

State v. Cynthia Rivera, 249 N.J. 285 (2021)

In State v. Cynthia River, the New Jersey Supreme Court issued an important decision that deals with the appropriate factors a sentencing judge may consider when sentencing a juvenile defendant. The Court here explained that a juvenile defendant's youthfulness can only be used as a mitigating factor at sentencing and cannot be used as an aggravating factor to justify increased punishment.

The defendant in this case was 18-year-old Cynthia Rivera who hatched a plan with her boyfriend, Martinez, to rob a person named Garcia of some jewelry. Ms. Rivera went with Garcia and two others to a motel and notified Martinez of the location so he could come commit the robbery. The next morning, there was a knock on the motel door; the person that opened it was immediately shot and killed. Martinez and another man came in, both holding guns, and shot Garcia, seriously wounding him, and then robbed him. A few weeks later, Ms. Rivera turned herself in to the authorities.

Ms. Rivera pled guilty to first-degree aggravated manslaughter, as amended from felony murder; second-degree aggravated assault, as amended from attempted murder; and second-degree conspiracy to commit robbery. She expressed deep regret for her actions and made positive changes such as breaking up with Martinez who was abusive as well as making educational plans.

Mr. Rivera was sentenced to fifteen years subject to the No Early Release Act, or NERA. At her sentencing hearing, the court considered mitigating factor seven, that she had no criminal record and mitigating factor twelve, that she cooperated with the State. The court also conceded to mitigating factor nine, the unlikelihood that she will commit another offense, because she

showed remorse. Additionally, the court applied aggravating factor nine, the need for deterrence and aggravating factor three, the risk of committing another offense.

The sentencing judge gave great weight to aggravating factor three, or her risk of committing another offense, because the crime was planned out and calculated. The judge gave minimal weight to mitigating factor seven, which accounts for her lack of any prior criminal history explaining that had she not been caught, there is a large chance she would commit more crimes on account of her youthfulness. The court also used this explanation to aggravate factor three, claiming it was proof she would likely commit another offense. Ms. Rivera appealed her sentencing and the Appellate Division affirmed.

The issue in this case was whether a court can use a defendant's youth to assign great weight to an aggravating factor, here the risk of committing another offense while using youth to assign minimal weight to a mitigating factor, here lack of a criminal record. The Supreme Court held that a person's youth may be considered only as a mitigating factor in sentencing and cannot support an aggravating factor.

To understand this decision, it is necessary to understand the sentencing process. The New Jersey Sentencing Code features a list of both aggravating and mitigating factors that a sentencing judge may consider. Aggravating factors are those that counsel toward imposing a sentence that is higher than the average term while mitigating factors are those that favor imposing a lesser than average term. Frequently, courts will look at a defendant's criminal record when considering aggravating factor three, or the risk of committing another offense. The court must consider a defendant as she stands before the court on the day of the sentencing. The sentencing court here made an improper inference that the lack of a criminal history was because

of Ms. Rivera's age and that she would surely commit crimes in the future, and thus, wrongfully weighed youth as an aggravating factor in favor of a harsher sentence.

In the opinion, the Supreme Court noted the importance of youth in sentencing which would ordinarily work in a defendant's favor. For example, in State v. Zuber, 227 N.J. 422 (2017), our state Supreme Court extended the application of the "miller factors," named after the U.S. Supreme Court case Miller v. Alabama, 567 U.S. 460 (2012), in situations where a juvenile is facing imprisonment similar to life without parole. This gave a "clear message that children are different when it comes to sentencing, and youth and its attendant characteristics must be considered at the time a juvenile is sentenced to life imprisonment without the possibility of parole."

This decision reflects a growing understanding and acknowledgement by this court about the role that age, and developmental immaturity play in youthful offending and the profound impact of youth on decision-making and culpability that should be reflected in sentencing.