

NATIONAL LEGAL PROFESSIONAL ASSOCIATES

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MEMORANDUM

TO: ALL INTERESTED COUNSEL

FROM: NATIONAL LEGAL PROFESSIONAL ASSOCIATES (NLPA)

RE: NEW LAWS TO HELP REDUCE SENTENCES OF JUVENILE OFFENDERS. THOUSANDS OF INMATES ELIGIBLE TO HAVE SENTENCES REDUCED.

NAME: JUVENILE

Inmates within the states of California, Mississippi, Louisiana and Illinois all have recently seen significant new laws regarding the sentencing of juvenile offenders following the government's attempts to obtain fairness in sentencing of offenders who were juveniles at the time of their offenses. In California, Senate Bill 260 has recently been enacted. Senate Bill 260 requires the California Board of Parole Hearings to conduct a youth offender parole hearing to consider release of offenders who committed specified crimes prior to being 18 years of age and who were sentenced to state prison. The Bill makes a person eligible for release on parole at a youth offender parole hearing during the 15th year of incarceration if the person meeting these criteria received a determinate sentence, during the 20th year if the person received a sentence that was less than 25 years to life, and during the 25th year of incarceration if the person received a sentence that was 25 years to life. The Bill requires the board, in reviewing a prisoner's suitability for parole, to give great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner in accordance with relevant case law. It is estimated that 5,000 inmates in California may be eligible for release under this law.

Such reasoning is in line with the United States Supreme Court decision issued in Graham v. Florida, 130 S.Ct. 2011 (2010) and Miller v. Alabama, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012).¹ In Graham, Justice Anthony Kennedy called life without parole an "especially harsh punishment" for a juvenile and said that while states may be permitted to keep young offenders locked up, they must give defendants "some meaningful opportunity to obtain release based on

¹Together with No. 10-9647, Jackson v. Hobbs, Director, Arkansas Department of Correction

demonstrated maturity and rehabilitation.” As such, juvenile offenders could not receive a life sentence for non-murder offenses. The Supreme Court expanded the Graham decision in its decision issued in Miller v. Alabama, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012). In Miller, the Court found that the Eighth Amendment to the United States Constitution forbade a sentencing scheme that mandated life in prison without possibility of parole for juvenile offenders, even for a murder conviction. Id. The United States Courts of Appeals for the Second, Fourth, and Eighth Circuits have granted permission to raise Miller claims in second or successive post-conviction motions because petitioners made a prima facie showing that Miller announced “a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court.”

MISSISSIPPI, LOUISIANA AND ILLINOIS

Seizing upon the expansion of the need to provide fundamental fairness in sentencing, the normally conservative bastion of Mississippi has ruled that the Miller decision is to be applied retroactively, meaning that even those inmates sentenced prior to the issuance of the Miller decision can obtain relief under the decision. Jones v. Mississippi, No. 2009-CT-02033-SCT (2013). In reaching its decision, the Mississippi Supreme Court stated that “imposition of a State’s most severe penalties on juvenile offenders can not proceed as though they were not children.” Louisiana, California and Illinois have also found the Miller decision to apply retroactively. Several other states, as well as the federal Third Circuit, are currently determining the retroactivity of the Miller decision. Several other states, as well as the Third Circuit are currently determining the retroactivity of the Miller decision.

If you have a client who was a juvenile at the time of the offense and want to determine how these new favorable laws and decisions can help your client, obtain an early release, please contact NLPA.

NLPA, WE CARE, WE LISTEN, WE GET RESULTS!

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