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Cover Page Footnote

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MAKING ROOM FOR JUVENILE JUSTICE: THE SUPREME COURT’S DECISION IN *MONTGOMERY V. LOUISIANA*

Chelsea S. Gumaer*

I. INTRODUCTION

Brendan Dassey, the child star of Netflix’s documentary series “Making a Murderer,” was convicted for assisting his uncle in murdering Teresa Halbach.¹ Reasoning that Dassey’s youth, his unfamiliarity in dealing with the police, and his low IQ made him particularly susceptible to the coercive tactics employed by those interrogating him, the judge overturned his conviction on August 12, 2016—nearly a decade after the 16-year-old boy was convicted.² This headline case highlights the Supreme Court’s recent reevaluation of juveniles in the eyes of the criminal justice system, a trend made especially clear in the 2016 case of *Montgomery v. Louisiana*.³

In *Montgomery*, the Court heard the challenge of a 65-year-old man who was sentenced to life in prison without parole for a crime he committed at the age of seventeen.⁴ The Court held that the rule laid out in its earlier decision of *Miller v. Alabama*,⁵ that the Eighth Amendment precluded mandatory sentences of life in prison without the possibility of parole,⁶ could be applied retroactively to juveniles that were sentenced years—even decades—before *Miller* was decided.⁷ In doing so, the Court not only recognized the psychological

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1. *E.g.* Dassey v. Dittmann, No. 14-CV-1310, 2016 WL 4257386, at *17, *35 (E.D. Wis. Aug. 12, 2016).

2. *Id.*

3. 136 S. Ct. 718, 725 (2016).

4. *Id.* at 725–26.

5. 132 S. Ct. 2455, 2460 (2012).

6. *Id.* at 2460.

7. *Montgomery*, 136 S. Ct. at 736.

and legal differences between juveniles and adults, adhering to the same reasoning used by the *Miller* court, but went on to seemingly expand the scope of habeas corpus relief available to prisoners who were convicted, and whose collateral appeals were denied, under state law.⁸ It is this latter point that was the main area of contention between the majority and the dissenting justices, who favored finality⁹ and federalism¹⁰ over retroactivity. To this point, the majority reasoned that its authority to decide the case, and the petitioner's ability to take advantage of the *Miller* rule nearly fifty years after his indictment, was clearly established by the constitutional undertones of *Teague v. Lane*,¹¹ a case which limited retroactive application of new rules in the context of federal habeas corpus relief.¹²

This Comment explores *Montgomery* and argues that the majority was correct in holding that collateral courts must apply new substantive rules of constitutional law retroactively, and that the rule laid out in *Miller* is one such rule. Part II establishes the historical background upon which the majority's decision rests, focusing on the previously narrow exceptions to habeas relief laid out in *Teague* and briefly outlining the Court's decision in *Miller*. Part III details what happened in *Montgomery*'s case. Part IV describes the Court's justification for reviewing a state court's collateral proceedings, as well as the Court's ability to impose the *Miller* rule retroactively. Finally, Part V analyzes what this case says about the Court's stance on habeas corpus relief, arguing that this may be the Court's attempt to reposition itself as a more habeas-friendly forum.

II. HISTORICAL FRAMEWORK

A. Habeas Corpus Relief

Habeas corpus relief is the result of a collateral attack¹³ brought by a convicted prisoner whose sentence has already been made final.¹⁴ Established originally as a common law writ, habeas relief has been

8. *Id.* at 728.

9. *See id.* at 739 (Scalia, J., dissenting).

10. *See id.* at 745 (Thomas, J., dissenting).

11. 489 U.S. 288 (1989).

12. *Montgomery*, 136 S. Ct. at 736.

13. 39 C.J.S. *Habeas Corpus* § 171 (2016) ("A proceeding in habeas corpus which attacks the judgment or sentence of a criminal trial is, with respect to this judgment or sentence, a collateral attack.").

