No. _____

In the Supreme Court of the United States

JASON BECKMAN,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

On Petition for a Writ of Certiorari to the Third District Court of Appeal of Florida

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Petitioner Jason Beckman, a juvenile at the time of the offense, was convicted of first-degree murder. Because he was a juvenile, he received an individualized sentencing hearing pursuant to section 921.1401, Florida Statutes (2014). This statute required the trial court to consider various factors, such as the nature of the crime, Petitioner's emotional and mental health at the time of the offense, and the effect of the characteristics attributable to the defendant's youth on the defendant's judgment. A life sentence could not be imposed on Petitioner absent consideration of these factors. After making findings on the section 921.1401 factors and concluding that "the aggravating circumstances clearly and convincingly outweigh the mitigating factors," the trial court sentenced Petitioner to life in prison.

The question presented is whether section 921.1401, Florida Statutes, violates the Sixth Amendment by allowing a judge rather than a jury to conduct the factfinding necessary to sentence a juvenile to life in prison.

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Petitioner Jason Beckman respectfully petitions for a writ of certiorari to review the judgment of the Third District Court of Appeal of Florida.

OPINIONS BELOW

The opinion of the Third District Court of Appeal of Florida (Pet. App. 14a-52a) is reported at 230 So. 3d 77 of the Southern Reporter. In an unpublished order (Pet. App. 53a), the Florida Supreme Court declined to exercise its discretionary jurisdiction to review Petitioner's appeal.

JURISDICTION

The judgment of the Third District Court of Appeal of Florida was entered on September 6, 2017. A timely motion for rehearing was filed on September 26, 2017, and the Third District Court of Appeal of Florida denied rehearing on October 19, 2017. A timely notice invoking the discretionary jurisdiction of the Florida Supreme

Court was filed on November 30, 2017, and the Florida Supreme Court denied review on July 2, 2018. This Court has jurisdiction pursuant to 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

I. The Sixth Amendment to the United States Constitution provides:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

II. Section 775.082(1)(b)1., Florida Statutes (2014), provides:

> 775.082. Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison
>
> * * *
>
> (b)1. A person who actually killed, intended to kill, or attempted to kill the victim and who is convicted under s. 782.04 of a capital felony, or an offense that was reclassified as a capital felony, which was committed before the person attained 18 years of age shall be punished by a term of imprisonment for life if, after a sentencing hearing conducted by the court in accordance with s. 921.1401, the court finds that life imprisonment is an appropriate sentence. If the court finds that life imprisonment is not an appropriate sentence, such person shall be punished by a term of imprisonment of at least 40 years. A person sentenced pursuant to this subparagraph is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(a).

III. Section 921.1401, Florida Statutes (2014), provides:

> 921.1401. Sentence of life imprisonment for persons who are under the age of 18 years at the time of the offense; sentencing proceedings
>
> (1) Upon conviction or adjudication of guilt of an offense described in s. 775.082(1)(b), s. 775.082(3)(a) 5., s. 775.082(3)(b) 2., or s. 775.082(3)(c) which was committed on or after July 1, 2014, the court may conduct a

separate sentencing hearing to determine if a term of imprisonment for life or a term of years equal to life imprisonment is an appropriate sentence.

(2) In determining whether life imprisonment or a term of years equal to life imprisonment is an appropriate sentence, the court shall consider factors relevant to the offense and the defendant's youth and attendant circumstances, including, but not limited to:

(a) The nature and circumstances of the offense committed by the defendant.

(b) The effect of the crime on the victim's family and on the community.

(c) The defendant's age, maturity, intellectual capacity, and mental and emotional health at the time of the offense.

(d) The defendant's background, including his or her family, home, and community environment.

(e) The effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the defendant's participation in the offense.

(f) The extent of the defendant's participation in the offense.

(g) The effect, if any, of familial pressure or peer pressure on the defendant's actions.

(h) The nature and extent of the defendant's prior criminal history.

(i) The effect, if any, of characteristics attributable to the defendant's youth on the defendant's judgment.

(j) The possibility of rehabilitating the defendant.

STATEMENT OF THE CASE

A. Nature of the Criminal Charges and Sentencing

Following a jury trial, Petitioner Jason Beckman was convicted of the first-degree murder of his father. He suffered from Asperger's syndrome, was bullied at school, and was only seventeen years old at the time of the offense.

