

Argument Analysis: People v. Franklin

On March 1, 2016, the California Supreme Court heard argument in *People v. Franklin* (S217699). Tyris Franklin was convicted of murder at the age of sixteen and sentenced to a mandatory fifty years to life in prison. The briefing in *People v. Franklin* sought a fundamental change in the sentencing of juveniles tried in adult courts to make parole dates turn on the individual characteristics of the defendant and not on the prison term set by the applicable statute. The March 1 oral argument, however, seemed to suggest that little will change.

The issue stems from a 2005 decision by the U.S. Supreme Court in *Roper v. Simmons*, which noted three distinctions between adult and juvenile defendants: juveniles tended to be (1) less mature, (2) more subject to peer influence, and (3) their character was not fully formed. Accordingly, the Court held that, under the Eighth Amendment, juveniles could not be subject to the death penalty. Later cases, including *Miller v. Alabama* (2012), extended this ruling to bar sentences of life without the possibility of parole and prison terms so long as to practically preclude parole.

The problem was that, although the high court decisions only invalidated sentences of death or life without parole, the logic of the decisions applied to all cases in which juveniles were sentenced as adults. The California legislature attempted to solve the problem by enacting Penal Code section 3051, which gives all juveniles sentenced to lengthy terms a right to a parole hearing in their twenty-fifth year of imprisonment. In this case, however, defendant claims that a law denying any possibility of parole until the twenty-fifth year is still unconstitutional because consideration of his immaturity, peer influence, and less-developed character would call for an earlier date.

The California Supreme Court granted and held over a dozen cases raising this issue, designating *Franklin* as the lead case. But before *Franklin* was argued, the U.S. Supreme Court decided *Montgomery v. Louisiana* (2016). That decision held that although *Miller v. Alabama* would apply retroactively, that trial courts were not

required to reopen sentencing in such cases. Instead, the Court held that “[a] State may remedy a *Miller* violation by permitting juvenile offenders to be considered for parole, rather than by resentencing them.” (*Montgomery* at *21.) But when must this parole consideration take place? The Court answered this indirectly by citing with approval a Wyoming statute that, like California’s section 3051, made juvenile offenders eligible for parole only after twenty-five years of imprisonment. If this reasoning applies, then sixteen-year-old Tyris Franklin will not get a parole hearing until he is forty-one. His immaturity, exposure to peer pressure, and stunted development will not help him get an earlier date.

In light of *Montgomery*, Franklin’s appellate counsel did not argue that the sentencing judge should decide when a juvenile should be parole eligible. Instead, counsel argued only that the trial judge should permit the defendant to make a record as to those *Roper* factors—even though the judge cannot change his sentence on the basis of that record—because the record would inform the parole board of defendant’s state of mind twenty-five years ago so that it can compare that to defendant’s current mental state. Judging by the oral argument, it seems likely that SCOCA will go along with this proposal. But it is doubtful that a parole board will help a juvenile defendant, since it will be more concerned with a defendant’s current prison record and mental state than with his condition twenty-five years earlier.