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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE, Plaintiff and Respondent, v. JOSEPH A. BARRETT, Defendant and Appellant.	A170862 (San Francisco County Super. Ct. Nos. SCN122269, CRI951110)

In 1987, Joseph A. Barrett was convicted of a first degree murder committed when he was 16 years old and sentenced to a prison term of 26 years to life. In 2023, he filed a petition for recall and resentencing pursuant to laws enacted subsequent to his sentencing that permit a defendant who was sentenced to life without parole for an offense committed when the defendant was under 18 years of age to seek resentencing. Barrett appeals from the trial court's denial of his petition, arguing the court abused its discretion in finding his sentence was not the functional equivalent of life without parole. We affirm.

BACKGROUND

I.

Factual Background[1]

In 1986, after being arrested for an unrelated offense, 16-year-old Barrett confessed to killing James Jackson on the morning of October 6, 1986, by smashing his skull with a dumbbell. He testified at trial that he was living on the street when he met Jackson on Haight Street in August 1986. Barrett spent the night at Jackson's apartment because he had nowhere to stay and subsequently visited Jackson several times. Jackson wanted to have sex, but Barrett refused. Witnesses at trial testified that Jackson was sexually interested in young boys and often brought them to his apartment for dinner and sex.

On the night of the murder, Barrett was at Jackson's house. He had been drinking and taking drugs; he had resisted a sexual advance, Jackson had apologized, and Barrett believed Jackson was sincere. After Barrett went to sleep, Jackson came into the bedroom, forced his penis into Barrett's mouth and ejaculated, then claimed Barrett enjoyed the experience. Barrett felt dirty, embarrassed and confused, and became afraid he might have been exposed to AIDS. After going to the bathroom to shower, he came out, picked up a dumbbell and hit Jackson five or six times. He wanted to hurt Jackson but was too upset to think about what he was doing.

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[1] The facts underlying Barrett's conviction were detailed in our unpublished opinion on his first appeal (*People v. Barrett* (Aug. 10, 1989, A040755) [nonpub. opn.]) and will be set forth here only briefly. We take the facts from our prior opinion, as do the parties' briefs.

Barrett testified that he had been sexually assaulted at age 13 but did not tell anyone until he was interviewed by a psychologist in connection with the present case. He testified that he made his living doing odd jobs, panhandling, and accepting solicitations for sex from gay men, then taking their money and running away, but used force only when the men tried to stop him or get their money back. He said in his confession that he had committed strong arm robberies about four times, beating the men who picked him up and taking their wallets but to his knowledge not seriously injuring them.

II.

Procedural Background

Barrett was charged with murder (Pen. Code,[2] § 187), with personal use of a deadly weapon (§ 12022, subd. (b)) and grand theft (§ 487.1).[3] A jury found him guilty of first degree murder and grand theft and found the deadly weapon enhancement true. He was sentenced on November 23, 1987, to 25 years to life for the murder, a consecutive one year for the enhancement, and a concurrent two years for the theft. He appealed, and this court affirmed the judgment. (*People v. Barrett, supra,* A040755.)

On March 29, 2004, Barrett was convicted of killing his cellmate in 1996 and was sentenced to death. His appeal was pending throughout the proceedings on this petition, until the California Supreme Court on

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[2] All further statutory references are to the Penal Code unless otherwise indicated.

[3] A third count relating to a different victim was severed and later dismissed.

June 23, 2025, filed its opinion affirming the judgment.[4] (*People v. Barrett* (2025) 17 Cal.5th 897.)

Effective January 1, 2013, section 1170 was amended to allow juvenile offenders, with exceptions not relevant here, to petition for recall and resentencing of life without parole sentences after being incarcerated for at least 15 years. (Former § 1170, subd. (d)(2); Stats. 2012, ch. 828, § 1 [now designated subd. (d)(1)].)[5] The petition must "include the defendant's statement that the defendant was under 18 years of age at the time of the crime and was sentenced to life in prison without the possibility of parole, the defendant's statement describing their remorse and work towards rehabilitation, and the defendant's statement that one of the following is true: [¶] (A) The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law. [¶] (B) The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the sentence is being considered for recall. [¶] (C) The defendant committed the offense with at least one adult codefendant. [¶] (D) The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing themselves of rehabilitative, educational, or vocational programs, if those programs have been available at their classification level and facility, using self-study for self-improvement, or showing evidence of remorse." (§ 1170, subd. (d)(2).)