14. *Teague*, 489 U.S. at 306 (quoting *Mackey v. United States*, 401 U.S. 667, 682–83 (1971)).

federally codified,¹⁵ as well as recognized by states in their own collateral proceedings.¹⁶ Originally, federal habeas courts reviewed state court convictions with fresh eyes, determining whether the state court was correct in its analysis of the defendant's case.¹⁷ However, federal courts quickly changed course following the Supreme Court decision of *Teague v. Lane* and the enactment of the Antiterrorism and Effective Death Penalty Act of 1996 (hereinafter the "AEDPA"),¹⁸ which placed "a new constraint on the power of a federal habeas court to grant a state prisoner's application for a writ of habeas corpus," by limiting the scope of the federal court's power to review the state court's decision.¹⁹ In *Teague*, the Court addressed whether it was required to apply new rules of law retroactively to cases pending on collateral review at the time the new rules were announced.²⁰ The Court held that, generally, a new constitutional rule does not apply retroactively to convictions that were final at the time the new rule was announced.²¹ However, *Teague* explained that courts must "give retroactive effect to new substantive rules of constitutional law,"²² as well as procedural rules that implicate the fairness and accuracy of the prisoner's trial process.²³ It was against this backdrop that the *Montgomery* Court made its decision.

B. *The Miller Decision*

Like *Montgomery*, the *Miller* case, too, involved petitions for habeas relief by defendants sentenced as juveniles. Unlike *Montgomery*, however, the *Miller* Court created a new substantive rule

15. See 28 U.S.C. § 2254 (2012).

16. See, e.g., CAL. PENAL CODE § 1473 (West 2015); TEX. CODE CRIM. PROC. ANN. art. 11.01 (West 2015); LA. CODE CRIM. PROC. ANN. arts. 882, 926 (2008).

17. See *Brown v. Allen*, 344 U.S. 443, 463 (1953) (reasoning that federal judges must determine if a "satisfactory conclusion has been reached" under the record viewed by the state court).

18. Pub. L. No. 104-132.

19. *Williams v. Taylor*, 529 U.S. 362, 411-13 (2000) ("[A] federal habeas court may not issue the writ simply because that court concludes in its independent judgment that the relevant state-court decision applied clearly established federal law erroneously or incorrectly. Rather, that application must also be unreasonable.").

20. *Teague*, 489 U.S. at 295-96.

21. *Id.*

22. See *Montgomery v. Louisiana*, 136 S. Ct. 718, 728 (2016) (citing *Teague*, 489 U.S. 288). Unlike procedural rules, which govern the manner in which a defendant could be found guilty for their illegal conduct, substantive rules are those that interpret the Constitution and may prohibit a state from punishing a certain type of conduct altogether. *Id.*

23. *Teague*, 489 U.S. at 295.

of law, instead of attempting to retroactively apply a new rule of law. The *Miller* decision came after two other Supreme Court decisions aimed at reducing the severity of juvenile sentencing. First, in *Roper v. Simmons*, the Court held that juveniles could not be sentenced to death.²⁴ Next, in *Graham v. Florida*, the Court held that life in prison without parole (hereinafter “LWOP”) was an unconstitutional sentence for juvenile non-homicide offenders.²⁵ These cases left open the question to be decided by the Court in *Miller*: whether a juvenile could be sentenced to LWOP under a mandatory sentencing scheme.

Miller consolidated the habeas proceedings of two boys who were sentenced to LWOP pursuant to their respective states’ mandatory sentencing schemes.²⁶ The defendants in *Miller* argued that a mandatory sentence of LWOP violated the Eight Amendment when applied to 14-year-old children.²⁷ The majority agreed, reasoning that mandatory schemes prevent sentencing courts from considering a defendant’s youth and corresponding attributes, and by doing so, automatically impose the harshest punishment available.²⁸ To emphasize this point, the Court analogized LWOP for a child offender to that of the death penalty for an adult.²⁹ However, unlike children sentenced to LWOP, adults sentenced under the death penalty receive individualized sentencing that provides them an opportunity to present mitigating factors.³⁰

The Court concluded that mandatory sentencing schemes for juveniles “pose too great a risk for disproportionate punishment.”³¹ It reasoned that “[m]andatory 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.”³² Although stating that it was not imposing a categorical bar on LWOP for juvenile offenders, it held that this

24. 543 U.S. 551, 569 (2005).

25. 560 U.S. 48 (2010).

26. *Miller v. Alabama*, 132 S. Ct. 2455, 2462–63 (2012).

27. *See id.*

28. *Id.* at 2466.

