The Supreme Court held 6-3 in *Montgomery v. Louisiana* that juvenile offenders sentenced to life in prison without parole before *Miller v. Alabama* (2012) was decided may have their sentences reviewed. In *Miller v. Alabama* the Court held that a juvenile may not be sentenced to life in prison without parole “absent consideration of the juvenile’s special circumstances in light of the principles and purposes of juvenile sentencing.” The Court suggested that rather than relitigating sentences states may allow relevant juvenile offenders to be eligible for parole.

In 1963 Henry Montgomery shot a deputy sheriff. He was 17 years old at the time. He was sentenced to life in prison without the possibility of parole. He was not allowed to present any mitigating evidence to receive a less severe sentence.

Per *Teague v. Lane* (1989) new substantive rules of constitutional law (as opposed to procedural rules) apply retroactively. Substantive rules prohibit a certain category of punishment for a class of defendants to be applied for certain offenses. While Justice Kennedy, writing for the majority, noted that some juveniles could still be sentenced to life in prison without parole the vast majority cannot following *Miller*.

Only the “rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility” will be sentenced to life in prison without parole. So *Miller’s* rule was substantive.

In a dissent joined by Justices Thomas and Alito, Justices Scalia claims that the Court has rewritten *Miller* from a decision requiring a juvenile’s youth to be considered in sentencing to a decision allowing only the permanently incorrigible to receive life in prison without parole sentences. “And then, in Godfather fashion, the majority makes state legislatures an offer they can’t refuse: Avoid all the utterly impossible nonsense we have prescribed [judges trying to figure out who was permanently incorrigible at the time they committed their crime] by simply ‘permitting juvenile homicide offenders to be considered for parole.’ Mission accomplished.”

About 2,000 people currently serving life sentences without parole committed their crimes as juveniles.