

consideration of a defendant's youth absent a separate factual finding of incorrigibility was not constitutionally sufficient. The Court disagreed with this interpretation, stating that *Miller* imposed a discretionary sentencing procedure with no additional requirements, and that *Montgomery* then also refrained from imposing additional procedures. The Court elaborated, "The key assumption of both *Miller* and *Montgomery* was that discretionary sentencing allows the sentencer to consider the defendant's youth, and thereby helps ensure that life without parole sentences are imposed only in cases where that sentence is appropriate in light of the defendant's age" (*Jones*, p 1318).

The Court explained that a separate factual finding of permanent incorrigibility is not required based on the findings in *Miller* and *Montgomery*, that a discretionary sentencing procedure allowing for consideration of a defendant's youth was constitutionally sufficient, and that such a procedure fulfilled the goal of making life without parole sentences for juvenile offenders a rare phenomenon. The Court rejected the argument that a statement on the record by the factfinder was required to establish an "implicit finding" of permanent incorrigibility, stating that such a statement was not required to ensure that a defendant's youth was appropriately considered during sentencing. Finally, the Court emphasized that the finding in this case did not limit states from imposing their own additional procedural requirements or sentencing limits for juveniles convicted of murder.

Dissent

Justice Sotomayor delivered the dissenting opinion, joined by Justices Breyer and Kagan. The dissent stated that the holding in *Miller* established life without parole as a disproportionate punishment under the Eighth Amendment for a juvenile who is not permanently incorrigible. The dissent elaborated that "no set of discretionary sentencing procedures can render a sentence of LWOP [life without parole] constitutional for a juvenile whose crime reflects 'unfortunate yet transient immaturity'" (*Jones*, p 1332, citing *Miller*, p 479). Therefore, the dissent asserted that the discretionary sentencing procedure interpreted by the majority is not constitutionally sufficient to comply with the limit established by *Miller*.

Discussion

Here, the Court considered whether the Eighth Amendment mandates that a juvenile convicted of

murder be formally found incorrigible prior to being sentenced to life without parole. The finding hinges on the Court's interpretation of *Miller v. Alabama*, which held that it was a violation of the Eighth Amendment to mandate life without parole sentences for juveniles, and *Montgomery v. Louisiana*, which held that *Miller* applied retroactively. *Miller* and *Montgomery* sought to limit the implementation of such a sentence to rare cases in which a defendant's actions are born of permanent incorrigibility. The Court was split regarding the procedural implications of *Miller* and *Montgomery* and the constitutional sufficiency of a discretionary sentencing system to fulfill the parameters of those decisions. The majority opinion held that judicial discretion, in the absence of a separate fact-finding requirement of permanent incorrigibility, did comply with precedent and that additional procedural requirements in such cases were unnecessary. This decision does not limit the ability of the states to formulate their own sentencing restrictions or procedural requirements for juveniles convicted of murder.

The Court's holding has relevance to forensic psychiatrists conducting sentencing evaluations of juveniles convicted of murder. Although the Court held that a formal finding of permanent incorrigibility is not required for juveniles to receive life without parole sentences, the Court's debate centers on the most effective constitutional means of ensuring that such sentences are delivered rarely and only to those individuals who are incorrigible. A goal of the justice system remains identification of juvenile defendants whose offenses are a reflection of transient immaturity, and appropriate mitigation of their sentences. To aid this objective, forensic psychiatrists may be asked to more scrupulously examine factors related to corrigibility for this group of defendants. Such factors include decisional maturity, family and environmental circumstances, psychiatric disorders, the individual's capacity for autonomy versus dependence, and the potential for rehabilitation.

Admissibility of Defendant's Testimony About Mental Health

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**Court May Limit Testimony About
Defendant’s Mental Health History and
Events from Childhood**

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In *Jones v. Davis*, 8 F.4th 1027 (9th Cir. 2021), the Ninth Circuit Court of Appeals reversed a district court’s ruling that granted *habeas* relief to Ernest Jones based on claims that his right to present a complete defense was violated by a trial court’s evidentiary ruling. The trial court had ruled that Mr. Jones’ testimony about his childhood and mental health history could be presented only if a psychiatric expert explained the relevance of the testimony to his mental state at the time of the alleged offense.

Facts of the Case

Ernest Jones was tried for first-degree murder and rape of his girlfriend’s mother, Julia Miller, and other charges from events on August 25, 1992. As the police went to arrest him, Mr. Jones escaped in Ms. Miller’s car, equipped with a rifle allegedly stolen from Ms. Miller. The state asserted that he deliberately committed the crimes, also presenting evidence that Mr. Jones committed a similar crime in the past. The state also sought to prove the special circumstance that he murdered her while committing or attempting to commit another crime, which renders a person eligible for the death penalty if found true by the jury.

In the guilt phase of the trial, Mr. Jones testified that he started hearing voices and feeling paranoid as he left his house. The defense attempted to emphasize Mr. Jones’ history of trauma and mental health symptoms, including witnessing his mother’s infidelity, his brother’s murder, and experiencing auditory hallucinations, blackouts, and flashbacks. The prosecution objected to Mr. Jones’ testifying about his own childhood and psychiatric history without expert testimony to offer a diagnosis and explain its relevance to

determining his intent in the present case. The defense indicated it was not their “present intention” to call an expert witness. The trial court upheld the prosecution’s objections, and Mr. Jones was only allowed to testify about some aspects of his mental health, including current medications and their effect on his demeanor and that he had been in counseling before the 1992 murder. In closing, the prosecution argued that there was insufficient evidence of Mr. Jones’ mental disorder to support his claim that he lacked intent. The jury found Mr. Jones guilty of first-degree murder and rape.

