

"Speak Not Of What You Do Not Know!"
Miller v. Alabama and Massachusetts Justice

by Timothy J. Muise

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In 2011 the United States Supreme Court came down with a ruling in the case Miller v. Alabama that a mandatory life-without parole sentence imposed upon juvenile offenders was unconstitutional. Although the High Court gave vague instructions as to how the states should carry this out they left quite a bit to interpretation protecting the autonomy of the individual states. This decision was based upon the premise that the accepted "brain science" for juveniles had advanced and indicates that the ability to formulate understanding of consequences for actions does not fully develop in the human brain until the early to mid-twenties. These advancements in science and technology had formally compelled the High Court to eliminate death sentences for juveniles convicted as adults through the ruling in the case Roper v. Simmons, with the court opining that these "children" could not be thrown away as there was an extreme likelihood that they could be rehabilitated.

Massachusetts' Supreme Judicial Court came down with a ruling in the wake of Miller v. Alabama which made all 62 juvenile offenders who had been tried as adults and sentenced to life-without parole immediately eligible for parole consideration here in the Commonwealth as long as they have served fifteen (15) years of their sentence. The ruling in Diatchenko v. Attorney General also follows the language in Miller v. Alabama stating that these juvenile offenders, who are now adults, must be afforded a "meaningful opportunity for release." Some argue that the Massachusetts Parole Board does not offer such a meaningful opportunity, as their parole rate for "lifers" is at about 15%, but at least these men went from no hope of release to some hope for freedom. Too bad the Massachusetts legislature does not deal in hope. Let me explain.

Massachusetts State Senator Bruce Tarr, who's "tough on crime" votes have devastated his (and my) hometown of Gloucester, Massachusetts for years now (his funding "enforcement" rather than treatment has disgraced Gloucester with one of the highest addiction/overdose rates in the state) has proposed a bill which would call for these juvenile offenders to serve a minimum of 35 years before parole eligibility. He wants to keep a 17 year old child in prison, even if they have been fully rehabilitated, until they are at least 52 years old. This draconian rhetoric/thinking is what creates juvenile violence, not cures it, but Mr. Tarr seems to care not that his parties tough on crime, Weld era, mistakes were so adverse to public safety that the state's legislature has had to overturn many of the mandatory sentences Mr. Tarr and his law & order crowd promoted. I guess either he has not learned from past mistakes or he knows such rhetoric is the bread and butter of his brand of political machine. The real tragedy here is that Senator Tarr has never even met one of these juvenile "lifers". He seems not to know they are human beings, not just numbers on a spread sheet.

My work here in the prisons has brought me into contact with several of the 62 juvenile offenders here in the Commonwealth. I work very closely with two in particular who allow me to advocate their positions. I have offered Senator Tarr an open invitation to come to the prison and meet with these fine young men, both through the mail and via email, but he has failed to respond. The fact is that if Mr. Tarr met these good men he could never again stand on the Senate floor and argue for them to languish for decades in prison. These are human beings, kids who made

tragic mistakes but who have shown they are rehabilitated and would be productive members of society; that same society that failed many of them in the first place. I ask Mr. Tarr to "Speak Not Of What You Do Not Know!" These fine men deserve much better, as do your constituents. Justice tempered with mercy mends the social fabric. Tough on crime rhetoric, based on revenge and retribution, erodes that precious fabric while laying moral landmines for the generation yet to come to clean up.

The time is long overdue for Massachusetts to once again be the leader in progressive human services. Our proud nation has fallen behind our European counterparts, behind every civilized nation in the world, as far as crime and punishment is concerned. How could we even think of executing children?, but we did. How could we think of keeping children in prison for life, even if they were rehabilitated?, but we did. How can our State Legislature entertain arguments about keeping kids in prison for decades? but they do. "Speak Not Of What You Do Not Know!" Our humanity and survival as a nation demands it!

by Timothy J. Muise

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ABOUT THE AUTHOR

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