# THE ABSURDITY OF FELONY MURDER FROM A LIFER'S PERSPECTIVE

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ABSTRACT

*Proponents of the felony murder doctrine hail it as a deterrent to violent crime, although empirical evidence showing recent rises in murder rates across the country proves such deterrence unfounded. In fact, the felony murder doctrine acts more as a prejudicial mechanism that unjustly incarcerates murder defendants for life without the basic due process afforded to other criminal defendants, such as the inclusion of lesser-included offense jury instructions and consideration of mitigating circumstances that may limit culpability of a crime. Additionally, the felony murder doctrine allows the conviction of people who have killed no one, simply because their actions contributed to a death. Since the felony murder rule harms people instead of deterring crime, states should abolish or refine it to eradicate prejudice and to limit unjust convictions.*



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## I. THE ABSURDITY OF FELONY MURDER FROM A LIFER'S PERSPECTIVE

In 2002, twenty-six-year-old Edgar Naranjo received a forty-year prison sentence for a killing committed by a police officer because of the felony murder doctrine.[1] Naranjo and his accomplice, fourteen-year-old Johnny Salazar, attempted to rob a woman at gunpoint in her home.[2] The victim's son, an off-duty police officer, ran upstairs from the basement and shot Salazar, killing him.[3] During the investigation, police discovered Salazar had attempted to rob the woman with a pellet gun, not a real firearm.[4] Because Naranjo and Salazar's felonious actions created a concomitant chain of events leading to Salazar's death, Naranjo was charged and convicted of felony murder. Despite Naranjo's wrongdoing, should he have been held accountable for a killing he did not commit?

Naranjo received a forty-year sentence because he committed the crime in Illinois. Although almost every state utilizes the felony murder rule, states such as Illinois offer an opportunity for release. If Naranjo had been convicted of the same crime in North Carolina, he would have been sentenced mandatorily to life without parole ("LWOP") or the death penalty. Additionally, in cases of felony murder North Carolina limits the inclusion of many lesser-included offenses, such as second-degree murder or voluntary manslaughter, which are included in premeditated murder and may diminish culpability. When sentencing a person for felony murder, North Carolina law prohibits the sentencing court from considering mitigating factors in reducing the severity of the punishment.[5] Many lawmakers and justices in North Carolina falsely justify harsh treatment of felony murder defendants by claiming the mandatory LWOP sentence acts as a deterrent to crime by preventing others from committing dangerous felonies potentially resulting in death, even though empirical evidence disproves this causal link.[6] In fact, journalist Matt Rosenberg reports that "[m]urders nationwide in 2020 rose a stunning 29.4 percent over the previous year" despite the preventative intention of mandatory LWOP sentences.[7] The felony murder doctrine should be abolished in North Carolina, and nationwide, because it cannot accomplish its superficial goal of deterring crime and actually harms society by allowing people to be convicted without the same due process afforded to people charged with other crimes, such as the inclusion of lesser-included offenses and the consideration of mitigating factors during sentencing. By focusing on felony murder in the state of North Carolina, this article examines the

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[1] Alexandra Kukulka and Sam Roe, *Chicago Cop Kills Teen, But Boy's Accomplice is Who Goes to Prison*, USA TODAY (Nov. 4, 2021).
[2] *Id.*
[3] *Id.*
[4] *Id.*
[5] *Harmelin v. Michigan*, 501 U.S. 957, 994-997 (1991) (finding consideration of mitigating circumstances is not necessary when legislation forces the imposition of a mandatory sentence).
[6] *State v. Richardson*, 462 S.E.2d 492, 498 (N.C. 1995) ("The felony murder rule was promulgated to deter even accidental killings from occurring during the commission of a dangerous felony."); *see also Criminal Law: Felony-Murder Rule—Felon's Responsibility for Death of Accomplice*, 65 COLUM. L. R. 1496, 1498 (1965).
[7] Matt Rosenberg, *Spiraling Violence in Chicago: Causes and Solutions*, 51 IMPRIMIS 2 (2022).

prejudice of felony murder, historical rulings expanding fairness to felony murder defendants, and how felony murder prejudicially impacts people of color.

## II. WHAT IS FELONY MURDER?

In North Carolina, first-degree murder carries the most severe penalty of any crime. North Carolina criminal statutes separate first-degree murder into two theories of law: felony murder or premeditated murder. Although each demands either a death or mandatory LWOP sentence, the elements of each make felony murder appear much more prejudicial.

