***Sullivan v. Florida* Mock Appellate Argument (Appellant, Joe Sullivan)**

**Facts**

Joe Sullivan was sentenced to serve a life term without the possibility of parole from an incident that occurred when he was a 13-year old. Joe is mentally disabled and lived in a home where he was subjected to physical and sexual abuse. On the day of the incident, two older boys convinced Joe to commit a burglary. The three boys entered the house of Lena Bruner, an elderly woman, during the morning while nobody was home. They took jewelry and money and then left the house without getting caught. Later that afternoon, Ms. Bruner was physically and sexually assaulted in her home and did not see her attacker because she was blindfolded.

Based on the testimony of the older boys and the victim, Joe was tried and convicted as an adult for rape. At the trial, the victim testified that Joe’s voice sounded like the person who attacked her. The trial judge considered the fact that Joe had a long criminal record and sentenced Joe to life in prison without parole.

**Question before the Supreme Court**

Was Joe Sullivan's sentence of life imprisonment without the possibility of parole for a non-homicide crime committed at the age of 13 a cruel and unusual punishment prohibited by the Eighth Amendment?

**Applicable Case**

***Roper v. Simmons* (2005)**

The Supreme Court held that capital punishment for juveniles constitutes cruel and unusual punishment in violation of the Eighth Amendment. The Supreme Court stated that “capital punishment must be limited to those offenders who commit a narrow category of the most serious crimes and whose extreme culpability makes them the most deserving of execution.” The Court concluded that juveniles do not fit within that category. The majority opinion noted that there is a “national consensus” among state legislatures that juvenile offenders should not be sentenced to the death penalty. The Court also emphasized that juveniles are less culpable than adults for several reasons. First, the court stated that scientific and sociological studies demonstrate that “a lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults” and “these qualities often result in ill-considered actions and decisions.” Second, juveniles “are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure.” Lastly, “the character of a juvenile is not as well formed as that of an adult.”

**Arguments in support of Sullivan**:

* Because Joe’s crime did not involve a homicide, a life sentence without the possibility of parole violates the Eighth Amendment’s ban on cruel and unusual punishment.
* It is extremely rare in the United States to sentence a juvenile under the age of 14 to a sentence of life without the possibility of parole for a non-homicide crime. This demonstrates that there is a “national consensus” against this type of punishment.
* This case is like *Roper v. Simmons*, which emphasized the important ways that juveniles are different than adults in their level of culpability. For example, scientific studies have shown that teenagers’ brains are underdeveloped and consequently, they often make poor decisions and are susceptible to negative influences. Also, this case is like *Roper v. Simmons* because a sentence of life without parole is analogous to the death penalty.
* The juvenile justice system should focus on rehabilitating juvenile offenders. In *Roper v. Simmons*, the Supreme Court noted that “the character of a juvenile is not as well formed as that of an adult.”

***Sullivan v. Florida* Mock Appellate Argument (Respondent, the State of Florida)**

**Facts**

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**Arguments in support of the State of Florida**:

* A juvenile who is sentenced to life without the possibility of parole does not violate the Eighth Amendment’s ban on cruel and unusual punishment.
* Forty-two state statutes allow juveniles to be sentenced to life without parole. Therefore, there is not a “national consensus” against this type of sentence.
* This case is not like *Roper v. Simmons* because that case emphasized the “qualitative differences” between the death penalty and a prison sentence. Here, we should preserve the ability of states to sentence the most dangerous juvenile offenders to life sentences without the possibility of parole.
* The Court should focus on the goals of incapacitation of dangerous offenders, deterrence, and retributivism. First, some juveniles offenders present too much of a danger to society to ever be released from prison. Secondly, juveniles will be deterred from committing serious crimes if they could receive a life sentence without parole. Lastly, it would be unfair to the victims of serious crimes if juvenile offenders could not receive punishment proportional to the harms they inflicted.

**Instructions for Appellate Argument Attorneys**

Review and discuss the background materials that have been provided. Working in your team, write down the following:

* A clear, brief statement of your position.
* At least two facts from the case that support your position with an explanation of how each fact supports your position.
* At least one previous court decision that supports your position, describing why it supports your case.
* At least one reason why your position is fair to your client.
* At least one reason why a court decision in your favor will benefit society.

Using the information you have written down, prepare your argument for the Supreme Court. Remember, arguments do not need to be rooted in legal technicalities. Any argument that is persuasive from a philosophical, theoretical, conceptual, or practical standpoint can be made.

**Attorney Mock Appellate Argument Guide**

“May it please the court, my name is\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and I and my co-counsels represent \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in this case.”

“Today’s case involves . . .” (summarize the facts of the case and present the specific issue before the court. Remember the facts of the case are generally not in dispute in an appellate argument because the facts have been decided at the trial court level.)

“I would like to begin with . . .” (present the arguments, focus on relevant facts concerning the issue. Include the law and relevant cases. Explain why the cases are relevant. Remember to discuss the opposing sides’ strongest arguments, explaining why their arguments are not relevant.)

“Thank you.”

**Instructions for Supreme Court Justices**

* 1. Read through the facts of the case. Outline the facts below.
  2. Discuss the law; list the elements of any standards that are used in analyzing the case.
  3. List arguments you might hear from both sides

Appellant (side appealing the case)

Respondent (side responding to the appeal)

* 1. List questions you have for each side

Appellant

Respondent

# Supreme Court Call to Order

**Oyez, Oyez, Oyez**

**All persons having business before the honorable, the Supreme Court of the United States, are admonished to draw near and give their attention, for the court is now sitting.**

**God save the United States and this honorable court.**

**We’ll hear arguments today in case number 08-7621,**

**Appellant, Joe Sullivan, v.**

**Respondent, the State of Florida.**

**Is the attorney for the appellant ready?**

**Is the attorney for the respondent ready?**