

Terry Lenamon on the Death Penalty

Sidebar with a Board Certified Expert Criminal Trial Attorney



Terence M. Lenamon is a Florida Bar certified expert in the area of criminal trial law. With over 17 years experience he has built a reputation as one of Florida's most respected criminal defense lawyers. His defense has been sought by many high-profile clients and has led him through 20 first-degree murder trials and eight death penalty cases. That experience has brought him national recognition as a go-to commentator on death penalty issues. He is the force behind both deathpenaltyblog.com and Florida Capital Resource Center (floridacapitalresourcecenter.org), and can be reached at terry@lenamonlaw.com.

Mercy Shown by the U.S. Supreme Court to Juvies This Week

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Mercy is the bottom line in a death penalty defense case, from the perspective of the sentencing phase of a case.

Mercy -- that elusive concept.

So elusive, in fact, that the law has seen fit to have legislatures basically define what mercy will be in death penalty cases, as various [mitigation factors \("mitigators"\) are defined as lists given in various statutes](#). Find one or more of these factors in a case, then you've found where the mercy lies. Simple as that.

This week, the United States Supreme Court issued a 6-3 opinion in [Graham v. Florida](#). No, it was not a death penalty case *per se*. Unless you consider - as many people do - that sentencing a youth under the age of legal adulthood to life in prison without the possibility of parole to be tantamount to a death sentence.

Graham v. Florida -- The Background of the Case

Several years ago, a 16 year old boy named Terrance Jamar Graham, the offspring of two crack addicts and diagnosed early on with Attention Deficit Disorder, tried to rob a Jacksonville barbeque joint with three of his buddies and got caught.

Under Florida law, the state's attorney had the power to decide whether this boy would be tried as a juvenile or as an adult. Choice: adult.

A plea deal was made. Graham pled guilty to two felonies. He wrote a letter to the trial judge, which the opinion (page 2, slip opinion) recites in part:

"this is my first and last time getting in trouble...I've decided to turn my life around....I made a promise to God and myself that if I get a second chance, I'm going to do whatever it takes to get into the NFL."

Terrance Graham was released as the trial court accepted the plea agreement and withheld adjudication, allowing the teenager credit for 12 months he'd already sat in jail awaiting trial. He was out on probation.

Less than two months later, Terrence was arrested again - this time, for a home invasion robbery. He and two pals robbed one home, and attempted to rob another, with one of the buddies getting shot somewhere along the way. Terrence drove the boy to the hospital and drove off, tried to flee from a cop, and crashed his dad's car into a phone pole.

He was 34 days short of his 18th birthday.

Around a year later, Graham was sentenced - and that deferred adjudication from his first arrest came back to the table. In spite of the recommendations of the Florida Department of Corrections and the arguments of the defense counsel, Graham was sentenced to life imprisonment.

Because of Florida's lack of a parole system (abolished earlier), this meant that the 18 year old would be spending the rest of his life behind bars unless the Governor granted clemency.

Cruel and Unusual Punishment

This week, the High Court ruled that it is unconstitutional to sentence young men and women to life imprisonment unless they are guilty of killing someone else (murder).

This will have a major impact upon the State of Florida, since [the majority of those who will be impacted by this ruling are incarcerated here](#).

How this will be implemented from a practical perspective remains to be seen. (Justice Thomas, in his dissent, is particularly concerned with the logistics here.) Even the High Court majority points out that this is not a Get Out of Jail Free card, but instead an invitation for an individual to demonstrate "maturity and rehabilitation" that warrants a return to freedom.

Mercy is Shown

However, from a mitigation point of view, this result is one of mercy. And, in the law-filled with sentencing guidelines, aggravating circumstances, and confining economic concerns - clear cut examples of what mercy is and how it is being shown need to be gathered and studied and remembered.

Mercy means going through the histories of individuals - and usually learning horrors they've experienced in the past. It means giving a chance with the risk that things may go wrong down the road.

Mercy is the heart's blood of our criminal justice system. Bottom line, this week's ruling was a victory for us all - and perhaps, a chance for a new and productive life for Mr. Graham after the bad choices of his teenage years.