To be convicted of felony murder, death of another must occur during the commission of a felony, specifically "any arson, rape or sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon."[8] Furthermore, a felony murder conviction does not require that the perpetrator harbor an intent to kill. The death could be accidental, or as in Salazar's case, committed by a person attempting to stop the crime. Commission of a felony leading up to the death is the only requirement.

To be convicted of premeditated murder, a person must form some intent to kill over a specified period of time—whether three years or three seconds. The method of murder has no real bearing, as long as the crime consists of any "willful, deliberate, and premeditated killing."[9] An example of premeditated murder could be a man who killed his wife's lover after executing a thought out plan.

Divergences between premeditated and felony murder force an examination of whether the felony murder rule operates as a lesser or worse crime than premeditated murder. The linchpin between the two rests in the perpetrator's intent. In the case of a premeditated murder, a killer *intends* to kill a victim. Contrarily, in felony murder cases, the perpetrator *lacks* murderous intent. During an armed robbery, a perpetrator intends to take goods or money from the victim, not the victim's life, even though the robber may use a deadly weapon to carry out the crime. Past courts considered the death of a victim as a reasonably foreseen risk when a person set out to commit a dangerous felony.[10] Logically, if a death occurs during the commission of a felony, the perpetrator should be held accountable in some way, but should the punishment for one who lacks murderous intent be as severe as a perpetrator who sets out to commit premeditated murder?

## III. PREMEDITATED MURDER CONVICTIONS APPEAR MORE JUST

When a court convicts someone of premeditated murder, a jury decides that the perpetrator thought out the killing beforehand. Often, the jury hears other acts the perpetrator carried out to accomplish the killing, such as coercing the victim to arrive somewhere at a certain time. The intent involved should make premeditated murder a more reprehensible crime, demanding harsher punishment. Nonetheless, North Carolina provides several lesser-included offenses relative to premeditated

[8] N.C. GEN. STAT. § 14-17.
[9] *Id.*
[10] See Felony Murder Rule, *supra* note 6, 1499.

murder, like second-degree murder, or voluntary and involuntary manslaughter, based on diminished culpability of the crime. Lesser-included offenses produce a merciful reprieve from a first-degree murder conviction, because they give the jury an option to convict the defendant of a crime that carries a lesser penalty than death or LWOP. Lesser-included felonies become relevant during deliberations when jurors must decide if an outside factor, other than malice, contributed to the death.

The case of Robert Kenneth Stewart illustrates how lesser-included offenses impact murder trials.[11] In 2009, Stewart entered a retirement home where his estranged wife worked with a plan to kill her. Once inside, retirement home employees informed Stewart that his wife had taken the day off. Enraged about her absence, Stewart pulled out his gun and willfully murdered eight people. During trial, prosecutors charged Stewart with eight counts of first-degree murder, each punishable by death or LWOP. Throughout his life, Stewart had been treated for mental illness, which could lessen his culpability for the crime. Because of his history of mental illness, the trial court charged the jury with deciding whether to convict Stewart of first-degree murder or the lesser offense of second-degree murder. Jurors found evidence of Stewart's diminished mental capacity during the crime and convicted him of eight second-degree murder charges. Each conviction carried a sentence of 15 to 19 years. The trial court sentenced Stewart consecutively, forcing him to serve a total of 120 to 152 years, ensuring his death behind bars.

But what if Stewart had only killed one person?

The facts are undeniable. Stewart entered the retirement home planning to kill his estranged wife. When notified of her absence, he formulated an intent to kill anyone standing around him at the time. Stewart's case clearly depicts eight counts of premeditated and deliberate murder, but lesser-included offenses allowed him to be convicted of second-degree murder. If Stewart had killed only one person, under the same circumstances, Stewart would be serving one 15 to 19-year sentence, not LWOP, for a murder he planned and executed.

Felony murder convictions do not offer such mercy. If Robert Stewart had planned to rob the retirement home—instead of planning to murder his wife—and he accidentally killed just one person during the robbery, not eight, a North Carolina court would have been forced to sentence him to LWOP. Diminished culpability through his past mental health issues would not weigh one iota in jurors' deliberations. The lack of intent to kill would have been inconsequential. Stewart would have received a harsher sentence because of the inconsistent way North Carolina punishes murder, despite the severity of the crime.