29. *Id.*

30. The *Miller* court borrowed the reasoning of the court in *Graham*. *Id.* at 2467 (citing *Graham*, 560 U.S. at 89–90).

31. *Miller*, 132 S. Ct. at 2469.

32. *Id.* at 2468.

sentence could not—and would not—be applied, except in the *rarest* of cases.³³

III. STATEMENT OF THE CASE

At the age of seventeen, Henry Montgomery murdered deputy sheriff Charles Hurt, in East Baton Rouge, Louisiana.³⁴ On February 6, 1969, a jury convicted Montgomery of murder without capital punishment, triggering an automatic sentence of LWOP as required by Louisiana law.³⁵ On June 25, 2012, almost 50 years after Montgomery was sentenced, the Supreme Court held that mandatory sentences of LWOP violate the Eighth Amendment’s prohibition on “cruel and unusual punishments,” when the accused was under the age of eighteen at the time he or she committed the crime.³⁶ This new rule formed the basis of the argument underlying Montgomery’s motion to correct an illegal sentence, which he filed in Louisiana state court.³⁷

Under Louisiana law, prisoners may challenge their sentences collaterally by filing a motion to correct an illegal sentence in the state trial court where the prisoner was convicted and sentenced.³⁸ These state collateral review courts hear claims challenging already-final convictions that were recently deemed unconstitutional under the Eighth Amendment by the United States Supreme Court.³⁹ Montgomery did just that, arguing that *Miller* decreed his mandatory sentence illegal.⁴⁰

The East Baton Rouge Parish District Court denied Montgomery’s motion, ruling that *Miller* does not apply retroactively

33. *Id.* at 2469.

34. *Montgomery v. Louisiana*, 136 S. Ct. 718, 725 (2016).

35. *Id.* at 725–726. Montgomery was originally convicted of murder and sentenced to death; however, this conviction was reversed, and a new trial required, after the Louisiana Supreme Court found that public prejudice caused an unfair trial. *See State v. Montgomery*, 47895 (La. 01/17/66); 181 So. 2d 756.

36. *Miller*, 132 S. Ct. at 2460.

37. *Montgomery*, 136 S. Ct. at 726–27.

38. *Id.* at 726; LA. CODE CRIM. PROC. ANN. art. 882 (2008).

39. For example, in *State v. Shaffer*, the Louisiana Supreme Court deleted the portion of a prisoner’s sentence that did not afford him the opportunity for parole in order to follow the United States Supreme Court’s constitutional mandate that mandatory life without parole convictions are unconstitutional for non-homicidal juvenile convicts. *State v. Shaffer*, 2011-1756 (La. 11/23/11); 77 So. 3d 939, 942–43 (2011) (applying the rule given by *Graham v. Florida*, 560 U.S. 48, 74 (2010), to a prisoner’s already final conviction of life in prison without parole); *see Montgomery*, 136 S. Ct. at 726–27.

40. *Montgomery*, 136 S. Ct. at 727.

on state collateral review.⁴¹ The Louisiana Supreme Court agreed, affirming the trial court's determination that *Miller* does not apply to a state court's collateral review because *Miller* simply announced a procedural rule of law.⁴² Montgomery then filed a writ for certiorari, asking the United States Supreme Court to address whether *Miller* announced a substantive rule of law that applies retroactively to a state court's collateral review proceeding, which would render his mandatory sentence of LWOP illegal.⁴³

IV. THE SUPREME COURT'S REASONING

A. *The Majority Opinion: Jurisdiction*

Two issues had to be addressed by the Court in *Montgomery*. First, because Montgomery's collateral challenge was decided pursuant to Louisiana's state law defining collateral proceedings, did the Court have jurisdiction to decide whether the Louisiana state court erred in refusing to apply a new rule of constitutional law retroactively?⁴⁴ Second, assuming the Court did have jurisdiction to rule on the state court decision, is *Miller*'s prohibition on mandatory life in prison without parole for juvenile offenders a substantive rule that must be applied retroactively?⁴⁵

