legislature wishes to keep the type of sentence in *Booker*, then they should

32. See *State v. Booker*, 656 S.W.3d 49, 64 (Tenn. 2022) (“Yet Tennessee statutes that require a juvenile homicide offender to be automatically sentenced to life imprisonment allow for no consideration of the principles stated in these Supreme Court decisions. In Tennessee, there is no sentencing hearing. There is no recognition that juveniles differ from adults. And the sentencer has no discretion to consider or impose a lesser punishment.”).

33. See Liu, *supra* note 20, at 1071; see generally Hannah Duncan, *Youth Always Matters: Replacing Eighth Amendment Pseudoscience with an Age-Based Ban on Juvenile Life Without Parole*, 131 YALE L.J. 1936 (2022) (arguing that the United States should ban sentences of life without parole for all juveniles due to pseudoscientific assumptions about youth capacity to change).

34. Liu, *supra* note 20, at 1066.

35. *Id.*

36. *Jones v. Mississippi*, 141 S. Ct. 1307, 1322 (2021).

require a sentencing hearing. Given the *Miller* court's interpretation of life without parole as the equivalent of the death penalty, it stands to reason that juveniles confronted with life without parole should be entitled to the safeguards provided in capital cases for adults.³⁷ In these hearings, these safeguards should include access to adequate counsel, mental health evaluations, and complete life history reports.³⁸ Without a sentencing hearing requirement, juveniles are not afforded adequate protections.

The outcome in *Booker* essentially defers the issue for future consideration. Alternatively, the court could have implemented measures to effectively safeguard juveniles while preserving the legislature's authority to impose suitable sentences. By incorporating a sentencing hearing—wherein the sentencer could assess the circumstances and decide if a life sentence with parole after fifty-one years is appropriate—the juvenile would receive the necessary protections. This approach would ensure that judicial actions do not undermine the legislature's role in sentencing decisions while also affording juveniles with adequate protections against cruel and unusual punishments.

CONCLUSION

State v. Booker highlights a critical juncture in the constitutional discourse surrounding juvenile sentencing. This case balances the tension between the need to protect juveniles from disproportionate punishment and the legislature's authority to determine sentencing policies. While the Tennessee Supreme Court found the mandatory sentencing requirement unconstitutional under the Eighth Amendment, it still leaves an unresolved question as to when a term-of-years sentence for a juvenile becomes the functional equivalent of life without parole.

Instead of embracing a more proactive stance by mandating sentencing hearings post-conviction for juvenile homicide cases, the court opted for a solution that defers considerations for decades, potentially compromising the timeliness and efficacy of such assessments. The more appropriate response moving forward must be to keep the current sentencing structure but require a sentencing hearing post-conviction. This approach not only allows the legislature to decide these issues, but also ensures that judges consider certain factors when sentencing minors. While scholars argue for categorical bans on life sentences for minors, the responsibility for such moral

37. Spooner & Vaughn, *supra* note 25, at 167.

38. *Id.*

and policy judgments lies with the state legislature. Nonetheless, the missed opportunity in *Booker* underscores the importance of incorporating sentencing hearings, complete with essential safeguards, to protect juveniles' constitutional rights and ensure a fair and just legal process.