## IV. HOW FELONY MURDER HARMS

In 2001, Larry Doyle and his girlfriend set out on a trip from Georgia to New York to visit the World Trade Center after 9/11. Their car broke down in North Carolina. Stranded with little money and no way to continue on to New York or to return home, Doyle carjacked someone at knifepoint. While the couple was on the highway making their escape, the police attempted to incapacitate Doyle's stolen car

[11] *State v. Stewart*, 750 S.E.2d 875 (N.C. 2013).

by throwing out stop sticks—a collapsible row of nails embedded in plastic used to pop the tires of any vehicle rolling over them. Doyle evaded the stop sticks and continued driving. The driver behind him rolled over the stop sticks, causing the car to crash, resulting in the death of a passenger. After Doyle's arrest, police charged him and his girlfriend with first-degree felony murder for the passenger who died in the accident he did not cause.[12] A jury convicted Doyle, and a judge sentenced him to LWOP: the mandatory punishment for felony murder in North Carolina.

Both Robert Stewart and Larry Doyle committed crimes, but a stark difference exists between Stewart's act of mass murder and Doyle's causing of a death by happenstance. How does a person who intentionally kills eight people end up with a less severe sentence than someone who did not kill, or intend to kill, anyone? The grossly unjust application of felony murder holds the key.

## V. FAIRNESS FOR FELONY MURDER ARRIVES SLOWLY

In his book *Felony Murder*, Professor of Law from The State University of New York at Buffalo Law School, Guyora Binder explains how the "felony murder doctrine. . . is one of the most widely criticized features of American criminal law."[13] On one hand, "the offender's felonious motive for imposing a risk of death aggravates his guilt for unintentionally, but nevertheless culpability, causing the resulting death," but on the other hand "[s]ome have concluded that felony murder rules impose unconstitutionally cruel and unusual punishment by ascribing guilt without fault."[14] Charging a person who did not kill anyone should be considered harsh at the least, but only felony murder makes this harsh practice legal.

Binder argues that felony murder most likely originated after the American Revolution.[15] Contrary to common belief, no true English rule governing the felony murder doctrine appeared to exist before then, yet it may have been part of English common law, not an established rule.[16] Notwithstanding the doctrine's historical roots, its lack of fairness has been scrutinized. The most archaic aspects of the felony murder rule may be the practice of withholding lesser-included offenses from the jury's consideration during deliberations and the prohibition of considering mitigating circumstances during sentencing after a felony murder conviction.

### A. *Lesser-included offenses*

The North Carolina Supreme Court partly rectified the withholding of lesser-included offenses for felony murder in *State v. Bell*, where the court outlined three logical exceptions allowing "the doctrine of self-defense as a defense to first-degree" felony murder.[17] David Bell attempted to rob an undercover police officer who had set up a sting operation to sell drugs to Bell's teenage son. During the drug

[12] *State v. Doyle*, 587 S.E.2d 917 (N.C. Ct. App. 2003).
[13] Guyora Binder, FELONY MURDER 3 (2012).
[14] *Id.*
[15] *Id.* at 122.
[16] *Id.*
[17] *State v. Bell*, 450 S.E.2d 710, 723 (N.C. 1994).

deal, Bell knocked the officer to the ground and pulled out a firearm. When the officer attempted to defend himself by reaching for his own weapon and yelling, "Stop or I'll shoot," Bell shot and killed the officer.[18] The issue of self-defense arose because Bell did not know that the victim was an undercover police officer and could have feared for his life, even though he initiated the situation.

In *Bell*, the North Carolina Supreme Court issued three exceptions as self-defense to felony murder:

(i) a reasonable basis upon which the jury may have disbelieved the prosecution's evidence of the underlying felony;
(ii) a factual showing that defendant clearly articulated his intent to withdraw from the situation;
(iii) a factual showing that at the time of the violence the dangerous situation no longer existed.[19]

These exceptions only apply self-defense to the underlying felony supporting the felony murder charge, meaning the defendant broke the concomitant chain of events before the actual killing occurred. This logic relies on existing North Carolina caselaw outlining the affirmative defense of withdrawal as it pertains to self-defense: "If, however, after bringing on the difficulty a person in good faith withdraws, and shows his adversary that he does not desire to continue the conflict, and his adversary pursues him, he has the same right to defend himself as if he had not originally provoked the difficulty … [and if] the person [first] assailed renews the difficulty, he becomes the aggressor."[20]

If the victim refuses to honor the original assailant's notice of withdrawal, supporting case law finds legal provocation "when the victim's actions against the defendant rise to the level of an assault or threatened assault."[21] If the perpetrator ceases the felonious action initiating the confrontation, they cannot be held liable. To apply the revised ruling, a trial court must include involuntary manslaughter (the doctrine of perfect self-defense) as a lesser-included jury instruction when applicable. Second-degree murder and voluntary manslaughter cannot apply, because this self-defense doctrine declares that a jury can only find the original assailant either wholly blameless or wholly guilty of wrongdoing.