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[4] Although the death sentence would preclude the relief sought in the present petition, we do not view this appeal as moot because the death judgment will not be final until any avenues for further review in the federal courts have been exhausted. (*People v. Vieira* (2005) 35 Cal.4th 264, 306 [judgment final when time to file petition for writ of certiorari has elapsed].)

[5] Section 1170, subdivision (d)(2) was redesignated as subdivision (d)(1), effective January 1, 2022. (Stats. 2021, ch. 719, § 2.)

Although section 1170, subdivision (d)(1) expressly applies to juvenile offenders sentenced to life without parole, the constitutional guarantee of equal protection requires that it also be applied to juvenile offenders sentenced to the functional equivalent of life without parole. (*People v. Heard* (2022) 83 Cal.App.5th 608, 633-634 (*Heard*).) Barrett filed his petition for recall and resentencing on April 4, 2024. He maintained that he was serving the functional equivalent of life without parole and met the threshold requirements for relief in that he was under age 18 when he committed the offense, he had been incarcerated more than 15 years and he satisfied one of the factors listed in section 1170, subdivision (d)(2) in that he had performed acts tending to indicate the potential for rehabilitation and had shown evidence of remorse. (§ 1170, subd. (d)(2)(D).) He stated that he had deep remorse for the harm he caused and was trying to "make [himself] a better person," participated in the mental health program at San Quentin State Prison and had performed acts tending to indicate rehabilitation or the potential for rehabilitation, including taking rehabilitative, educational or vocational programs and showing remorse.

The People opposed the petition on the ground that if Barrett had not murdered his cellmate before his parole eligibility date, he would have been eligible for parole in 2013, at age 42, which is not the functional equivalent of life without parole. The People relied on the principle that a sentence is not the functional equivalent of life without parole if there is some meaningful life expectancy left when the offender becomes eligible for parole.

Barrett's reply argued that the question whether his sentence was the functional equivalent of life without parole did not rest on his parole eligibility date or subsequent loss of eligibility for parole but rather on whether the sentence provided an incentive and meaningful opportunity to

demonstrate rehabilitation. He argued that his sentence did not account for his reduced culpability as a 17 year old and gave him no hope of release or incentive to reform because he was placed in a particularly violent prison environment and the parole rate was extraordinarily low.

The petition was denied after a hearing on June 3, 2024. Explaining its decision, the trial compared Barrett's sentence with the sentence of 23 years plus 80 to life in *Heard, supra,* 83 Cal.App.5th at page 612, observing that Barrett was sentenced to one year plus 25 to life and could have earned an earlier parole date through credits for good behavior. The court stated that Barrett was entitled to good time credits under the law in effect at the time he was sentenced and, although the law subsequently changed to eliminate such credits, this change was not retroactive and he could have earned credits until he committed the 1996 murder that resulted in his death penalty judgment.[6]

Barrett filed a timely notice of appeal on June 13, 2024.

DISCUSSION

I.

Constitutional Principles

Section 1170, subdivision (d)(1) was " 'inspired by concerns regarding sentences of life without parole for juvenile offenders' " (*Heard, supra,* 83 Cal.App.5th at p. 617, quoting *People v. Kirchner* (2017) 2 Cal.5th 1040, 1049) expressed in a developing body of case law recognizing that juveniles

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[6] The court noted that it could not calculate Barrett's good time credits because it was not provided with the information to do so. It further commented that because Barrett's appeal in the death penalty case was still pending, there might be a time when he could demonstrate he was wrongfully convicted and if his death sentence was set aside, relief under section 1170, subdivision (d) and *Heard* might become available because the wrongful conviction interfered with Barrett's ability to earn good behavior credits.