In *Miller v. Alabama*, 567 U.S. 460 (2012), this Court held that the imposition of a mandatory life without parole sentence on a juvenile convicted of homicide is unconstitutional. In response, Florida enacted chapter 2014-220, Laws of Florida, bringing its sentencing laws into compliance with *Miller*. Pursuant to sections 775.082(1)(b) and 921.1401, Florida Statutes (2014), a juvenile convicted of first-degree murder is entitled to an individualized sentencing hearing. This sentencing hearing requires the trial court to consider various non-exhaustive factors, including the "defendant's age, maturity, intellectual capacity, and mental and emotional health at the time of the offense," the "effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the defendant's participation in the offense," and the "possibility of rehabilitating the defendant." Fla. Stat. § 921.1401(1) (2014). A trial court can only impose a life sentence if it first considers these factors and concludes that life is the appropriate sentence. If it concludes that life is not appropriate, the trial court must instead impose a term-of-years sentence.

Petitioner received an individualized sentencing as required by these statutes.[1] The trial court heard evidence and argument as to the section 921.1401 factors, including expert testimony regarding Petitioner's autism disorder. After considering and weighing the section 921.1401 factors, the court concluded that life in prison was the appropriate sentence.

[1] Although Petitioner's offense preceded the enactment of chapter 2014-220, the Florida Supreme Court has held that these statutes apply retroactively. *Falcon v. State*, 162 So. 3d 954 (Fla. 2015); *Horsley v. State*, 160 So. 3d 393 (Fla. 2015).

The trial court entered a written order explaining its sentence, as required by Florida Rule of Criminal Procedure 3.871. Pet. App. 1a-13a. The sentencing order made findings on and weighed the factors contained in section 921.1401, Florida Statutes, as well as the aggravating and mitigating factors contained in Florida's death penalty statute. The court found that the homicide was committed in a cold, calculated, and premediated manner, and assigned "great weight" to this aggravator. *Id.* at 7a. The court found that Petitioner's autism did not contribute to the offense, and gave "no weight" to the mitigator that Petitioner's capacity to appreciate the criminality of his conduct was impaired. *Id.* at 8a-9a. Despite this Court's emphasis in *Miller* that children are constitutionally different than adults for purposes of sentencing, the court gave "no weight" to Petitioner's age as a mitigator. *Id.* at 9a. Finally, the court gave "little weight" to various non-statutory mitigators offered by the defense, such as the fact that Jason was the victim of bullying and had lost his mother when he was five. *Id.* at 10a. Finding that "the aggravating circumstances clearly and convincingly outweigh the mitigating factors," *id.* at 11a, the trial court concluded that life without parole was the appropriate sentence.

B. State Appellate Proceedings

Petitioner appealed his conviction and sentence to the Third District Court of Appeal of Florida. Before Petitioner's brief on the merits was filed, he filed a motion to correct sentencing errors pursuant to Florida Rule of Criminal Procedure 3.800(b)(2). The filing of this motion temporarily relinquished jurisdiction to the trial court to consider Petitioner's objections to the sentencing order.

In his Rule 3.800(b)(2) motion, Petitioner argued that the trial court's factual findings on the section 921.1401 factors, a prerequisite to the imposition of his life sentence, violated the Sixth Amendment, *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and its progeny. In *Apprendi*, this Court held that "any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt." *Id.* at 490. Petitioner's motion emphasized that the statutory maximum for *Apprendi* purposes "is not the maximum sentence a judge may impose after finding additional facts, but the maximum he may impose without any additional findings." *Blakely v. Washington*, 542 U.S. 296, 303-04 (2004). The motion contended that Petitioner's life sentence should be vacated in light of this Sixth Amendment violation.

The trial court denied Petitioner's *Apprendi* claim, preserving the issue under Florida law for appellate review.[2] Jurisdiction returned to the district court, and Petitioner's appeal challenged his life sentence on *Apprendi* grounds.

The district court of appeal affirmed Petitioner's conviction and sentence. Pet. App. 14a-52a. Regarding Petitioner's *Apprendi* claim, the court held that section 921.1401 did not violate the Sixth Amendment. In doing so, the court relied on *People v. Hyatt*, 891 N.W. 2d 549 (Mich. Ct. App. 2016), in which the Michigan Court of Appeals upheld Michigan's juvenile sentencing law against a similar *Apprendi* challenge. *See* Mich. Comp. Laws § 769.25 (2014).