Ironically, the North Carolina Supreme Court did not rule in Bell's favor and denied him the right of self-defense, finding, "the evidence tends to show and the jury found that [Bell] went . . . for the purpose of robbing the victim . . . No evidence was presented to suggest that the dangerous situation had dissipated at the time of the shooting or that [Bell] made any effort to declare his intent to withdraw."[22] Regardless, outlining self-defense exceptions to felony murder proved to be a groundbreaking ruling.

*Bell* allowed application of other lesser-included offenses to felony murder where none previously existed. If a criminal defendant can prove their felonious

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[18] *Id.* at 389.
[19] *Id.* at 387.
[20] *State v. Medlin*, 36 S.E. 344, 346 (N.C. 1900).
[21] *State v. Camacho*, 446 S.E.2d 8, 13 (N.C. 1994) (referencing *State v. Montague*, 259 S.E.2d 899 (N.C. 1979)).
[22] *State v. Bell*, 450 S.E.2d 710, 723 (N.C. 1994).

action ceased before a victim's death, they cannot be convicted of the underlying felony supporting a felony murder conviction; thus, they would be guilty of some lesser crime, or wholly guiltless. However, the *Bell* ruling did not have a watershed effect, because after it, some trial courts did not honor *Bell*'s lesser-offense exceptions.

Prejudicial circumstances allowed trial courts to deviate from charging the jury with considering lesser-included offense instructions until *State v. Millsaps*.[23] Strangely, James Millsaps had been convicted of both felony murder and premeditated and deliberate murder for two deaths.[24] During a heated argument, Millsaps shot and killed a family member.[25] When other family members ran out to investigate, Millsaps shot and killed a second person.[26] Prosecutors argued to apply the first killing as the underlying felony they needed to convict Millsaps of first-degree felony murder. At the same time, prosecutors argued how Millsaps also committed premeditated murder by planning the killings. Despite the prejudice of using one killing to secure a first-degree felony murder conviction, *Millsaps* focused on a procedural error redefining how courts impose lesser-included jury instructions in murder cases.

Like Robert Stewart, James Millsaps had experienced mental health issues throughout his life. During trial, a forensic psychiatrist testified to Millsaps' sufferance "from delusions of a prosecutory nature" at the time of the killings; furthermore, "psychosis would have grossly impaired his ability to plan purposefully and intentionally with a full understanding of the nature and consequences of his acts…[Millsaps'] ability to form the specific intent to kill was absent on that day."[27] The forensic psychiatrist's testimony warranted a jury instruction for second-degree murder, because it established diminished culpability for the killings, circumstances comparable to those in Stewart's case. Remarkably, the trial court declined to offer lesser-included offense instructions for second-degree murder because the instructions only applied to premeditated murder, not felony murder.

As previously stated, prosecuting attorneys took Millsaps to trial under both theories of first-degree murder: premeditated murder and felony murder. This tactic allowed prosecutors to argue both theories during trial hoping the jury would return a conviction of first-degree murder, no matter which theory proved more plausible, like throwing two strands of spaghetti against a wall with aspirations that one sticks. The three exceptions awarding lesser-included offense instructions, detailed in *State v. Bell*, related to self-defense, not a defendant's mental state at the time of the killings, so they could not apply to *Millsaps*.[28] By denying second-degree murder as a lesser-included offense instruction, the trial court made evidence of James Millsaps' mental incapacity irrelevant because it became irrelevant to the elements of first degree felony or premeditated murder. The jury consequently found Millsaps "guilty of first-degree murder on both counts based on premeditation and

[23] *State v. Millsaps*, 572 S.E.2d 767 (N.C. 2002).
[24] *Id.* at 768-69.
[25] *Id.* at 769.
[26] *Id.*
[27] *Id.* at 770.
[28] *See State v. Bell*, 450 S.E.2d 710 (N.C. 1994).

deliberation and felony murder of each victim, with the murder of the first victim as the underlying felony."[29] The trial court sentenced James Millsaps to death for the murders after consideration of aggravating and mitigating factors by the jury.