" 'have diminished culpability and greater prospects for reform' and are therefore 'constitutionally different from adults for purposes of sentencing.' " (*Heard,* at p. 615, citing *Miller v. Alabama* (2012) 567 U.S. 460, 471 (*Miller*), *Roper v. Simmons* (2005) 543 U.S. 551 (*Roper*) and *Graham v. Florida* (2010) 560 U.S. 48 (*Graham*).) "*Graham* [held] that the Eighth Amendment requires the state to afford the juvenile offender a 'meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation,' and that '[a] life without parole sentence improperly denies the juvenile offender a chance to demonstrate growth and maturity.' (*Graham, supra,* 560 U.S. at p. 73.) The court observed that a life without parole sentence is particularly harsh for a juvenile offender who 'will on average serve more years and a greater percentage of his life in prison than an adult offender.' (*Id.* at p. 70.) *Graham* likened a life without parole sentence for nonhomicide offenders to the death penalty itself, given their youth and the prospect that, as the years progress, juveniles can reform their deficiencies and become contributing members of society. (*Ibid.*)" (*People v. Caballero* (2012) 55 Cal.4th 262, 266 (*Caballero*.)

In brief, this case law establishes that, for offenders who were under age 18 when their crimes were committed, the Eighth Amendment categorically bars imposition of the death penalty (*Roper, supra,* 543 U.S. at pp. 578-579) or a sentence of life without parole for a nonhomicide offense (*Graham, supra,* 560 U.S. at p. 82). A sentence of life without parole for a juvenile homicide offender is not categorically prohibited, but mandatory sentences of life without parole for a homicide violate the Eighth Amendment; the sentencing court must have discretion to impose a lesser sentence based on consideration of mitigating factors relating to youth (*Miller, supra,* 567 U.S. at p. 480). *Miller* "outlined mitigating factors

relating to youth that must be considered by the sentencing court before committing a juvenile to prison for life without parole, and cautioned that the 'appropriate occasions for sentencing juveniles to this harshest possible penalty will be uncommon. ([*Miller*], at pp. 477-480.)' " (*Heard, supra,* 83 Cal.App.5th at pp. 616-617, fn. omitted.)

The principles underlying these cases extend to sentences that, although not expressly denominated life without parole, amount to its functional equivalent. (*People v. Franklin* (2016) 63 Cal.4th 261, 268, 276 (*Franklin*); *Caballero, supra,* 55 Cal.4th at p. 268.) *Caballero* held that "sentencing a juvenile offender for a nonhomicide offense to a term of years with a parole eligibility date that falls outside the juvenile offender's natural life expectancy constitutes cruel and unusual punishment in violation of the Eighth Amendment. Although proper authorities may later determine that youths should remain incarcerated for their natural lives, the state may not deprive them at sentencing of a meaningful opportunity to demonstrate their rehabilitation and fitness to reenter society in the future." (*Caballero,* at p. 268.)

The offender in *Caballero* was sentenced to 110 years to life for three counts of attempted murder, a term unquestionably exceeding natural life expectancy. (*Caballero, supra,* 55 Cal.4th at p. 265.) Our high court, however, has not limited the definition of a sentence that is the functional equivalent to life without parole to such terms. *People v. Contreras* (2018) 4 Cal.5th 349 (*Contreras*) held that sentences of 50 years to life and 58 years to life imposed on nonhomicide juvenile offenders were functionally equivalent to life without parole. (*Id.* at pp. 356, 369.) *Contreras* rejected the People's argument that any sentence providing the opportunity for release within the offender's expected natural lifetime is not the functional

equivalent of life without parole. (*Id.* at pp. 360-361.) Instead, based on its analysis of *Graham,* the *Contreras* court focused on whether the sentence would allow an offender to be released with sufficient time "to achieve reintegration as a productive and respected member of the citizenry." (*Contreras,* at p. 368.) Recognizing that "[f]or any individual released after decades of incarceration, adjusting to ordinary civic life is undoubtedly a complex and gradual process," the court concluded that "[c]onfinement with no possibility of release until age 66 or age 74 seems unlikely to allow for the reintegration that *Graham* contemplates." (*Ibid.*) Sentences of 50- and 58-years to life " 'tend to reflect a judgment [the offenders] are irretrievably incorrigible' and " 'fall[ ] short of giving them the realistic chance for release contemplated by *Graham*.' " (*Ibid*.)

Franklin, supra, 63 Cal.4th at page 276, held that for juvenile homicide offenders as well, constitutional restrictions on sentences of life without parole apply to functionally equivalent sentences. But *Franklin* concluded that a sentence of 25 years to life is not the functional equivalent of life without parole. (*Id.* at p. 279.)

