

Circuit Court for Baltimore City  
Case No. 000101243067

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2528

September Term, 2016

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MICHAEL FARMER

v.

STATE OF MARYLAND

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Berger,  
Arthur,  
Beachley,

JJ.

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Opinion by, Beachley, J.

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Filed: July 2, 2019

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

After pleading guilty to two counts of first-degree murder in the Circuit Court for Baltimore City, appellant Michael Farmer was sentenced in 2003 to two consecutive terms of life imprisonment. Appellant's application for leave to appeal was denied in 2004. Appellant was seventeen years old at the time of the murders.

Appellant filed a *pro se* motion to correct illegal sentence in 2014, and on August 1, 2016, with the assistance of counsel, he filed a Supplement to *Pro Se* Motion to Correct Illegal Sentence and Request for Hearing. In his supplemental motion, appellant contended that his sentence was unconstitutional under the Eighth Amendment of the United States Constitution and the Maryland Declaration of Rights because Maryland's parole system rendered his two life sentences the functional equivalent of life without parole. Relying on Supreme Court cases interpreting the Eighth Amendment, appellant claimed his sentence was unconstitutional because he committed his crimes as a juvenile. In a written opinion dated December 19, 2016, the circuit court rejected appellant's arguments. Appellant timely appealed and filed his opening brief on September 8, 2017. On November 16, 2017, this Court stayed appellant's appeal pending the Court of Appeals' decision in *Carter v. State*, No. 54, Sept. Term, 2017; *Bowie v. State*, No. 55, Sept. Term, 2017; and *McCullough v. State*, No. 56, Sept. Term, 2017. On August 29, 2018, the Court of Appeals issued an opinion in *Carter v. State*, 461 Md. 295 (2018) *reconsideration denied* (Oct. 4, 2018). On November 14, 2018, this Court lifted the stay, and on January 7, 2019, appellant filed a supplemental brief raising additional arguments. Because our appellate courts have addressed—and rejected—all of appellant's arguments, we affirm.

## **BACKGROUND**

### *Graham: Juvenile Nonhomicide Offenders*

The Supreme Court first addressed the constitutionality of a juvenile offender’s life without parole sentence in *Graham v. Florida*, 560 U.S. 48 (2010). There, the State of Florida sentenced Graham, a juvenile *nonhomicide* offender, to life in prison. *Id.* at 52-53, 57. Because Florida had abolished its parole system, Graham’s life sentence effectively became life without the possibility of parole—his only opportunity for release was through executive clemency. *Id.* at 57. In reviewing whether Graham’s life without parole sentence violated the Eighth Amendment’s proscription on cruel and unusual punishment, the Supreme Court found that: 1) the practice of sentencing juvenile *nonhomicide* offenders to life without parole was “as rare as other sentencing practices found to be cruel and unusual,” *id.* at 66; and 2) that no penological theory could justify a sentence of life without parole for a juvenile *nonhomicide* offender. *Id.* at 71.

Consequently, the Supreme Court held that, “A State is not required to guarantee eventual freedom to a juvenile offender convicted of a nonhomicide crime. What the State must do, however, is give defendants like Graham some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.” *Id.* at 75. The Supreme Court ultimately concluded that a juvenile *nonhomicide* offender could not be sentenced to life without the possibility parole. *Id.* at 82.

### *Miller: Juvenile Homicide Offenders*

After concluding that a juvenile nonhomicide offender could not be sentenced to life without parole in *Graham*, the Supreme Court next considered whether a juvenile

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*homicide* offender could *mandatorily* receive such a sentence. In *Miller v. Alabama*, 567 U.S. 460, 465 (2012), two fourteen-year-old offenders were convicted of murder and, pursuant to state sentencing schemes, received mandatory life without parole sentences.

In holding these sentences unconstitutional, the Supreme Court noted that, in light of *Graham*'s reasoning, mandatory sentencing schemes prevented sentencing judges from "taking account of an offender's age and the wealth of characteristics and circumstances attendant to it." *Id.* at 476. Accordingly, the Supreme Court concluded that "the Eighth Amendment forbids a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders." *Id.* at 479 (citing *Graham*, 560 U.S. at 75). The Court noted, however, that "Although [it did] not foreclose a sentencer's ability to make that judgment in homicide cases, [the Court] require[d] it to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." *Id.* at 480.

