

**IN THE COURT OF APPEALS OF IOWA**

No. 1-576 / 10-1815  
Filed July 11, 2012

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**CHRISTINE MARIE LOCKHEART,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Scott County, J. Hobart Darbyshire,  
Judge.

A defendant appeals her sentence of life without parole for first-degree murder and first-degree robbery, which she committed at age seventeen, as “cruel and unusual punishment” under the Eighth Amendment of the United States Constitution, and Article 1, section 17 of the Iowa constitution.

**SENTENCE VACATED, REMANDED FOR RESENTENCING.**

Gordon E. Allen of Drake Legal Clinic, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Thomas S. Tauber, Assistant Attorney General, Michael J. Walton, County Attorney, for appellee.

Heard by Vogel, P.J., and Vaitheswaran, Potterfield, Doyle, and Danilson,  
JJ.

**VOGEL, P.J.**

Christine Lockheart appeals her sentence of life without parole for first-degree murder and first-degree robbery, which she committed at age seventeen, as “cruel and unusual punishment” under the Eighth Amendment of the United States Constitution, and Article 1, section 17 of the Iowa constitution. Under the principles articulated in *Miller v. Alabama*, 2012 WL 2368659 (2012), we vacate Lockheart’s sentence and remand for resentencing.

**I. Background Facts and Proceedings**

In June 1985, a jury found Christine Lockheart guilty of first-degree murder, under a theory of aiding and abetting, and first-degree robbery, which Lockheart committed when she was seventeen years old.<sup>1</sup> She was sentenced to life in prison without the possibility of parole. Lockheart appealed from the resulting convictions, which were affirmed by this court in May 1987. *Lockheart*, 410 N.W.2d at 690. In April 2003, Lockheart applied for a commutation recommendation and in August 2005 appeared before the Iowa Board of Parole for an interview. The Board voted 5–0 against recommending Lockheart’s sentence be commuted, based in large part on Lockheart’s prison disciplinary problems.

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<sup>1</sup> Under the 1983 code, a juvenile charged with committing a forcible felony was not automatically excluded from the jurisdiction of the juvenile court. Compare Iowa Code § 232.45(6)(a) (1983) (stating the requisite procedure for the juvenile court to waive jurisdiction), with Iowa Code § 232.8(1)(c) (2011) (stating juveniles that commit forcible felonies are “excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the court transfers jurisdiction of the child to the juvenile court upon motion and for good cause”). After a hearing, the juvenile court for Scott County waived its jurisdiction over Lockheart. *State v. Lockheart*, 410 N.W.2d 688, 690 (Iowa Ct. App. 1987); see also Iowa Code § 232.45(6) (1983) (providing three factors that must be met for the juvenile court to waive its jurisdiction over a child).

On April 8, 2010, Lockheart filed a motion for correction of an illegal sentence in district court. She asserted that her sentence of life without the possibility of parole for a crime committed while she was under the age of eighteen constitutes cruel and unusual punishment, both on its face and as applied, in violation of the Eighth Amendment of the United States Constitution, and under Article I, section 17 of the Iowa constitution.<sup>2</sup> Lockheart also requested an evidentiary hearing.

A hearing was scheduled for August 26, 2010. On May 18, 2010, one day after the Supreme Court decided *Graham*, 130 S. Ct. 2011, the district court canceled Lockheart's hearing, without notice to either Lockheart or the State. Lockheart filed a motion to reconsider the cancellation, which the court denied. Lockheart then filed a motion for a new trial and a motion in arrest of judgment, again requesting an evidentiary hearing to determine facts and circumstances particular to Lockheart and her sentence. Lockheart also filed a bill of exceptions, attaching the documents that she had intended to introduce at the previously scheduled evidentiary hearing. The State resisted, and on November 9, 2010, the district court denied both of Lockheart's motions.