Franklin was sentenced to a mandatory term of 50 years to life for first degree murder with a personal firearm discharge enhancement. (*Franklin, supra,* 63 Cal.4th at p. 268.) Subsequent to his sentencing, the Legislature enacted section 3051, which requires that (with certain exceptions) juvenile offenders sentenced to a term of 25 years to life or greater become eligible for parole in the 25th year of incarceration. (*Franklin,* at pp. 277-278.) *Franklin* held that section 3051 mooted the constitutional challenge to the 50-year-to-life sentence because, together with then newly enacted section 4801, requiring parole boards to give great weight to the diminished culpability of juveniles, hallmark features of youth and subsequent growth and increased

maturity, Franklin was provided with the possibility of release after 25 years in light of constitutional dictates regarding youth-related factors bearing on sentencing. (*Franklin,* at p. 268.) The court concluded that section 3051 "reflects the Legislature's judgment that 25 years is the maximum amount of time that a juvenile offender may serve before becoming eligible for parole" and "establishes what is, in the Legislature's view, the appropriate time to determine whether a juvenile offender has 'rehabilitated and gained maturity' (Stats. 2013, ch. 312, § 1) so that he or she may have 'a meaningful opportunity to obtain release' (§ 3051, subd. (e))." (*Franklin,* at p. 278.)

II.

Section 1170, subdivision (d)(1)

Section 1170, subdivision (d)(1) "created 'a procedural mechanism for resentencing of defendants who were under the age of 18 at the time of the commission of their offenses and who were given [life without parole] sentences.' " (*Heard, supra,* 83 Cal.App.5th at pp. 617-618.) As earlier indicated, *Heard* held that although section 1170, subdivision (d)(1) "limit[s] eligibility to petition for recall and resentencing to juvenile offenders sentenced to explicitly designated life without parole terms, . . . denying juvenile offenders, who were sentenced to the functional equivalent of life without parole, the opportunity to petition for resentencing violates the guarantee of equal protection." (*Heard,* at p. 612.) Subsequent cases have accepted this general conclusion and analyzed whether the sentence in a given case amounted to the functional equivalent of life without parole. (E.g., *People v. Ortega* (2025) 111 Cal.App.5th 1252, 1256 (*Ortega*), review granted Sept. 17, 2025, S292070; *People v. Bagsby* (2024) 106 Cal.App.5th 1040, 1046 (*Bagsby*); *People v. Sorto* (2024) 104 Cal.App.5th 435, 439-440 (*Sorto*).)

The People do not contest the applicability of section 1170, subdivision (d)(1) relief to sentences that are the functional equivalent of life without parole. Rather, they maintain Barrett's 26-year-to-life sentence is not functionally equivalent to life without parole.

As the trial court pointed out, Barrett's sentence is far shorter than the 103-year-to-life sentence in *Heard, supra,* 83 Cal.App.5th at page 612; it is similarly far shorter than the sentences of 140 years to life in *Sorto, supra,* 104 Cal.App.5th at pages 439-440, and 107 years to life in *Bagsby, supra,* 106 Cal.App.5th at page 1046. Barrett's sentence is considerably shorter than even the 50- and 58-year-to-life terms *Contreras* held were functionally equivalent to life without parole. At the time of sentencing, the term of 26 years to life meant Barrett would be eligible for parole at age 42.

Heard, Sorto and *Bagsby* involved sentences under which the offender would not be considered for parole for periods exceeding any person's expected natural life expectancy, making obvious their functional equivalence to life without parole. As to terms with a minimum parole eligibility date within life expectancy, *People v. Cabrera* (2025) 111 Cal.App.5th 650, 652-653, held a defendant sentenced to 50 years to life was entitled to seek relief under section 1170, subdivision (d)(1) agreeing with the People's concessions that the issues were controlled by *Heard* and *Contreras.* Some courts, however, have denied section 1170, subdivision (d)(1) relief to juvenile homicide offenders on the basis that 50 years to life is not the functional equivalent of life without parole, declining to apply *Contreras* in the context of equal protection analysis. (*People v. Thompson* (2025) 112 Cal.App.5th 1058, 1074, 1081, pet. for review filed Aug. 21, 2025, S292540; *People v. Munoz* (2025) 110 Cal.App.5th 499, 507-508, review granted (June 25, 2025,

S290828); see *People v. Olmos* (2025) 109 Cal.App.5th 580, 583 [33 years to life not functional equivalent of life without parole].)

