

Hairston v. State: Capital Punishment for Youthful Offenders

Case Summary
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The Supreme Court of Idaho recently held in *Hairston v. State* that evidence of evolving standards of decency, both nationally and in Idaho, did not support a categorical prohibition on capital punishment for youthful offenders—those between the ages of eighteen and twenty—under the Eighth Amendment.¹

The petitioner, James Hairston, had been found guilty of two counts of first degree murder and one count of robbery in 1996, and he was sentenced to death for the two murders.² Hairston was nineteen at the time of the murders.³ This case arose out of Hairston’s fourth post-conviction petition for relief, contending that (1) imposing the death penalty on an individual who was under the age of twenty-one at the time of the offense is unconstitutional under the Eighth Amendment; and (2) the trial court did not give adequate consideration to mitigating factors applicable to youthful offenders during the sentencing phase.⁴ The State of Idaho moved for summary dismissal of the petition under Idaho Code section 19-4906(c), arguing in part that the petition was time-barred.⁵ The district court rejected this claim, and the Idaho Supreme Court affirmed that decision here, allowing the court to evaluate Hairston’s constitutionality claim on the merits.⁶

Hairston’s claim regarding the constitutionality of sentencing a youthful offender to death essentially sought to extend the age cutoff for the prohibition on executing offenders who were under the age of eighteen at the time of the offense that was announced by the Supreme Court of the United States in *Roper v. Simmons*.⁷ In *Roper*, the Supreme Court applied its framework for determining whether a form of punishment can be considered “cruel and unusual” under the Eighth Amendment by looking to evidence of “the evolving standards of decency that mark the progress of a maturing society.”⁸ This standard was applied later in *Graham v. Florida*⁹ and *Miller v. Alabama*¹⁰ to prohibit the most extreme forms of criminal punishment for youthful offenders under the age of eighteen.

¹ *Hairston v. State*, 167 Idaho 462, 472 P.3d 44 (2020).

² *State v. Hairston*, 133 Idaho 496, 501, 988 P.2d 1170, 1175 (1999).

³ *Hairston*, 167 Idaho 462, 472 P.3d at 46.

⁴ *See id.*

⁵ *Id.* at 47; IDAHO CODE § 19-4906(c) (2020) (allowing the court to grant judgment as a matter of law on the pleadings if there is no genuine issue of material fact).

⁶ *See Hairston*, 167 Idaho 462, 472 P.3d at 48.

⁷ *See Roper v. Simmons*, 543 U.S. 551, 578 (2005); *Hairston*, 167 Idaho 462, 472 P.3d at 48.

⁸ *See Roper*, 543 U.S. at 551 (quoting *Trop v. Dulles*, 356 U.S. 86, 100–01 (1958)).

⁹ 560 U.S. 48 (2010) (prohibiting the imposition of a life without parole sentence on juvenile offenders for non-homicide offenses).

¹⁰ 567 U.S. 460 (2012) (holding that mandatory life without parole for youthful offenders violates the Eighth Amendment).

In order to meet this standard, Hairston proffered evidence of both a national and Idaho-specific consensus that had developed against the execution of offenders who were under the age of twenty-one at the time of the offense.¹¹ This included citing to jurisdictions that no longer executed defendants under the age of twenty-one through abolition of the death penalty entirely, suspending executions through moratoria, and those who no longer execute youthful offenders under the age of twenty-one through prosecutorial practice.¹² Hairston cited to the fact that Idaho has not sentenced anyone under the age of twenty-one to death since he was sentenced.¹³ The decisions of prosecutors, judges, and juries, he said, reflect a sentiment against executing offenders in this age group.¹⁴ Hairston also offered evidence of a consensus among the scientific and medical communities that the purposes of the death penalty¹⁵ are equally disfavored for offenders under the age of twenty-one as they are for those under the age of eighteen due to their relative psychological and neurobiological immaturity.¹⁶

The Idaho Supreme Court found these arguments unpersuasive for finding the execution of an offender between the ages of eighteen and twenty-one unconstitutional for two main reasons. The first was that Hairston had not cited to any legislative enactment or executive action prohibiting the execution of nineteen and twenty-year olds.¹⁷ The Court reiterated “absent some legislative or executive action, a determination by this Court that Idaho’s death penalty statute is unconstitutional based on evolving standards of decency and public opinion is unsupported.”¹⁸ In addition, the Court noted that there is no case since *Roper* that has meaningful precedential value that has extended the age cutoff to twenty-one.¹⁹

The second—and perhaps most important—reason for rejecting Hairston’s claim is that the United States Supreme Court has not extended the age limit in the fifteen years since *Roper* was decided.²⁰ Because Idaho’s courts have traditionally tracked the Eighth Amendment jurisprudence of the U.S. Supreme Court,²¹ the Idaho Supreme Court considers the issue “definitively spoken” on by the U.S. Supreme Court and deferred to their judgement.²² The court recognized the inherent issue in drawing a categorical line, which was recognized by the U.S. Supreme Court in *Roper*: “The qualities that distinguish juveniles from adults do not disappear when an individual turns 18. By the same token, some under 18 have already attained a level of

¹¹ *Hairston*, 167 Idaho 462, 472 P.3d at 49.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Three main rationales for punishment are rehabilitation, deterrence, and retribution. See *Kennedy v. Louisiana*, 554 U.S. 407, 420 (2008); see also *Roper*, 543 U.S. at 571 (“Retribution is not proportional if the law’s most severe penalty is imposed on one whose culpability or blameworthiness is diminished, to a substantial degree, by reason of youth and immaturity.”).

¹⁶ Hairston cited primarily to the report of Dr. Laurence Steinberg which analyzes the brain maturation of adolescents and young adults. See *Hairston*, 167 Idaho 462, 472 P.3d at 49.

¹⁷ See *id.* at 49–50.

¹⁸ *Id.* at 49 (quoting *State v. Abdullah*, 158 Idaho 386, 456, 348 P.3d 1, 71 (2015)).

¹⁹ *Id.* at 50.

²⁰ *Id.*

²¹ *Id.* (citing *State v. Draper*, 151 Idaho 576, 599, 261 P.3d 853, 876 (2011)).

²² *Id.*

maturity some adults will never reach. For the reasons we have discussed, however, a line must be drawn.”²³ Thus, despite the evidence of national, international, and statewide trends, and the medical and scientific evidence provided by Hairston, the Court found that Idaho’s death penalty statute allowing for the execution of offenders who were over the age of eighteen at the time of their offense was constitutional.²⁴

²³ *Roper*, 543 U.S. at 574.

²⁴ *Hairston*, 167 Idaho 462, 472 P.3d at 50.