#### Montgomery: Miller Applies Retroactively

In *Montgomery v. Louisiana*, \_\_\_ U.S. \_\_\_, 136 S. Ct. 718, 732 (2016), the third case concerning life without parole sentences for juvenile offenders, the Supreme Court held that "*Miller* announced a substantive rule that is retroactive in cases on collateral review." Although the Supreme Court held that *Miller* applied retroactively, its holding did "not require States to relitigate sentences, let alone convictions, in every case where a juvenile offender received mandatory life without parole." *Id.* at 736. Rather, the Court stated that "A State may remedy a *Miller* violation by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them." *Id.*

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Carter: Maryland’s Sentencing and Parole Scheme is Constitutional

Finally, in *Carter*, the Court of Appeals reviewed Maryland’s sentencing and parole scheme in light of *Graham*, *Miller*, and *Montgomery*, and concluded that it was constitutional. *Id.* at 365.

**DISCUSSION**

**I. CARTER DICTATES THAT APPELLANT’S PAROLABLE LIFE SENTENCES ARE NOT ILLEGAL**

In his opening brief, appellant asserts “that his life sentences are unconstitutional under the Eighth Amendment and recent Supreme Court decisions, *Graham v. Florida*, 560 U.S. 48 (2010), *Miller v. Alabama*, 567 U.S. 460 (2012), and *Montgomery v. Louisiana*, 577 U.S. \_\_\_, 136 S. Ct. 718 (2016), establishing constitutional limits on the sentencing of juvenile offenders.” Specifically, appellant “argues that in Maryland’s system for releasing inmates from life sentences his life sentences are the functional equivalent of a life without parole sentence,” which he claims violates “the requirements established in *Miller* and *Montgomery*.”

As stated above, however, the Court of Appeals addressed the application of *Miller* and *Montgomery* to parolable life sentences for juvenile homicide offenders in *Carter*, and held that juvenile homicide offenders’ life sentences with parole are constitutional because “the laws governing parole of inmates serving life sentences in Maryland, including the parole statute, regulations, and a recent executive order adopted by the Governor, on their face allow a juvenile offender serving a life sentence a ‘meaningful opportunity to obtain

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release based on demonstrated maturity and rehabilitation.” 461 Md. at 307. We therefore reject appellant’s argument that his life sentences are unconstitutional and illegal.

**II. HOLLY CONCLUSIVELY REJECTS APPELLANT’S CLAIMS TO PROCEDURAL RIGHTS IN THE CONTEXT OF PAROLE**

Apparently recognizing that *Carter* resolved the arguments he raised in his opening brief, in his reply brief appellant asserts that his sentences remain unconstitutional because Maryland’s parole system does not provide him the opportunity to demonstrate maturity and rehabilitation to obtain release. Specifically, appellant contends that he has a liberty interest in a “meaningful opportunity to obtain release,” which he claims implicates the Due Process Clause of the Fourteenth Amendment. In appellant’s view, due process affords juvenile offenders the right to state-furnished counsel, public funds for experts, and judicial review in the context of parole. His arguments are virtually identical to those raised by the appellant in *Holly v. State*, \_\_\_ Md. App. \_\_\_, No. 1720, Sept. Term, 2017 (Ct. of Spec. App. June 26, 2019), *i.e.*, that Maryland’s parole system is constitutionally deficient because it does not provide a right to state-furnished counsel at parole hearings, public funds for experts, or judicial review of parole decisions. Writing for the Court in *Holly*, Judge Berger explicitly rejected those arguments. We adopt *Holly*’s reasoning and hold that the circuit court did not err in denying appellant’s motion to correct illegal sentence.

**JUDGMENT OF CIRCUIT COURT FOR  
BALTIMORE CITY AFFIRMED. COSTS  
TO BE PAID BY APPELLANT.**