Justice Kennedy, writing for a five-justice majority, answered both questions in the affirmative.⁴⁶ In answering the first question, the majority looked to the rule laid out in *Teague*.⁴⁷ The majority's reasoning hinged on the first exception to *Teague*'s general rule precluding retroactive application, holding that "when a new substantive rule of constitutional law controls the outcome of a case, the Constitution requires state collateral review courts to give retroactive effect to that rule."⁴⁸ In so holding, the majority rejected the argument that *Teague*'s rule does not apply to a state collateral

41. *Id.*

42. The Louisiana Supreme court relied on its previous decision in *State v. Tate*, 12–2763 (La. 11/5/13); 130 So.3d 829, which held that *Miller* did not apply retroactively because it laid out a procedural rule of law which, under *Teague*, could not be applied retroactively in a collateral review proceeding. *Montgomery*, 136 S. Ct. at 727.

43. *Montgomery*, 136 S. Ct. at 727.

44. *Id.*

45. *Id.*

46. *Id.* at 732, 736.

47. *See supra* Section II(A).

48. *Montgomery*, 136 S. Ct. at 729.

review proceeding brought under state statute because *Teague* ruled on a challenge to a proceeding in federal court brought under a federal statute.⁴⁹ Instead, the majority found that *Teague* left unanswered whether its two exceptions are binding on the states.⁵⁰ The Court articulated that because the Constitution mandates that substantive rules of law have retroactive effect, these substantive rules are binding on state courts regardless of what type of proceeding the rules are presented in.⁵¹ In other words, even when a state court is applying its state's law governing collateral proceedings, that state court is bound by the Supreme Court's new substantive rules of constitutional law.⁵² The majority explained that these substantive constitutional rules protect a prisoner from being penalized for conduct that is now "constitutionally immune from punishment."⁵³ Simply put, "a conviction under an unconstitutional law is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment."⁵⁴ Because of this, "a court has no authority to leave in place a conviction or sentence that violates a substantive rule, regardless of whether the conviction or sentence became final before the rule was announced."⁵⁵ Following this analysis, the next question the Court had to address seemed relatively simple.

B. Miller Announced a Substantive Rule of Law that Requires Retroactive Application.

After establishing that the Supreme Court had jurisdiction to determine whether substantive rules interpreting the Constitution could be applied retroactively in state collateral proceeding, the Court next had to decide if the rule articulated in *Miller* qualified as

49. *Id.* at 728–29.

50. *Id.* at 729.

51. The Court reasoned that the Supremacy Clause of the Constitution affords state courts no greater power than federal habeas courts to force a prisoner to remain incarcerated under a law that is unconstitutional. *Id.* at 729, 731–32. It further opined that if state courts allow claims controlled by federal law to be brought by prisoners in their state collateral proceedings, then the state courts must apply the substantive constitutional rules that govern the outcome of the issues raised. *Id.*

52. The majority reasoned that there are substantive rules that "set forth categorical constitutional guarantees that place certain criminal laws and punishments altogether beyond the State's power to impose. It follows that when a State enforces a . . . penalty barred by the Constitution, the resulting conviction or sentence is, by definition, unlawful." *Id.* at 729–30.

53. *Montgomery*, 136 S. Ct. at 730 (quoting *United States v. U.S. Coin & Currency*, 401 U.S. 715, 724 (1971)).

54. *Id.* at 724 (quoting *Ex parte Siebold*, 100 U.S. 371, 376–77 (1879)).

55. *Id.*

sufficiently substantive. The Court repeated that a substantive rule of law is one that both forbids punishment of certain conduct, and one that prohibits a certain category of punishment for a group of defendants based on their status or offense.⁵⁶ Thus, substantive rules of law protect against disproportionate punishments that violate the Eighth Amendment.⁵⁷ The rule announced by *Miller*, the Court reasoned, did just that: it deemed a sentence of LWOP an unconstitutional sentence for all but the rarest juvenile offenders.⁵⁸

Finding that *Miller*'s prohibition on this punishment for juveniles was a substantive rule of law, the Court acknowledged that there are procedural components inherent in the *Miller* decision,⁵⁹ but that these procedural requirements do not undermine the substantive heart of the decision, that "children are constitutionally different from adults for purposes of sentencing."⁶⁰ Granting prisoners convicted as juveniles a hearing where their age and attendant characteristics are considered only gives effect to the substantive rule of constitutional law proscribed in *Miller*: "that life without parole is an excessive sentence for children whose crimes reflect transient immaturity."⁶¹ In conclusion, the majority found *Miller* is a substantive rule of constitutional law that, under *Teague*, must be applied retroactively to convictions challenged collaterally.⁶²