On appeal, the North Carolina Supreme Court recognized the prejudice of withholding a lesser-included jury instruction because it applied only to one theory of law, finding:

> While the State may rely on the felony murder rule to support a conviction for first-degree murder and is not required to submit premeditated and deliberate murder to prove first-degree murder, if the trial court instructs on premeditated and deliberate murder, it must instruct on all lesser-included offenses within premediated and deliberate murder supported by the evidence.[30]

*Millsaps* aimed to introduce justness in murder trials by attempting to force prosecutors to limit the scope of their trial strategies and also forced trial courts to honor lesser-included offense instructions, like the self-defense ruling in *State v. Bell*, which the North Carolina Supreme Court reaffirmed when ruling on *State v. Gwynn* in 2008.[31] After *Millsaps* and *Gwynn*, no trial court could withhold a lesser-included offense for felony murder without risking a reversal on appeal.

### B. *Mitigating Factors*

Despite the aim to implement justness with the inclusion of lesser-included offenses for felony murder, the felony murder doctrine prejudices criminal defendants in another way by prohibiting consideration of mitigating factors at sentencing. When a person is convicted of a crime, "[c]ourts must take into account a wider range of factors that may aggravate (i.e., enhance) or mitigate (i.e., reduce) the severity of the sentence," including "factors that point to the seriousness of the offense, the harm done, the offender's culpability, as well as the offender's background, such as criminal history, age, employment record, and family obligations."[32] Every criminal conviction is subject to leniency due to consideration of mitigating circumstances during sentencing hearings, from larceny to death penalty cases, except sentencing in noncapital cases where mandatory LWOP is the only possible sentence.

Before 2001, North Carolina state law required prosecutors to seek the death penalty in all first-degree murder cases until an amended act allowed them to forgo the death penalty in favor of a noncapital trial where LWOP is the highest possible sentence.[33] The act empowered prosecutors who wanted to avoid the potential for

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[29] *Millsaps*, 572 S.E.2d at 769.
[30] *Id.* at 774.
[31] *State v. Gwynn*, 661 S.E.2d 706, 708-09 (N.C. 2008).
[32] Kevin Kwok-yin Cheng, *Aggravating and Mitigating Factors in Context: Culture, Sentencing and Plea Mitigation in Hong Kong*, 20 NEW CRIM. L. R. 506, 507 (2017).
[33] N.C. GEN. STAT. § 15A-2004; see also, Brandon L. Garrett, Travis M. Seale-Carlisle, Karima Modjadid & Kristen M. Renberg, *Life Without Parole Sentencing in North Carolina*, 99 N.C. L. REV. 279, 297 (2021).

juries to exercise excess leniency when the death penalty is on the table because jurors may perceive the case as less heinous than others. When North Carolina law forced prosecutors to seek the death penalty, mitigating factors played a role during sentencing, because a jury had to choose between sentencing the convicted to death or life. After enactment of the noncapital option, LWOP became the mandatory sentence for all first-degree murder convictions, effectively eliminating consideration of mitigating circumstances from murder trials.

In *Harmelin v. Michigan*, the United States Supreme Court found that excluding mitigating factors when imposing mandatory sentences does not violate the Constitution's Eighth Amendment Cruel and Unusual Punishment Clause.[34] To date, no challenge has been made to the exclusion of mitigating factors under the Fourteenth Amendment's Equal Protection Clause, which declares, no state shall "deny to any person within its jurisdiction the equal protection of the laws."[35] Denying a criminal defendant the right to introduce causal or influencing circumstances leading to a felony murder, like extreme poverty, homelessness, mental health incapacitation, or intoxication, should be considered a form of discrimination because every other criminal defendant has the opportunity to do so. How can one group of criminal defendants be treated differently? North Carolina courts should take the finality of a LWOP sentence more seriously and, therefore, offer a lesser punishment that would make mitigating factors applicable in non-capital sentencing hearings. For example, a trial court could offer life with parole as an option, then fairly weigh mitigating and aggravating factors to decide which sentence is more appropriate. Without a lesser sentence to consider, premeditated and felony murder produce the same sentence—LWOP—and the same result as the death penalty: death behind bars.

