

SUPREME COURT OF NEW HAMPSHIRE

State of New Hampshire v. Eduardo Lopez, Jr.

Lopez · No. 2018-0104 · Decided April 20, 2021

SUMMARY

The New Hampshire Supreme Court affirmed a 45-years-to-life sentence imposed on Eduardo Lopez, Jr., who committed first-degree murder at age 17. The court held that the sentence, which allows parole consideration at age 62, is not the de facto equivalent of life without parole under the Eighth Amendment. The court also upheld the trial court's reliance on CDC life-expectancy tables and declined to adopt a bright-line rule treating sentences longer than 35 years as de facto life sentences.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Hicks, J.; Bassett, J.; Hantz Marconi, J.; Donovan, J.
JURISDICTION	New Hampshire
DECIDED	April 20, 2021
DOCKET	2018-0104
DISPOSITION	affirmed
PROCEDURAL POSTURE	The defendant appealed from an order of the Hillsborough County Superior Court ruling that his sentence of 45 years to life was not the de facto equivalent of lifetime imprisonment prohibited by the Eighth Amendment.
STANDARD OF REVIEW	Questions of constitutional law are reviewed de novo. Sentencing decisions are reviewed under the unsustainable exercise of discretion standard; the defendant must show that the trial court's ruling was clearly untenable or unreasonable to his prejudice.
PRECEDENTIAL VALUE	Published state supreme court opinion; precedential
PARTIES	Eduardo Lopez, Jr. v. State of New Hampshire

TOPICS

[sentencing](#)[cruel and unusual punishment](#)[criminal procedure](#)[standard of review](#)[appellate procedure](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a 45-year-to-life sentence imposed on a juvenile homicide offender is the de facto equivalent of life imprisonment without parole under the Eighth Amendment.
2. Whether the trial court improperly relied on general-population CDC life-expectancy tables rather than prisoner-specific life-expectancy studies.
3. Whether the Eighth Amendment requires a bright-line rule that any term-of-years sentence exceeding 35 years is the de facto equivalent of life without parole.
4. Whether the sentence required a Miller-type finding that the defendant was among the rare juvenile offenders whose crimes reflected irreparable corruption or permanent incorrigibility.

HOLDINGS

1. A 45-year-to-life sentence that permits the defendant to be considered for parole at age 62 is not, on the record presented, the de facto equivalent of life without parole under the Eighth Amendment.
2. The trial court did not abuse its discretion or act unreasonably by finding the CDC life-expectancy tables more reliable than the defendant's prisoner-based ACLU study, assuming life-expectancy evidence was relevant.
3. The court declined to create a bright-line constitutional rule that a term-of-years sentence exceeding 35 years is the de facto equivalent of life without parole.

KEY QUOTATIONS

“Accordingly, we hold that the trial court did not err in determining that the 45-year-to-life sentence it imposed, under which the defendant has an opportunity to be considered for parole when he is 62 years of age, is not a de facto life sentence under the Eighth Amendment to the Federal Constitution.” (7)

“The Supreme Court has not recognized, as a matter of constitutional law, that a term of years sentence of thirty-five years is the de facto equivalent of life without parole, and we decline to create such a rule.” (7)

“The trial court has broad discretion in choosing the types of evidence on which to rely in imposing sentence.” (6)

FACTUAL BACKGROUND

The defendant committed first-degree murder and other crimes on March 23, 1991, when he was 17 years old. He initially received a mandatory sentence of life imprisonment without parole. After resentencing under Miller, the trial court imposed 45 years to life, making him eligible for parole at age 62, and relied principally on CDC life-expectancy tables in determining that the sentence was not a de facto life sentence.

PROCEDURAL HISTORY

The defendant was convicted of first-degree murder and other crimes committed when he was 17 and initially received a mandatory sentence of life imprisonment without parole. After *Miller v. Alabama* and its retroactive application, he obtained resentencing and, following a two-day hearing in 2017, received a sentence of 45 years to life with parole eligibility at age 62. The superior court rejected his arguments that a de facto life sentence required an irreparable-corruption finding and that any minimum term exceeding 35 years was necessarily a de facto life sentence. The Supreme Court of New Hampshire affirmed.

DISPOSITION

affirmed

CASES CITED

- *State v. Lopez*, 139 N.H. 309 (1994)
- *Petition of State of N.H.*, 166 N.H. 659, 662 (2014)
- *Miller v. Alabama*, *Miller v. Alabama*, 567 U.S. 460, 465, 471, 474, 476, 479-80, 483, 489 (2012)
- *Montgomery v. Louisiana*, 136 S. Ct. 718, 732, 734, 736-37 (2016)
- *Moore v. Biter*, 725 F.3d 1184, 1192 (9th Cir. 2013)
- *State v. MacElman*, 154 N.H. 304, 307 (2006)
- *State v. Lambert*, 147 N.H. 295, 296 (2001)
- *Roper v. Simmons*, 543 U.S. 551, 560, 569-70, 578 (2005)
- *Graham v. Florida*, *Graham v. Florida*, 560 U.S. 48, 68, 74-75, 79, 82 (2010)
- *State v. Kimball*, 140 N.H. 150, 151 (1995)