C. *The Dissenting Opinions*

Both Justice Scalia and Justice Thomas took issue with the majority's discussion of the Court's jurisdiction to decide the case. Justice Scalia pointed out that the cases cited by the majority for the proposition that new constitutional rules must be applied retroactively dealt with issues *pending on direct review*.⁶³ He reasoned that collateral review cases are "fundamentally different" than cases pending on direct review because collateral proceedings, by their

56. *Montgomery*, 136 S. Ct. at 728 (quoting *Penry v. Lynaugh*, 492 U.S. 302, 330 (1989)) (internal quotations and punctuation omitted).

57. *Id.* at 732–33.

58. *Id.* at 734. The Court acknowledged that the one exception in the *Miller* rule for the juvenile offenders whose crimes reflect irreparable corruption, did not eliminate the fact that *Miller* mandated that LWOP was an excessive punishment for the class of all other juvenile offenders.

59. *Id.* at 734–35.

60. *Id.* at 733 (quoting *Miller*, 132 S. Ct. at 2464).

61. *Id.* at 735.

62. *Id.* at 736.

63. *Id.* at 738 (Scalia, J., dissenting).

nature, disrupt finality.⁶⁴ Moreover, Justice Scalia reasoned that *Teague*'s general rule of prohibiting retroactive application of new rules in collateral proceedings, and even its limited exceptions, were not based on the Constitution.⁶⁵ Specifically, Justice Scalia questioned the majority's reliance on the Supremacy Clause.⁶⁶ He argued that the Supremacy Clause did not give the majority jurisdiction to decide the case, but instead lead to another question: which federal law is supreme. Looking at the precedent relied on by the majority, Scalia found that the "supreme" law requires federal courts to "review state-court decisions against the law and factual record that existed at the time the decisions were made."⁶⁷ Thus, if federal habeas courts must follow "old rules" existing at the time of the state court conviction, Scalia found no justification in the Supremacy Clause allowing the "new" *Miller* rule to apply to a state court conviction and subsequent denial of habeas relief.⁶⁸

Even assuming there was jurisdiction to decide the case, Justice Scalia concluded that *Miller* did not espouse a substantive rule, but instead proscribed a new procedure by requiring a sentencing court to "follow a certain process—considering an offender's youth and attendant characteristics—before imposing a particular penalty."⁶⁹ Thus, in Justice Scalia's opinion, not only was the majority incorrect in its classification of the *Miller* rule, but the Court should not have even touched the case in the first place.⁷⁰

Justice Thomas agreed, but wrote separately to highlight the lack of authority in the Constitution's text, or its history, for the majority's jurisdiction.⁷¹ Absent from the Supremacy Clause,⁷² Article III,⁷³ the

64. *Id.* at 739.

65. *Id.* at 738–39. Instead, Justice Scalia notes the majority in *Teague* understood the disruption that collateral proceedings had on finality, and in no way discussed constitutional issues. *Montgomery*, 136 S. Ct. at 738–39. Naturally, Justice Scalia reasoned that "[a]ny relief a prisoner might receive in a state court after finality is a matter of grace, not constitutional prescription." *Id.*

66. See *supra* note 51.

67. *Montgomery*, 136 S. Ct. at 738–39 (Scalia, J., dissenting) (citing *Greene v. Fisher*, 132 S. Ct. 38, 43–44 (2011)).

68. *Id.* at 741.

69. *Id.* (quoting *Miller*, 132 S. Ct. at 2471) (emphasis omitted).

70. *Id.* at 744.

71. *Id.* at 745 (Thomas, J., dissenting).

72. Justice Thomas reasoned that the Supremacy Clause mandates that if there is a federal constitutional right in existence, then that right trumps any contrary rule of state law. It does not allow for the creation of substantive rights that will thereafter supersede state law. *Id.*

73. Likewise, Article III of the Constitution defines the scope of federal judges' power, and therefore cannot implicate the decisions of state post-conviction courts. *Id.* at 745–46.