Most relevant to the present case, various section 1170, subdivision (d)(1) cases have concluded that 25 years to life is not the functional equivalent of life without parole. (E.g., *Ortega, supra,* 111 Cal.App.5th at p. 1260; *People v. Superior Court (Valdez)* (2025) 108 Cal.App.5th 791, 795 (*Valdez*).) A number of cases have concluded that relief under section 1170, subdivision (d)(1) is not available to juvenile offenders who will be considered for parole after 25 years pursuant to section 3051, reasoning that they are not serving the functional equivalent of life without parole even if the original sentence was longer. (*Ortega,* at p. 1260 [claim that sentence of 42 years to life is the functional equivalent of life without parole moot; no decision as to whether claim would have merit if not for section 3051]; *Valdez,* at p. 801 [sentence of 50 years to life not functional equivalent of life without parole where § 3051 in effect at time of sentencing].)[7] These cases disagree as to whether section 3051 moots a claim

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[7] *Heard, supra,* 83 Cal.App.5th at pages 628-629, concluded that section 3051 did not preclude relief under section 1170, subdivision (d)(1) because even though section 3051 would require that the offender be considered for parole after 25 years, the original sentence was the functional equivalent of life without parole and section 1170, subdivision (d)(1) " 'uses the phrase "*was sentenced*" and refers to the past.' " (See also *People v. Bagsby, supra,* 106 Cal.App.5th at pp. 1046-1047 [reaffirming *Heard*]; *Sorto, supra,* 104 Cal.App.5th at p. 440; *People v. Cabrera, supra,* 111 Cal.App.5th at p. 653 [following *Heard*].)

Ortega, supra, 111 Cal.App.5th at pages 1263-1265, disagreed, finding that despite the original sentence, at the time of the resentencing petition the offender was "currently serving a sentence that [had] been *converted* to a life sentence with the possibility of parole after 25 years . . . by operation of law." The court in *Valdez, supra,* 108 Cal.App.5th at page 795, stated that *Heard*'s reasoning does not apply where the defendant was eligible for a section 3051 youth offender parole hearing under the original sentence.

under section 1170, subdivision (d)(1) based on functional equivalency for any offender eligible for a youth parole hearing (*Ortega,* at p. 1262 [offender currently serving term that allows meaningful opportunity for release in 25th year]) or only where section 3051 was in effect at the time the original sentence was imposed (*Valdez,* at p. 795 [sentence of 50 years to life not functional equivalent of life without parole where offender eligible for parole under § 3051 at time of sentencing].) But they agree that 25 years to life for a juvenile offender is not the functional equivalent of life without parole. Even cases holding that section 3051 does not moot a constitutional challenge to the original sentence have not questioned that 25 years to life is not functionally equivalent to life without parole. (E.g., *Heard, supra,* 83 Cal.App.5th at p. 629; *Sorto, supra,* 104 Cal.App.5th at p. 447.)

Although Barrett's minimum parole eligibility date is only one year beyond a 25-year-to-life sentence, he argues the trial court misconstrued the law by improperly relying solely on the length of his sentence without considering whether, in light of his rehabilitative needs and the prison conditions during his incarceration, the sentence "in fact afforded him an incentive and meaningful opportunity to demonstrate rehabilitation for a chance at parole by the time he reached his eligibility date." Although his parole eligibility date was well within natural life expectancy, he maintains that it in fact gave him no such incentive and opportunity because, as a traumatized 17 year old with a history of abandonment, homelessness, poverty, addiction, sexual victimization and mental health issues, he was sent to one of the most violent prisons in the system, where inmates were not given a meaningful opportunity to demonstrate rehabilitation, he was not

provided rehabilitative services, and the extraordinarily low parole rates left him with no hope of release.[8]

Barrett relies heavily on *Contreras,* pointing to the court's recognition that *Graham, supra,* 560 U.S. 48, "did not define the maximum length of incarceration before parole eligibility that would be permissible" but "made clear the nature of its concerns" in requiring that a lawful sentence "recognize 'a juvenile nonhomicide offender's capacity for change and limited moral culpability' "; "offer 'hope of restoration'. . . , 'a chance to demonstrate maturity and reform' . . . , a 'chance for fulfillment outside prison walls,' and a 'chance for reconciliation with society' "; "offer 'the opportunity to achieve maturity of judgment and self-recognition of human worth and potential,' " and "offer . . . an 'incentive to become a responsible individual.' " (*Contreras, supra,* 4 Cal.5th at p. 367.) Barrett emphasizes the *Contreras* court's observations that *Graham* "envisioned more than the mere act of release or a de minimis quantum of time outside of prison," "spoke of the chance to rejoin society in qualitative terms," and "said juvenile nonhomicide offenders should not be denied access to 'vocational training' and 'education,' among other rehabilitative services." (*Contreras,* at p. 368.)