On November 10, Lockheart filed with our supreme court a motion seeking an administrative and supervisory order to the district court mandating an evidentiary hearing, or in the alternative, the granting of an interlocutory appeal

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<sup>2</sup> As the Iowa Supreme Court has recognized, "the federal lexicon for Eighth Amendment analysis no longer includes the terms 'facial challenge' and 'as-applied challenge.' Instead, the defendant must challenge his sentence under the 'categorical' approach or make a 'gross proportionality challenge to [the] particular defendant's sentence.'" *State v. Oliver*, 812 N.W.2d 636, 639–40 (Iowa 2012) (citing *Graham v. Florida*, 130 S. Ct. 2011, 2022 (2010)).

and an immediate remand for purposes of conducting an evidentiary hearing. The State filed a resistance. On November 18, Lockheart filed a motion for limited remand for our supreme court to direct the district court to conduct an evidentiary hearing. The State resisted this motion, and Lockheart filed a reply. On December 20, 2010, a single justice of our supreme court denied the various motions made by Lockheart. On December 27, Lockheart moved our supreme court for review of its December 20 order, which was also denied. Lockheart's appeal was subsequently transferred to this court.

On appeal, Lockheart asserts that (i) both on its face and as applied, a sentence imposed on an adolescent of life in prison without the possibility of parole is cruel and unusual punishment under the Eighth Amendment of the United States Constitution and under Article I, section 17 of the Iowa constitution, and (ii) she was not afforded procedural due process when denied a hearing to demonstrate her individual circumstances to challenge her sentence of life without the possibility of parole.

## **II. Standard of Review**

Our court reviews constitutional claims de novo. *Bonilla v. State*, 791 N.W.2d 697, 699 (Iowa 2010). We may correct an illegal sentence at any time. Iowa R. Crim. P. 2.24(5)(a); *Veal v. State*, 779 N.W.2d 63, 64–65 (Iowa 2010). “A claim that a sentence is unconstitutional because it constitutes cruel and unusual punishment is a claim of an illegal sentence and may therefore be raised at any time.” *Bonilla*, 791 N.W.2d at 699. Additionally, the ordinary rules of error preservation do not apply to claims regarding an illegal sentence. *Veal*, 779 N.W.2d at 65.

### III. Eighth Amendment Law

Lockheart contends that the mandatory imposition of life without parole is unconstitutional under the Eighth Amendment and that a denial of an opportunity to demonstrate her individual circumstances in an as-applied challenge denies her procedural due process under the federal and state constitutions.<sup>3</sup> While Lockheart's case was pending on appeal, the United States Supreme Court issued *Miller v. Alabama*, 2012 WL 2368659, at \*17, which held that the mandatory imposition of a sentence of life without parole for juvenile offenders is unconstitutional under the Eighth Amendment.

The Eighth Amendment of the United States Constitution provides, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted." *Miller* is the third in a recent line of United States Supreme Court cases specifically addressing the interplay between the Eighth Amendment and juvenile sentencing practices. The first case, *Roper v. Simmons*, 543 U.S. 551, 578–79 (2005), prohibited the death penalty for defendants who committed their crimes while under the age of eighteen. The

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<sup>3</sup> While Lockheart sets forth an argument regarding why sentencing a juvenile to life without the possibility of parole is "constitutionally objectionable" under Article I, section 17 of the Iowa constitution, she does not advance a standard for interpreting the cruel and unusual punishment provision under the Iowa constitution that differs from that of the federal constitutional analysis. For this reason, we will apply the same standards of interpretation as the United States Supreme Court. See *State v. Bruegger*, 773 N.W.2d 862, 883 (Iowa 2009) (noting where a defendant does not advance a standard for interpreting the cruel and unusual punishment provision under the Iowa constitution in a manner different from its federal constitutional counterpart, our State supreme court applies the same analysis employed by the United States Supreme Court).

As to her due process argument, Lockheart states that our court "should now recognize that in Iowa, under the Iowa and Federal Constitutions, there cannot be a categorical denial of any opportunity for this defendant to demonstrate under her particular facts and circumstances, the 'gross disproportionality' of a life sentence imposed on a [seventeen-year-old]." We note, however, that Lockheart is not advocating for independent treatment of this issue under the Iowa constitution.

second case, *Graham*, 130 S. Ct. at 2034, prohibited the imposition of a sentence of life without parole for a juvenile offender who committed a non-homicide offense. Finally, *Miller* concluded that based on these two prior lines of precedent, the *mandatory* sentencing of a juvenile to life without parole violates the Eighth Amendment. 2012 WL 2368659, \*7.

