

IN THE SUPREME COURT OF THE UNITED STATES

No. 18-1259

BRETT JONES, PETITIONER

v.

STATE OF MISSISSIPPI

ON WRIT OF CERTIORARI
TO THE MISSISSIPPI COURT OF APPEALS

MOTION OF THE UNITED STATES FOR LEAVE TO
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE
AND FOR DIVIDED ARGUMENT

Pursuant to Rules 28.4 and 28.7 of this Court, the Acting Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae supporting respondent and that the United States be allowed ten minutes of argument time. Respondent has agreed to cede ten minutes of argument time to the United States and consents to this motion.

This case presents the question whether the Eighth Amendment requires a sentencer to make an affirmative factual finding that a juvenile homicide offender is "permanently incorrigible" before

imposing a discretionary sentence of life imprisonment without parole. The Mississippi Court of Appeals determined that the Eighth Amendment does not impose such a requirement. Pet. App. 41a-42a. The United States has filed a brief as amicus curiae supporting respondent, contending that the Mississippi Court of Appeals' decision is correct.

The United States has a substantial interest in the disposition of this case. The United States seeks life-without-parole sentences, as appropriate, for juvenile homicide offenders in federal criminal cases and has filed a petition for a writ of certiorari in one such case, which presents issues similar to the ones presented here. See United States v. Briones, petition for cert. pending, No. 19-720 (filed Dec. 6, 2019). The United States has previously presented oral argument as amicus curiae in cases concerning the constitutional standards that govern juvenile life-without-parole sentences. See Mathena v. Malvo, No. 18-217, cert. granted, 139 S. Ct. 1317 (2019), cert. dismissed, 140 S. Ct. 919 (2020); Montgomery v. Louisiana, 136 S. Ct. 718 (2016). We therefore believe that participation by the United States in oral argument in this case would be of material assistance to the Court.

Respectfully submitted.

JEFFREY B. WALL
Acting Solicitor General
Counsel of Record

AUGUST 2020