Due Process Clauses of the Fifth and Fourteenth Amendments,⁷⁴ and the Equal Protection Clause of the Fourteenth Amendment is the right to void an unconstitutional sentence that has already been finalized. Without a constitutional basis for the majority's new rule of retroactivity,⁷⁵ Justice Thomas opined that the majority lacked jurisdiction to impose the *Miller* rule on the state's collateral decision.⁷⁶

PART V: MAKING HABEAS RELIEF ACCESSIBLE

The AEDPA has been viewed as an almost insurmountable hurdle for prisoners convicted in state courts to overcome. Lower courts' hands are tied in the face of Supreme Court precedent.⁷⁷ The AEDPA changed the deferential scheme laid out in *Brown v. Allen*.⁷⁸ Instead, the AEDPA allows a federal court to step in where the state court's adjudication "resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court" or resulted in an *unreasonable* determination of the facts that were presented in the state court proceeding.⁷⁹ This unreasonable standard allows state court convictions to be overturned,⁸⁰ as a federal habeas court cannot

74. The Due Process Clause, similarly, applied to governmental actions violating the law of the land at the time of those governmental actions. Moreover, Justice Thomas reasoned that, even if due process anticipated new substantive rules, it does not require courts to "revisit settled convictions or sentences on collateral review." *Id.*

75. Justice Thomas further reasoned that the history of both state and federal post-conviction proceedings does not support the majority's rule of retroactivity. *Id.* at 747–48.

76. *Id.* at 744–45.

77. In his critique of the Supreme Court's interpretation of the AEDPA, Judge Reinhardt of the Ninth Circuit Court of Appeals states that these restrictive interpretations of the statute are justified by the Court on the basis that "[f]ederal habeas review of state convictions frustrates both the States' sovereign power to punish offenders and their good faith attempts to honor constitutional rights and intrudes on state sovereignty to a degree matched by few exercises of federal judicial authority." Stephen R. Reinhardt, *The Demise of Habeas Corpus and the Rise of Qualified Immunity: The Court's Ever Increasing Limitations on the Development and Enforcement of Constitutional Rights and Some Particularly Unfortunate Consequences*, 113 MICH. L. REV. 1219, 1229–30 (2015) (internal citations and punctuation omitted).

78. 344 U.S. 443 (1953). Following this decision, federal habeas courts were not bound by the state court determinations, even if the issues raised in the state court proceedings mirrored those made in the federal habeas proceeding. See Charles Doyle, *Federal Habeas Corpus: A Brief Legal Overview*, CONG. RES. SERV. REP. FOR CONGRESS 8, 14 (Apr. 26, 2006), <https://www.fas.org/sgp/crs/misc/RL33391.pdf>.

79. 22 U.S.C. § 2254(d) (2016).

80. See Reinhardt, *supra* note 77, at 1241–42. Judge Reinhardt noted fifteen cases in which the Supreme Court granted review of habeas cases in order to reverse the appellate decisions that

overturn even a clearly erroneous state court decision.⁸¹ In fact, many recent Supreme Court cases illustrate the court's apprehension in overturning a state court's denial of habeas relief,⁸² reasoning that finality and confidence in a state court's judgment must be given great weight.⁸³

The Supreme Court's decision in *Montgomery* illustrates a departure from this restrictive framework. By giving petitioners who were sentenced as juveniles the ability to apply for relief under a new substantive rule of law retroactively, the Court provides a more navigable path for prisoners to obtain habeas relief.⁸⁴ In doing so, the majority's opinion gives credence to the underlying premise of the great writ of habeas corpus: to safeguard against unjust detainment and protect individual liberty.⁸⁵ Moreover, the majority recognizes the multitude of definitions of finality. Finality can be achieved by the knowledge that a defendant has been rehabilitated, that he or she has "learned a lesson."⁸⁶ Finality is the knowledge that the person behind

granted habeas relief and thereby did not grant sufficient deference to the state court judgments. *See id.*

81. *See* Reinhardt, *supra* note 77, at 1225. Judge Reinhardt attempted to analyze Justice O'Connor's opinion in *Harrington v. Ritcher*, which stated that the AEDPA gave federal courts habeas authority only where there is "no possibility fairminded jurists could disagree that the state court's decision conflicts with the Supreme Court's precedents." *Id.* at 1228 (quoting *Harrington v. Ritcher*, 131 S. Ct. 770, 786–87 (2011)) (emphasis omitted). He opined that this effectively prohibits a federal habeas court from ever granting habeas relief, because to do so appellate judges "would need to find that each of the state court judges who denied the petitioner's claim was not fairminded." *See id.* at 1229.

