

Session :	Septembre 2018
Année d'étude :	Troisième année de Licence Droit
Discipline :	<i>Anglais juridique</i>
Examen :	Premier semestre (UEC1 7296)
Durée :	1h30
Titulaires du cours :	M. Dino MELONI, Mme Emilie PERCHE

Les documents et les appareils électroniques ne sont pas autorisés.

I. Complete the following sentences, adding between 10 and 25 words. Do not start a new sentence. (20 points)

1. In order to pass strict scrutiny ...
2. Despite plea bargaining ...
3. Unlike oral statements ...
4. While total incorporation ...
5. Unless the defendant shows up ...

II. Read the following document and answer each of the questions below. (approximately ten lines/100 words for each question). Use your own words. DO NOT QUOTE DIRECTLY FROM THE TEXT. (30 points)

In Philly courts, whether they'll die in prison comes down to their birthday
Samantha Melamed, *The Philadelphia Enquirer*, July 6, 2017

In 1982, when Judge Armand Della Porta sentenced Orlando Stewart to spend the rest of his life in prison, he did it with apparent regret. "This is the best example of how wrong mandatory sentencing is," he said.

Stewart was the last of 10 West Philadelphia teenagers sentenced in the 1981 death of University of Pennsylvania graduate student Douglas Huffman. They'd gone out in a pack, looking for someone to rob. One teen hit Huffman, knocking him to the pavement where he hit his head hard enough to fracture his skull. Huffman declined medical treatment, and was found dead in his bed two days later.

Seven of the teens served short sentences, some as little as a year. Ronald Saunders, who orchestrated the attack, was sentenced to life. But he was made eligible for parole this March after a U.S. Supreme Court ruling that drew on evolving brain science to conclude juveniles are less culpable than adults, and cannot be doomed to life without parole under mandatory sentencing rules. Charles Manor, the teen who knocked Huffman to the ground, was also made eligible for parole.

But Stewart, who never touched Huffman, won't get a new sentence. That's because two months and 10 days before the crime, Stewart turned 18. Those two months were the difference between kid and adult under the law — and between the “hope for some years of life outside prison walls” promised in that 2016 Supreme Court decision and the certainty of death in prison.

Now, appeals by 18-, 19-, and 20-year-old lifers like Stewart have begun to reach Pennsylvania's highest court. One was filed in June by Charmaine Pfender, who was 18 when she shot a man she says was attempting to rape her at knifepoint, killing him. Such petitions argue that the same immaturity and impulsivity that diminish younger teens' culpability continue well into the 20s, as a person's brain continues to develop.

If successful, the appeals could have sweeping implications: More than half of Pennsylvania's lifers entered the state prison system between age 18 and 25. That's 2,763 inmates. (...)

Laurence Steinberg, a Temple University psychologist specializing in brain development, says such arguments have a scientific basis. His research shows that, while cognitive abilities mature by age 16, other parts of the brain mature later. Areas that influence criminal culpability, like impulsiveness, risk-aversion, and resistance to peer pressure, continue maturing well into the 20s.

“The science would certainly say there's significant brain maturation that continues to go on at least until age 21, if not beyond,” he said. “The legal question is harder than the scientific question.” After all, he added, “We have lots of age boundaries we draw in society that don't make any sense from a scientific point of view. Why on earth would we let people drive when they're 16, but not see sexy movies until they're 17? Driving is a much more dangerous thing to do. Why do we have different ages for purchasing tobacco and purchasing alcohol, if we believe those are both harmful things for young people?”

In light of evolving neuroscience, some jurisdictions have begun to set up young-adult courts, targeting those between 18 and 25 for consideration that is somewhere between juvenile and adult proceedings. San Francisco, Brooklyn, and Chicago have all launched such initiatives.

But in a string of U.S. Supreme Court cases, beginning with *Roper v. Simmons*, the 2005 case that abolished the juvenile death penalty, the court determined “a line must be drawn.” Age 18 seemed a conventional choice.

This line has led to perplexing moments in the courtroom over the last year and a half, as Pennsylvania judges have worked to resentence some 500 juvenile lifers — the largest such population in the nation. Their sentences were deemed illegal under *Miller v. Alabama*, a 2012 case, but it took a second case, *Montgomery v. Louisiana*, to get Pennsylvania courts to apply the ruling retroactively.

At least a half-dozen lifers who sought new sentences in Philadelphia waited for months while lawyers tracked down birth certificates from the 1950s, '60s, or '70s to determine whether they were on the right side of 18 at the time of the crime. One, Steven Drake — the only 18-year-old in a group of 11 youths charged in a 1971 stabbing in West Philadelphia — was 23 days too old to make the cut, according to the date of birth on his court docket.

To Bret Grote, “Arbitrarily drawing this line and hunting down birth certificates, it points to the fundamental unfairness.”

- 1. What Supreme Court decisions does the article refer to? What role did they play in the cases of Orlando Stewart, Ronald Saunders and Charles Manor?**
- 2. In what ways is the line drawn in those Supreme Court precedents being challenged?**
- 3. Focus on the underlined sentence. Do you think the law should follow science on this issue?**

III. Choose one of the following topics and write an essay in approximately 250 words (+/- 10%). (50 points)

1/ Discuss the application of the Exclusionary Rule.

2/ In 1940, the West Virginia Board of Education issued regulations requiring every schoolchild to participate in a daily salute to the flag of the United States. Consistent with their religious beliefs, the Burrow children refused to participate in the flag salute and were expelled from their public school.

You are acting on behalf of the Board of Education, what arguments do you anticipate from the Burrow family and what would be your arguments in response?