During the penalty phase of the trial, family and friends testified that Mr. Jones was often neglected, was exposed to his parents’ heavy alcohol use and domestic violence, found his brother’s murdered body in the street, and witnessed his mother’s infidelity. Mr. Jones’ court-appointed psychiatrist testified that he had “schizoaffective schizophrenia,” including symptoms such as unpredictable psychotic responses that impaired his judgment. He also described episodes of rage during which he had a personality change and lost the ability to control his actions, entered an alternate state of reality, and transported in his mind to his difficult childhood. The psychiatrist indicated that Mr. Jones dissociated but did not mention history of flashbacks or blackouts. At the conclusion of the trial, Mr. Jones was sentenced to death.

Mr. Jones appealed his conviction to the California Supreme Court, arguing that the trial court’s evidentiary ruling violated the constitutional requirement that prohibits restrictions on a defendant’s right to testify that are “arbitrary or disproportionate to the purposes those restrictions are meant to serve,” as established in *Rock v. Arkansas*, 483 U.S. 44 (1987) (p 56). The defense counsel argued that Mr. Jones’ excluded testimony was material to establishing his lack of intent for the specific crime.

The California Supreme Court upheld the trial court’s decision and later denied a state *habeas* petition after the U.S. Supreme Court denied *certiorari*. Mr. Jones then petitioned in the federal district court for *habeas* relief, again arguing the constitutionality of the trial court’s ruling based on several claims, including limitations on his testimony. The district court stated that the California Supreme Court had accepted an “objectively unreasonable” application of *Rock* under the Antiterrorism and Effective Death Penalty Act, 28 U.S.C. § 2254 (d)(1) (1996). Therefore, it granted *habeas* relief, stating that his excluded testimony was

material to proving he lacked intent in his convicted crimes because of a mental disorder. The state appealed to the Ninth Circuit Court of Appeals.

Ruling and Reasoning

The Ninth Circuit Court of Appeals reversed the district court’s decision to grant *habeas* relief, stating that the conditions placed on Mr. Jones’ testimony did not constitute a violation of his rights. The Ninth Circuit highlighted constitutional rights of a defendant to “present a complete defense,” and noted that restrictions on a defendant’s testimony cannot be “arbitrary or disproportionate.” But the court also emphasized that limits on a defendant’s right to testify exist and are subject to standard rules of evidence.

The Ninth Circuit affirmed the role of the trial court in establishing evidentiary rules, which can be applied to exclude evidence likely to confuse the matter, among others. The court explained that the relevance of Mr. Jones’ testimony would be unclear and confusing without expert contextualization to explain the “nexus” between his history and his specific intent in the crimes.

The Ninth Circuit also clarified that Mr. Jones’ testimony was not restricted but rather conditioned on a third-party testimony. The court emphasized a court’s right to impose a condition on testimony, which could still be subject to constitutional scrutiny to determine whether it is arbitrary or disproportionate. The condition on Mr. Jones’ testimony was not arbitrary because he would not have been able to independently explain how his extensive mental health and childhood history was directly linked to his ability to form intent in the index case years later. The court found that the evidentiary ruling was not disproportionate because it was a carefully considered means to serve a specific purpose; the court admitted Mr. Jones’ testimony about his emotional and cognitive state on the day of the murder, considering it independently relevant to the case, and only required expert testimony for “evidence whose relevance it reasonably worried would not have been apparent without expert testimony” (*Jones*, p 1038).

The Ninth Circuit also noted that the evidentiary rule was not onerous because an already appointed expert witness was readily available to testify for the defense. Although the defense’s decision to not introduce expert witness testimony during the guilt phase of the trial was likely a difficult one, it did not mean that the consequence of evidentiary ruling was disproportionate to the interest it served.

Discussion

The right to present a complete defense is implicitly embedded in the Compulsory Clause of the Sixth Amendment and the Due Process Clause of the Fourteenth Amendment. But, it wasn’t until 1967 in *Specht v. Patterson*, 386 U.S. 605 (1967), that the U.S. Supreme Court clearly recognized this right in criminal trials. It later started defining the extent to which states could impose limitations on this right with procedures and evidentiary rules (Robinette J. *Montana v. Egelhoff*: Abandoning a defendant’s fundamental right to present a defense. *Cath U L Rev.* 1997; 46:1349). In *Taylor v. Illinois*, 484, U.S. 400 (1988), the Court stated that “the accused does not have an unfettered right to offer testimony that is . . . inadmissible under standard rules of evidence” (p 409). But it had also established in *Rock* that the restrictions on a defendant’s ability to present a defense should not be “arbitrary or disproportionate.”

As courts try to strike a balance between legitimate state interests and defendants’ rights, admissible evidence is filtered based on various laws and evidentiary rules, including that of not confusing the factfinder. Thus, evidence may be excluded unless it infringes upon a weighty constitutional interest of the accused. This was exemplified in *Jones v. Davis*, confirming that the defendant’s right to present a complete defense is “not without limit.” This reflects the judges’ gatekeeping role in admitting evidence, which forensic psychiatrists commonly encounter as expert witnesses. Judges attempt to strike a balance between due process protections for the defendant and ensuring relevant and reliable testimony that minimizes undue risk of prejudice or confusion.

Right to Confront Witnesses in Person During Civil Commitment Hearings

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