

# Court bars mandatory life without parole for youths, rejects cross case

By Nancy Frazier O'Brien

*Catholic News Service*

WASHINGTON - The U.S. Supreme Court ruled June 25 that mandatory life sentences without possibility of parole for crimes committed by juveniles are an unconstitutional violation of the Eighth Amendment's ban on cruel and unusual punishment.

Such sentences prevent judges "from taking account of an offender's age and the wealth of characteristics and circumstances attendant to it," including immaturity, "failure to appreciate risks and consequences," home environment and the degree to which the juvenile participated in the crime, said the 5-4 majority opinion written by Justice Elena Kagan.

The decision was announced on the next-to-last working day of the court's 2011-12 term, when the justices also accepted or rejected dozens of cases for their next term beginning in October. On the final day of the term, June 28, the court's decision on four cases related to the Patient Protection and Affordable Care Act were to be announced.

One of the cases turned down June 25 involved the Mount Soledad Cross, located on federal land near San Diego. A three-judge panel of the 9th U.S. Circuit Court of Appeals ruled in January 2011 that having the cross on public land violated the Establishment Clause of the First Amendment and sent the case back to U.S. District Judge Larry Burns in San Diego, who had ruled in favor of the government in 2008.

Justice Samuel Alito explained the court's rationale for turning down the case, saying it "remains unclear precisely what action the federal government will be required to take."

But he indicated that once that determination is made, the Supreme Court would likely accept the case for consideration.

“This court’s Establishment Clause jurisprudence is undoubtedly in need of clarity, ... and the constitutionality of the Mount Soledad Veterans Memorial is a question of substantial importance,” Alito wrote. “Our denial, of course, does not amount to a ruling on the merits, and the federal government is free to raise the same issue in a later petition following entry of a final judgment.”

In the juvenile justice cases, *Miller v. Alabama* and *Jackson v. Hobbs*, both defendants were 14 years old at the time of their crimes and both were convicted of capital murder, triggering a mandatory sentence of life without possibility of parole. The cases continued a trend by the high court to require individualized sentencing of juveniles.

In 2005, the court struck down the death penalty for those who committed crimes while juveniles. In 2010, a Supreme Court majority said juveniles must have a possibility of being released when imprisoned for crimes other than murder.

Justices Anthony Kennedy, Ruth Bader Ginsburg, Stephen Breyer and Sonia Sotomayor joined Kagan in the majority opinion, with a separate concurring opinion by Breyer and Sotomayor. Chief Justice John Roberts and Justices Clarence Thomas and Samuel Alito each issued separate dissenting opinions, with Justice Antonin Scalia joining in the Alito dissent.

“Today’s decision invalidates a constitutionally permissible sentencing system based on nothing more than the court’s belief that ‘its own sense of morality pre-empts that of the people and their representatives,’” Thomas wrote.

*Copyright (c) 2012 Catholic News Service/U.S. Conference of Catholic Bishops*