

SUPREME COURT OF LOUISIANA

No. 11-KK-2087

consolidated with

No. 11-KD-0804

STATE OF LOUISIANA

versus

REGINALD RAY HANDLEY

On writ of Certiorari to the
19th Judicial District Court, Parish of East Baton Rouge

JOHNSON, J., would grant relator's application for rehearing for the reasons articulated in her dissent in *State v. Handley*, 11-2087 (La. 02/01/12), (applying *Graham v. Florida*, 560 U.S. ___, 130 S.Ct. 2011, 176 L.Ed. 2d 825 (2010)).

On November 8, 1983, the Defendant, Reginald Handley, (relator herein) was tried by a jury, and convicted of aggravated rape, which he committed when he was 16 years old. He was sentenced to a term of life imprisonment, without parole.

The United States Supreme Court's historic decision in *Graham v. Florida*, 560 US; 130 S. Ct. 2011; 176 L. Ed. 2d 825 (2010) held that "for a juvenile offender who did not commit homicide, the Eighth Amendment forbids the sentence of life without parole." *Graham*, 560 U.S. at ____, 130 S. Ct. at 2030. Prior to *Graham*, the United States was the only nation in the world still adhering to the practice of sentencing juvenile offenders to life imprisonment without the possibility of parole for non-homicide offenses.¹ In the United States, only a handful of jurisdictions still impose life sentences without parole on juvenile offenders. Louisiana is one of eleven

¹ Connie de la Vega & Michelle Leighton, *Sentencing Our Children to Die in Prison*, 42 U.S. F. L. Rev. 983, 989-1007 (2008)

states wherein juveniles are currently serving life sentences, without parole, for non-homicide offenses.² When *Graham* was decided, there were 129 juveniles in the United States serving life sentences, without parole, for non-homicide offenses. Of those, seventy-seven juveniles were serving sentences imposed in Florida. Of the remaining 53, who were imprisoned in just ten states, 17 were serving life sentences imposed in Louisiana for non-homicide offenses.³

Graham makes clear that the ad hoc exercise of the executive's power of commutation does not afford juveniles sufficient protection, and such inmates have nowhere else to go for relief other than the judiciary. There is no way to calculate a parole eligibility date for a life sentence. To satisfy the dictates of *Graham*, I would remand this case to the district court, and order that relator be re-sentenced to a fixed term of years, which can be used as the basis for calculating the eligibility date for parole.

² The eleven states which impose juvenile life sentences without parole for non-homicide crimes are; Florida, Louisiana, Mississippi, Virginia, Oklahoma, South Carolina, Iowa, California, Nebraska, Delaware, and Nevada.

³ *Graham, supra*. P. G Annino, D.W. Rasmussen, & C.B. Rice, *Juvenile Life Without Parole for Non-Homicide Offenses: Florida Compared to the Nation*, Public Interest Law Center, College of Law, Florida State University (2009).