

10-9647 JACKSON V. HOBBS

DECISION BELOW: 2011 Ark. 49

LOWER COURT CASE NUMBER: 09-145

QUESTION PRESENTED:

Kuntrell Jackson has been sentenced to life imprisonment without the possibility of parole for an offense committed when he was fourteen years old. He is one of only 73 fourteen-year-olds serving such a sentence throughout the United States. His case presents an ideal vehicle for this Court's consideration of the question left undecided by *Graham v. Florida* and *Sullivan v. Florida* - whether the Eighth Amendment forbids a life-without-parole sentence for a young juvenile convicted of a homicide offense - because, while Kuntrell's offense did involve a homicide, he was convicted only on the theory that he was an accomplice to a robbery in which an older boy shot a shop attendant. Kuntrell himself did not commit the killing and was not shown to have had any intent or awareness that the attendant would be shot. The robbery "plan," such as it was, was spur-of-the-moment, formed just before the robbery, while Kuntrell, his cousin, and another older teen were walking together through a housing project. Because Arkansas law made a life-without-parole sentence mandatory upon Kuntrell's homicide conviction, neither his age nor any of these other mitigating circumstances could be considered by his sentencer. Under these circumstances, the questions presented are:

1. Does imposition of a life-without-parole sentence on a fourteen-year-old child convicted of homicide violate the Eighth and Fourteenth Amendments' prohibition against cruel and unusual punishments, when the extreme rarity of such sentences in practice reflects a national consensus regarding the reduced criminal culpability of young children?
2. Does such a sentence violate the Eighth and Fourteenth Amendments when it is imposed upon a fourteen-year-old who did not personally kill the homicide victim, did not personally engage in any act of physical violence toward the victim, and was not shown even to have anticipated, let alone intended, that anyone be killed?
3. Does such a sentence violate the Eighth and Fourteenth Amendments when it is imposed upon a fourteen-year-old as a result of a mandatory sentencing scheme that categorically precludes consideration of the offender's young age or any other mitigating circumstances?

THIS CASE TO BE ARGUED IN TANDEM WITH NO. 10-9646.
CERT. GRANTED 11/7/2011