## VI. RACIAL PREJUDICE IN MURDER CONVICTIONS

In 2021, The North Carolina Law Review published a study, entitled, *Life Without Parole Sentencing in North Carolina*.[36] This study details the disproportionate issuance of LWOP sentences depending on necessary criteria: racial makeup of the convicting county, racial population of the convicting county, and race of the victim and/or the defendant:

> We find, in short, that homicide rates do not explain LWOP sentences. In fact, counties with higher homicide rates have fewer LWOP sentences. However, we troublingly find that counties with more Black victims of homicide have statistically fewer LWOP sentences, and that this is not the case for counties with more White victims…This provides stronger evidence that it is not other county-level trends, but rather the preferences of prosecutors, that are driving LWOP sentencing.[37]

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[34] *Harmelin v. Michigan*, 501 U.S. 957, 994-97 (1991).
[35] Owen M. Fiss, *Groups and the Equal Protection Clause*, 5 PHIL. & PUB. AFF. 107, 108 (1976).
[36] Brandon L. Garrett, Travis M. Seale-Carlisle, Karima Modjadid & Kristen M. Renberg, *Life Without Parole Sentencing in North Carolina*, 99 N.C. L. REV. 279 (2021).
[37] *Id.* at 285.

These findings prove consistent with recent data reporting the decline of homicide rates, since 1995, but rising LWOP sentences.[38] Empirical evidence shown in *Life Without Parole Sentencing in North Carolina* depicts North Carolina as a state where race, not severity of the crime, chiefly determines issuance of a LWOP sentence, especially in a case with a White victim.[39] The Sentencing Project reports that 4,171 North Carolinians are serving some form of life in state prisons.[40] Black people make up 59.6% of those 4,171 serving life in North Carolina.[41] Some may point to evidence depicting African-Americans as leading perpetrators of violent crimes: "Black men are about 6.5 percent of the population but are responsible for approximately half of all murders in the United States," and "African Americans committed 54 percent of robberies and 39 percent of assaults."[42] However, the resulting numbers of crime convictions do not account for conditions causing crime at a higher rate in impoverished communities.

Aside from the propensity to commit crime, African-Americans engage in crime most often for monetary gain. One article reports "the median net worth of a White household, $144,200" surpasses by "thirteen times the median net worth of an African-American household, $11,200," and "for every $1 that a White man earns, an African-American woman earns $0.61.[43] This race/gender wealth gap becomes more relevant with a finding from the U.S. Bureau of the Census reporting that "51% of African American children, compared with 16% of White children under age 18 live with a single, African American mother."[44] Additionally, before the Civil Rights Movement, the American government barred African Americans from programs aiding Whites, like the GI Bill, Social Security, and key labor laws. Exclusion from aid programs stymied African American's ability to accumulate and bestow wealth through inheritance.[45] Historically and currently, most African-American children begin life in poverty and spend their existence struggling to find a way out. Some boast that modernity gifts African-Americans every opportunity afforded to Whites, but empirical evidence proves that is not the case.

By decreasing options and increasing pressure, wealth disparity makes African-Americans much more likely to commit crimes. As a result, robbery, a violent crime, or other bad personal choices that lead to a criminal lifestyle like drug dealing, can become a felony murder. The fact that North Carolina issues LWOP sentences at a greater rate to African Americans displays clear racial bias against the state's most impoverished citizens. Instead of creating community programs to curb

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[38] ASHLEY NELLIS, THE SENT'G PROJECT, NO END IN SIGHT: AMERICA'S ENDURING RELIANCE ON LIFE IMPRISONMENT, 13 (2021), https://www.sentencingproject.org/wp-content/uploads/2021/02/No-End-in-Sight-Americas-Enduring-Reliance-on-Life-Imprisonment.pdf [https://perma.cc/C5DB-QWWL].
[39] Garrett, *supra* note 36, at 306, 321.
[40] Nellis, *supra* note 38, at 10.
[41] ASHLEY NELLIS, THE SENT'G PROJECT, STILL LIFE: AMERICA'S INCREASING USE OF LIFE AND LONG-TERM SENTENCES, 15 (2017), https://www.sentencingproject.org/publications/still-life-americas-increasing-use-life-long-term-sentences/ [https://perma.cc/AWD5-WMLN].
[42] Paul Butler, *The Problem of State Violence*, 151 DAEDALUS 22, 25 (2022).
[43] *Id.* at 25.
[44] George Thomas, Michael P. Farrell & Grace M. Barnes, *The Effects of Single-Mother Families and Nonresident Fathers on Delinquency and Substance Abuse in Black and White Adolescents*, 58 J. MARRIAGE AND FAM. 884, 885 (1996).
[45] Butler, *supra* note 42, at 26.

crime, North Carolina convicts more African-Americans and ensures most of them serve LWOP without the benefit of lesser-included offenses or the introduction of mitigating circumstances presented during sentencing.