82. *See* *Davis v. Ayala*, 135 S. Ct. 2187 (2015) (reversing the Ninth Circuit's grant of habeas relief); *see also* *Metrish v. Lancaster*, 133 S. Ct. 1781, 1792 (2013) (rejecting petitioner's claim for habeas relief even while admitting that his constitutional due process rights may have been violated).

83. Reinhardt, *supra* note 77, at 1230. Judge Reinhardt suggests that the Supreme Court ignores the practical effects of giving too much discretion to state courts, who not only have judges that must be reelected each year and therefore have political stances to illustrate, but also have very heavy caseloads and therefore cannot meticulously address each federal habeas claim. *Id.* at 1231–32.

84. *See* Lyle Denniston, *Opinion Analysis: Further Limit on Life Sentences for Youthful Criminals*, SCOTUSBLOG (Jan. 25, 2016, 12:26 PM), <http://www.scotusblog.com/2016/01/opinion-analysis-further-limit-on-life-sentences-for-youthful-criminals>.

85. Robert Perkinson, *The Gutted Writ: On Habeas Corpus*, THE NATION (Dec. 22, 2010) <https://www.thenation.com/article/gutted-writ-habeas-corpus>.

86. Jeanne Bishop, *A Victims' Family Member on Juvenile Life Without Parole Sentences: "Brutal Finality" and Unfinished Souls*, 9 DEPAUL J. SOC. JUST. 85, 88 (2016). Bishop, in reviewing the judicial scheme regarding LWOP sentences for juveniles before *Miller*, notes another definition of finality which "comes when an offender is rehabilitated and no longer a threat, when a sentence is served and over and the offender is set free. There are no more court dates or hearings, no more wrangling in legal proceedings. The case is done[.]" *Id.* at 88.

bars was fairly incarcerated based on the numerous chances she had to defend herself in our judicial system, including by the use of the great writ. Lastly, by requiring all courts to apply new substantive rules of constitutional law, the majority implicitly recognizes the fundamental unfairness of keeping someone sentenced under a law that he or she could not be sentenced under if their case was decided today.

PART VI: CONCLUSION

By hearing an appeal following a state denial of habeas relief, the decision shows the Court's willingness to provide channels for prisoners convicted in state court to access federal habeas relief.⁸⁷ According to the majority opinion, it seems as though any prisoner who pursues state habeas relief in reliance on new federal laws will benefit.⁸⁸ On the other hand, perhaps the Court is only attempting to grant more relief to those convicted as juveniles, illustrating a soft spot for those convicted under dated and harsh laws when they were mere children.

Irrespective of its possible motivations, the Court's willingness to interfere with the deference given to a state court in a state court habeas proceeding is a clear departure from its previous decisions.⁸⁹ This sharp departure from precedent, alone, demands attention from all courts, as it illustrates the majority favoring protection of substantive rights over federalism. This cry for attention will likely be echoed by state court prisoners, who will use *Montgomery* to correct their sentences that under today's substantive laws would be illegal. Following *Montgomery* it seems that "locking the door and throwing away the key" is no more than an overused cliché.

87. *Montgomery v. Louisiana*, 136 S. Ct. 718, 727 (2016). Here, *Montgomery's* case went straight from the state court's denial of habeas relief to the Supreme Court of the United States, bypassing the initial requirement of filing for habeas relief in federal court before reaching the high court.

88. In its reasoning, the majority stated that new substantive rules of law will apply retroactively in *any* proceeding, not just in federal habeas proceedings. Thus, petitioners can now argue that a new law decided in federal court must be applied retroactively to their state case, so long as they prove the substantive nature of the new rule. *See supra* Section IV(A).

89. For example, in *Teague* the Court ruled on the retroactivity of laws only in federal habeas proceedings, deciding not to interfere with state court decisions. *See supra* Part IV.