In Barrett's view, the trial court needed to consider his childhood problems to assess his " 'capacity for change and limited moral culpability' " and to evaluate whether he was provided the "chance to rejoin society in qualitative terms" (*Contreras, supra*, 4 Cal.5th at pp. 367-368) through vocational training, education, counseling or other rehabilitative efforts. He argues the court abused its discretion in finding he was not sentenced to the

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[8] Barrett's briefing in the trial court cited data from the California Department of Corrections and Rehabilitation indicating that the parole grant rate in 1988 was 2.75 percent and in 1995, the year before Barrett killed his cellmate, the rate was .38 percent.

functional equivalent of life without parole by ignoring his claims and evidence regarding his childhood problems and trauma and the trauma and obstacles to rehabilitation he faced in prison.[9] In short, he maintains his parole eligibility date was illusory and no consideration was given to the youth-related factors bearing on the constitutionality of a youth offender's sentence.

Barrett's argument is a disturbing indictment of the California prison system as it operated at the time he was sentenced. Assuming the accuracy of his description of his experience, which we have no reason to question, the prison system failed him. But Barrett points to no authority for the proposition that a sentence is the functional equivalent of life without parole if, although the parole eligibility date itself would not come close to creating this equivalence, prison conditions and subjective experience deprive an inmate of incentive and hope. The dismal conditions and failures Barrett describes were the fault of the system, not the sentence. Under Barrett's interpretation, if the prison to which a juvenile offender is sentenced fails to provide appropriate rehabilitative services, or the parole rate is low enough to undermine realistic hope for release, even an offender convicted of the

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[9] Barrett additionally argues the court abused its discretion in considering his in-custody offense as a basis for denying the section 1170, subdivision (d)(1) petition because the relevant question was whether the original sentence afforded him an incentive and meaningful opportunity for rehabilitation, not whether he subsequently failed to take advantage of such opportunity. The court's remarks in this regard are not entirely clear, but it appears to have considered the capital homicide in connection with Barrett's ability to reduce his sentence through good conduct credits. This issue does not factor into our analysis, which is based on the original sentence of 26 years to life without consideration of potential reductions through conduct credits. For the same reason, we need not consider Barrett's complaint that the trial court relied on his failure to earn good conduct credits without evidence of how credits actually operated during his incarceration.

most heinous premeditated murder could not be sentenced to a life term regardless of the minimum eligibility date. Barrett offers no case holding that a trial court must evaluate the services offered and conditions in a particular prison before imposing a life sentence.

Graham and subsequent related cases sought to recognize the lesser culpability and greater capacity for rehabilitation of juvenile offenders by precluding sentences that, due to their length, deprive the offender of an incentive and opportunity to reform and rejoin society. The meaningful opportunity discussed in the case law is an opportunity for release at a time that will allow a realistic chance of reintegrating into society. *Contreras,* as we have said, looked to the time likely to remain after release at the minimum eligibility date, interpreting *Graham* as contemplating "more than . . . a de minimis quantum of time outside of prison" but rather "a sufficient period to achieve reintegration as a productive and respected member of the citizenry." *Contreras* viewed a sentence allowing no possibility of release until age 66 as unlikely to permit meaning reintegration into society. The same cannot be said of a sentence allowing consideration for parole at 26 years, especially in light of the legislative determination, in section 3051, that parole eligibility at 25 years addresses the concerns reflected in *Graham* and related cases.

We conclude the trial court did not err in denying Barrett's resentencing petition on the basis that he was not sentenced to the functional equivalent of life without parole.

DISPOSITION

The order denying Barrett's petition for resentencing is affirmed.

STEWART, P. J.

We concur.

RICHMAN, J.

DESAUTELS, J.

People v. Barrett (A170862)