

No. \_\_\_\_\_

\_\_\_\_\_  
IN THE  
SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

Gary Lee Long Jr. — PETITIONER  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Eighth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Gary Long #08071-059

(Your Name)

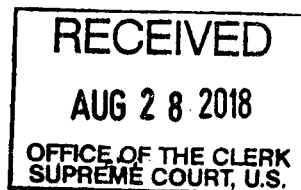
PO Box 24550

(Address)

Tucson AZ 86734

(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)



### QUESTION(S) PRESENTED

1. Whether the district and appellate court failed to conduct the proper analysis of imposing a de facto life sentence on the petitioner?
2. Whether the circuit split between the Third and Eighth circuits are erroneous and create a geographical federal court split?
3. Whether the district and appellate court decision are contrary to established supreme court precedent?
4. Whether a "term-of-years" sentence is the same as a "life sentence"?

## LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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## TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Graham v. Florids, 560 U.S. 48 (2010)	4
Miller v. Alabama, 567 U.S., (2005)	4
Montgomery v. Louisiana, 136 S.Ct. 718 (2016)	4
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## STATUTES AND RULES

## OTHER

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was Aug 3, 2018.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No.   A  .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No.   A  .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Eighth Amendment to the United States Constitution

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do



## STATEMENT OF THE CASE

The petitioner was charged with, inter alia, murder and aggravated sexual abuse in the District of South Dakota at the age of 15. Petitioner was threatened by prosecutors and his own defense attorney with the death penalty if he did not plead guilty. As a result of the fear of a death sentence, the petitioner pled guilty and received a sentence of 540 months imprisonment.

After Long was sentenced, this court issued a series of decisions relating to the sentencing of defendants who committed serious crimes when under the age of 18. It held that such defendants cannot be sentenced to death; that they cannot be sentenced to life imprisonment without parole under those decisions unless they committed a homicide offense that reflected their "permanent incorrigibility"; and that these rules relating to juvenile sentencing are to be applied retroactively, meaning that sentences that were legal when imposed must be vacated if they were imposed in violation of this Court's new rules. See: *Roper v. Simmons*, 543 U.S. / 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010); *Miller v. Alabama*, 567 U.S. (2012); *Montgomery v. Louisiana*, 136 S.Ct. 718 (2016).

Despite the rulings of this Court, the district court refuses to resentence the petitioner on the basis of the decision that the aforementioned decisions applied only to "life" sentences. See: *United States v. Jefferson*, 816 F.3d 1016 (8th Cir. 2015) (holding that a "term-of-years" sentence did not entitle a defendant to resentencing as a term of years sentence is not a "life sentence." The district court and appellate court agreed to disregard such precedents and refused to resentence the petitioner who was 15 at the time of his crime.

The federal appeals courts do not all agree on this subject. In *United States v. Grant*, 887 F.3d 131, 142-43 (3d Cir. 2017), the court held that "A term of years sentence without parole that meets or exceeds the life expectancy of a juvenile offender who is still capable of reform is inherently disproportionate and therefore violates the Eighth Amendment under both *Miller* and *Graham*."

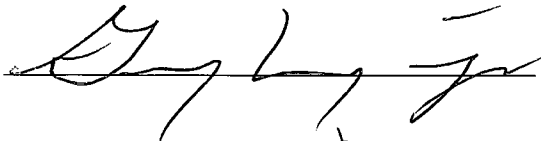
## REASONS FOR GRANTING THE PETITION

1. The decision of the district and appeals court below was contrary to prior precedent of this court.
2. The decision of the appeals court below became part of a circuit-split as it is entirely inconsistent with the decision of the Third Circuit.
3. A "term-of-years" sentence does not satisfy the requirements set out by this Court in banning "life sentences without parole" without first conducting a resentencing and a finding of "permanent incorrigibility".

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "G. L. Jr.", written over a horizontal line.

Date: 8.13.18