As in *Roper* and *Graham*, the Court in *Miller* focused on the relevancy of an offender's age and the circumstances of the offense in the context of Eighth Amendment jurisprudence. *Id.* at \*7–11. The Court explained,

Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surround him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional. It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him. Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys. And finally, this mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it.

*Id.* at \*11 (internal citations omitted).

While *Miller* did not foreclose the sentencing court's option to impose life without parole on a juvenile convicted of a homicide, it required consideration of "how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." *Id.* at \*12. The Court concluded,

*Graham*, *Roper*, and our individual sentencing decisions make clear that the sentencing court must have the opportunity to consider mitigating circumstances before imposing the harshest

possible penalty for juveniles. By requiring that all children convicted of homicide receive lifetime incarceration without possibility of parole, regardless of their age and age-related characteristics and the nature of their crimes, the mandatory sentencing schemes before us violate this principle of proportionality, and so the Eighth Amendment's ban on cruel and unusual punishment.

*Id.* at \*17.

#### IV. Analysis

Lockheart asked that we consider the unique characteristics of juveniles, the capacity for rehabilitation, and the diminished culpability of juvenile offenders to find that her sentence of life without parole constitutes cruel and unusual punishment under the Eighth Amendment. She also requested an evidentiary hearing, which the district court had denied.<sup>4</sup>

Under *Miller*, mandatory imposition of the entirety of Lockheart's sentence under section 902.1—"life without the possibility of parole"—violates the United States Constitution. We note, however, that *Miller* does not impose a categorical ban on a sentence of life without parole for juvenile homicide offenders. Instead, it requires that prior to sentencing a juvenile to life without parole, the sentencing court take into consideration any mitigating circumstances—namely an offender's status as a juvenile and the numerous characteristics that accompany this status. *Id.* at \*17. Under the principles articulated in *Miller* we vacate Lockheart's sentence and remand for resentencing.

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<sup>4</sup> We find a *Bruegger* hearing unnecessary in this case because based on *Miller*, Lockheart's mandatory sentence to life without parole is unconstitutional, and therefore requires no further determination by the district court regarding whether the *mandatory* imposition of life without parole should be permitted. See *Bruegger*, 773 N.W.2d at 884–85 (stating that an individualized hearing may be necessary in some instances to determine whether the punishment imposed should be permitted); see also *Miller*, 2012 WL 2368659, \*17 (holding mandatory life without parole sentences for juveniles unconstitutional).

## V. Remand Considerations

In *Bonilla v. State*, 791 N.W.2d 697, 703 (Iowa 2010), our supreme court applied *Graham* to set aside as unconstitutional juvenile offender Julio Bonilla's sentence of life without parole. This sentence was based on Bonilla's conviction for kidnapping in the first degree—a non-homicide crime—committed when he was sixteen years old. *Bonilla*, 791 N.W.2d at 699. Bonilla was sentenced pursuant to Iowa Code section 902.1, which precluded the possibility of parole other than by commutation by the governor; the court found this violative of the federal constitution. *Id.* at 701. The remedy crafted by the court ordered that Bonilla continue to serve a life sentence, but the court struck the provision that had foreclosed the possibility of parole. *Id.* at 702. While that remedy was appropriate in accordance with the prevailing case law under *Graham* for non-homicide offenders, under the broader holding of *Miller*, severance of “without parole” is merely a suggested option. *Miller*, 2012 WL 2368659, at \*4.

We therefore vacate Lockheart's sentence and remand for individualized resentencing in accordance with the process articulated in *Miller*, whereby the sentencing court shall “have the opportunity to consider mitigating circumstances before imposing the harshest possible penalty for juveniles.”<sup>5</sup> See *id.* at \*17.

### **SENTENCE VACATED, REMANDED FOR RESENTENCING.**

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<sup>5</sup> As in *Miller*, we need not reach the alternative argument Lockheart makes, that life without parole imposed on a juvenile is categorically a violation of the Eighth Amendment. *Miller*, 2012 WL 2368659, at \*12.