

Filed 5/14/25

Court of Appeal, Second Appellate District, Division Three - No. B333016

S289464

IN THE SUPREME COURT OF CALIFORNIA

En Banc

THE PEOPLE, Plaintiff and Respondent,

v.

ROLLIN DENEM, Defendant and Appellant.

The petition for review is denied.

Liu, Kruger, and Evans, JJ., are of the opinion the petition should be granted.

(See Dissenting Statement by Justice Liu.)

/s/
Chief Justice

PEOPLE v. DENEM

S289464

Dissenting Statement by Justice Liu

On November 3, 1998, less than five months after his eighteenth birthday, defendant Rollin Denem and seven others robbed a food market in Compton. During the robbery, one of his co-defendants shot and killed a security guard. Denem was arrested in 2001 and charged with first-degree murder with a felony-murder special circumstance. In 2004, he was convicted and sentenced to life without the possibility of parole (LWOP), the mandatory punishment for his crime under Penal Code section 190.2, subdivision (a)(17)(A).

Youth offenders below age 26 are generally eligible for a youth offender parole hearing pursuant to Penal Code section 3051. But subdivision (h) of that statute excludes individuals sentenced to LWOP. Denem challenges his LWOP sentence and his exclusion from a youth offender parole hearing as cruel or unusual punishment under article I, section 17 of the California Constitution. The Court of Appeal rejected this claim, reasoning that LWOP is not cruel or unusual when applied to an 18-year-old because “a line has been drawn about at what age it is cruel or unusual punishment to impose a life without parole sentence,” and “[t]hat line currently stands at 17 years of age.”

To be clear, the question here is not whether an LWOP sentence *may* lawfully be imposed on an 18-year-old. The issue is whether the state constitution permits a *mandatory* LWOP sentence for an 18-year-old without any individualized

consideration. Such consideration here would include the trial court’s observation that Denem may have been susceptible to peer pressure: “Without each other, maybe they don’t have the guts to do it alone. . . . It takes a group, and the group is what’s dangerous. . . . The group will do something that the individuals themselves will not do alone.” Further, the fact that Denem “wore a disguise of a hat and a curly wig” during the robbery (*People v. Denem* (Feb. 21, 2023, B318106) [nonpub. opn.] review den., Apr. 26, 2023) may suggest that his crime was “devoid of any sophistication” (*People v. Hardin* (2024) 15 Cal.5th 834, 896 (dis. opn. of Liu, J.)).

Further, in an individualized inquiry, it would be relevant that Denem had a difficult childhood. His parents abandoned him “at a very young age.” He lived with “domestic violence, drugs, and alcohol in the household,” where “physical, verbal, and emotional abuse were present.” And yet, as the probation report indicated, in the years between the crime and his arrest, Denem worked full-time, took classes, and volunteered in his community, including “teaching computer classes to kids and senior citizens.” After his arrest, he maintained a good record in custody. And in 2002, numerous community leaders noted Denem’s leadership skills and positive contributions to the south Los Angeles community.

Denem stands convicted of participating in a tragic and lethal crime. But “[a]s neuroscience shows and ‘any parent knows,’ [1] juveniles and younger adults lack maturity and a sense of responsibility, [2] they are vulnerable to negative influences over which they have limited control, and [3] their character is transitory and developing. (*Roper v. Simmons* (2005) 543 U.S. 551, [569–570].) ‘Neuroscientists now know that all three of the “general differences between juveniles under 18

and adults” recognized by *Roper* are present in people older than 18.’ ([*In re Pers. Restraint of Monschke* (Wn. 2021) 482 P.3d 276,] 286; accord, [*Commonwealth v. Mattis* (Mass. 2024) 224 N.E.3d 410,] 421 [‘the scientific record strongly supports the contention that emerging adults have the same core neurological characteristics as juveniles have’].)” (*People v. Powell* (Feb. 23, 2024, A167066) [nonpub. opn.], review den. June 12, 2024, S284418 (dis. stmt. of Evans, J.); see *ibid.* [noting that Massachusetts, Michigan and Washington have interpreted similar state constitutional protections against cruel or unusual punishment to prohibit a mandatory LWOP sentence for someone of Denem’s age, and that 22 states and the District of Columbia do not mandate LWOP under any circumstance].)

Our Legislature, too, has “repeatedly recognized that ‘youthfulness both lessens a juvenile’s moral culpability and enhances the prospect that, as a youth matures into an adult and neurological development occurs, these individuals can become contributing members of society’ (Stats. 2013, ch. 312, § 1), and that brain development affecting judgment and decisionmaking ‘continues beyond adolescence and into the mid-20’s’.” (*Hardin, supra*, 15 Cal.5th at p. 866 (dis. opn. of Liu, J.).)

The court that sentenced Denem was prohibited from considering any of this context, and under current law, none of these considerations, including any rehabilitation he has demonstrated while incarcerated, will be presented to a parole board. If he is condemned to die in prison, he will endure nearly all of his adult life behind bars. In light of the changing scientific and legal landscape (*Powell, supra*, review den. (dis. stmt. of Evans, J.)), the mandatory sentence imposed on Denem, with no individualized consideration, seems in serious tension

with the state constitutional prohibition on cruel or unusual punishment and warrants our review.

Yet this court's inaction does not necessarily spell the end of the road for Denem, who has been incarcerated for over two decades and now, at age 44, may well be able to show that he has significantly matured since age 18. His hope for "a meaningful chance at life beyond prison walls" (*Hardin, supra*, 15 Cal.5th at p. 897 (dis. opn. of Liu, J.)) may hinge on the Legislature's enactment of Senate Bill No. 672, the Youth Rehabilitation and Opportunity Act, which would strike the LWOP exclusion from Penal Code section 3051 and thereby grant young offenders like Denem the possibility of parole after their twenty-fifth year of incarceration.

LIU, J.

I Concur:

EVANS, J.