## VII. CONCLUSION

North Carolina, and all states, should abolish felony murder for a bevy of reasons. First, no logical reason exists to show why felony murder should be punished equally to premeditated murder, especially when premeditated murders are usually more reprehensible crimes. Secondly, the felony murder doctrine prejudicially robs criminal defendants of an opportunity to receive a lesser-included offense conviction—even when evidence warrants it—or to present mitigating circumstances during sentencing. Lastly, the felony murder theory is a prejudicial practice disproportionately affecting African Americans. From top to bottom, the felony murder rule prejudices anyone on trial or convicted for it without reprieve.

The felony murder rule should also be abolished because it is an unfair law relying on subjective reasoning. For instance, when police arrest a person for robbing a gas station at gunpoint, they do not charge the perpetrator with attempted murder. Why? Because even though a robber wields a firearm, they may not possess the intent to kill a gas station attendant. Police base the robbery charge on the robber's actual and clear intent. Contrariwise, felony murder implies intent by finding that death should be a reasonably foreseen risk when a person commits a dangerous felony.[46] Felony murder places a perpetrator's intent to kill where none exists.

Moreover, the felony murder rule cannot act as a deterrence to future crime. *In Life Without Parole Sentencing in North Carolina*, researchers argue three points against considering the felony murder doctrine as a deterrence to crime. Firstly, people must be aware of the law and its punishments for it to act as a deterrent, but most are not.[47] Secondly, people must be considered mature enough to weigh their actions morally.[48] And thirdly, people need to decide if the consequences of criminal action are greater than the rewards, such as a poor person who feels compelled to steal so their children can eat.[49] Without acknowledging causes for crime, felony murder cannot act as a logical deterrence. Many criminals do not even consider the possibility of getting caught, meaning they focus on the rewards, not the repercussions, of the criminal act.

The North Carolina Supreme Court should be commended for issuing groundbreaking rulings that attempt to balance justness in felony murder trials, such as *State v. Bell* and *State v. Millsaps*, but the entire structure as a whole should be eradicated. No logic explains why felony murder should be punished as harshly as premeditated murder without fair protections.

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[46] *Criminal Law: Felony-Murder Rule—Felon's Responsibility for Death of Accomplice*, 65 COLUM. L. R. 1496, 1499 (1965).
[47] Garrett, *supra* note 36, at 286.
[48] *Id.* at 286.
[49] *Id.* at 286-7.

North Carolina, or any other state, will not likely abolish the felony murder doctrine, because it has been a fixture of the American criminal code almost as long as the existence of the republic. Despite the unjust results it produces, felony murder can maintain a place in criminal proceedings if legislators refine its provisions to improve justness. Armed robbery cases resulting in death may be the archetypal circumstance for the existence of the felony murder rule; however, cases like Larry Doyle's and Edgar Naranjo's are not. Larry Doyle's actions led to a person's death. If he and his girlfriend had never carjacked someone, the police would never have employed stop sticks, causing the death of an innocent, but Larry Doyle did not cause the victim's death. Doyle should only serve time for the carjacking he committed, not a murder he did not commit. Edgar Naranjo's case does not lie far from the same logic. Naranjo should only be serving time for attempting to rob someone, not for his accomplice's death. Until lawmakers view the felony murder doctrine through the lens of its absurd results, its imposition can only result in prejudice.

Inversely, if North Carolina alters the felony murder doctrine, it can ensure justice and fairness by giving murder defendants opportunities to avoid LWOP or death, based on the circumstances of their case, not the tenets of a prejudicial law. Altering the felony murder doctrine can be accomplished through reformative legislation that makes the punishment less severe, adding an alternative punishment such as life with parole, or specifying what felonies can warrant an LWOP sentence and which cannot. By altering the felony murder doctrine, North Carolina can ensure that people are convicted of the actual crimes they commit and are punished without prejudice.