

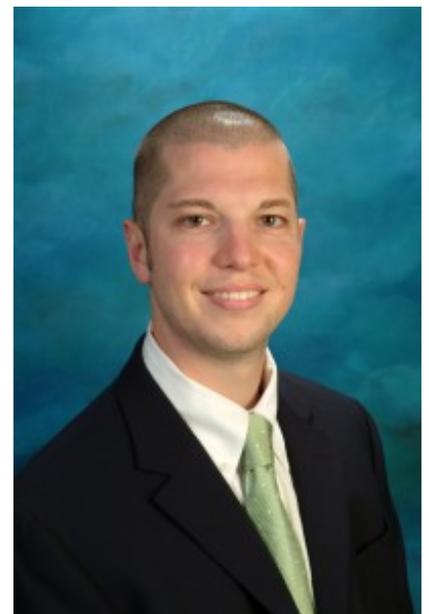
Equal Sentences for Unequal Participation: Should the Eighth Amendment Allow All Juvenile Murder Accomplices to Receive Life Without Parole?

As we await the U.S. Supreme Court decision in *Miller* and *Jackson*, it's worth reviewing the distinctions between the facts of the two cases and the corresponding doctrine and theory. Although both boys were 14 at the time of their crimes, Evan Miller was convicted of being the primary actor in the beating death of his neighbor, while Kuntrell Jackson was the lookout when two older boys robbed a video store and killed the store's clerk. The central question raised by these cases, of course, is whether it is cruel and unusual punishment to sentence a 14 year-old murderer to life in prison without the possibility of parole. A related issue, however, is whether distinctions should be made between and among cases based on the nature of the offense. Jackson was convicted under felony murder doctrine as an accomplice, while Miller was not.



The title of this post is the title of a [2008 article](#) by [Professor Brian Gallini](#) (Arkansas) that examines this very question. Here is the abstract:

No court has addressed the constitutional significance of sentencing juvenile murder accomplices who play a minimal role in the underlying killing to life in prison without parole. Indeed, no precedent makes clear whether it is cruel and unusual to impose that sentence on juvenile offenders convicted of first-degree murder pursuant to either the felony-murder doctrine or an accomplice theory of liability, notwithstanding their minimal involvement in the victim's death. To investigate this unanswered question, Part I of this Article explores the imposition of life without parole sentences on juvenile non-killers convicted of murder via either the felony-murder doctrine or accomplice liability. In doing so, Part I attempts to illustrate the problematic nature of imposing these sentences on less culpable juvenile non-killers convicted of first-degree murder by offering examples at the state and federal levels of defendants who received identical sentences yet played different roles in the victim's death.



Part II begins by outlining the evolution of the Supreme Court's interpretation of the Eighth Amendment's 'cruel and unusual' clause and continues by examining its application of the clause to juveniles. Part II concludes by evaluating the application by lower courts of the Supreme Court's Eighth Amendment jurisprudence to juvenile punishment.

Finally, Part III asserts that automatically sentencing juvenile non-killers to life in prison without parole

renders lower courts unable either to individualize the juvenile's sentence or exercise judicial discretion in an effort to do so. Part III then argues that the Supreme Court's Eighth Amendment jurisprudence provides no remedy because it is ill-equipped to handle a juvenile non-killer's Eighth Amendment challenge to a sentence of life imprisonment without parole following a murder conviction obtained pursuant to a charge of felony-murder or accomplice liability. Taken together, Part III concludes, these deficiencies allow for further erosion of the ideals underlying juvenile punishment.