[2] The trial court amended the Petitioner's sentence to include eligibility for judicial sentencing review after twenty-five years of incarceration as required by Florida law.

In finding section 769.25 to be constitutional, the *Hyatt* court stated that "the instant case is not one in which the finding of a particular fact increases the maximum penalty. Nor does the case involve a statutory scheme that makes imposition of life without parole contingent on any particular finding." *Hyatt*, 891 N.W. 2d at 564. The Michigan appellate court found that section 769.25 allows "[t]he sentencing judge [to] decide[] whether to exercise his or her discretion to impose that statutory maximum by considering the so-called *Miller* factors to satisfy *Miller's* individualized sentencing mandate." *Id.* at 567. *Hyatt* concluded that Michigan's juvenile sentencing law "sets forth a framework of mitigation, rather than aggravation," and "the determination of whether those mitigating factors exist need not, under *Apprendi* and its progeny, be made by a jury."[3] *Id.* at 569-70.

The Third District Court of Appeal of Florida found that Michigan's juvenile sentencing procedure was "sufficiently analogous" to section 921.1401, Florida Statutes. Pet. App. 49a. The district court adopted *Hyatt's* reasoning and held that section 921.1401 was constitutional. Following this affirmance, Petitioner filed a petition for discretionary review before the Florida Supreme Court. On July 2, 2018, the Florida Supreme Court declined to review this case. Pet. App. 53a.

[3] In *People v. Skinner*, ___ N.W.2d ___, 2018 WL 3059768 (Mich. Jun. 20, 2018), the Michigan Supreme Court affirmed *Hyatt's* holding that section 769.25 was constitutional, but quashed the portion of the decision holding that a trial court was required to make a finding that a juvenile defendant was irreparably corrupt as a perquisite to a life without parole sentence.

REASONS FOR GRANTING THE PETITION

I. This Court Should Grant Certiorari to Ensure That Juvenile Sentencing in Florida and Across the Country Comports with the Sixth Amendment.

Petitioner's case lies at the intersection of *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and *Miller v. Alabama*, 567 U.S. 460 (2012). As a juvenile offender, Petitioner had the right to an individualized sentencing hearing to ensure that his punishment was proportionate. *Montgomery v. Louisiana*, 136 S.Ct. 718, 734 (2016). Section 921.1401, Florida Statues, was the procedural vehicle to implement this substantive right. But Petitioner also had the Sixth Amendment right to have a jury rather than a judge make all factual determinations necessary for the imposition of his sentence. Because section 921.1401 only allows a juvenile to be sentenced to life in prison following additional factfinding on the *Miller* factors, it violates *Apprendi* by allowing a judge to make these critical findings.

A. Any mandatory factfinding that is a prerequisite to a particular sentence must be performed by a jury rather than judge.

In *Apprendi*, this Court held that "any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt." 530 U.S. at 490. It is "unconstitutional for a legislature to remove from the jury the assessment of facts that increase the prescribed range of penalties to which a criminal defendant is exposed. It is equally clear that such facts must be established by proof beyond a reasonable doubt." *Id.*

Apprendi emphasized that "the relevant inquiry is one not of form, but of effect—does the required finding expose the defendant to a greater punishment than

that authorized by the jury's guilty verdict?" *Id.* at 494. The state cannot circumvent the Sixth Amendment by labeling a fact necessary for the imposition of a sentence as a "sentencing factor." Any distinction "between an 'element' of a felony offense and a 'sentencing factor' was unknown to the practice of criminal indictment, trial by jury, and judgment by court as it existed during the years surrounding our Nation's founding." *Id.* at 478. If a state "makes an increase in a defendant's authorized punishment contingent on the finding of a fact, that fact—no matter how the State labels it—must be found by a jury beyond a reasonable doubt." *Ring v. Arizona*, 536 U.S. 584, 586 (2002).

Blakely v. Washington, 542 U.S. 296, 303 (2004), clarified that "the 'statutory maximum' for *Apprendi* purposes is the maximum sentence a judge may impose solely on the basis of the facts reflected in the jury verdict or admitted by the defendant." *Id.* (citing *Ring*, 536 U.S. at 602). "[T]he relevant 'statutory maximum' is not the maximum sentence a judge may impose after finding additional facts, but the maximum he may impose without any additional findings." *Id.* at 303-04. *Blakely* emphasized that it is irrelevant whether a sentencing statute ultimately leaves the decision of whether to depart to the judge's discretion. "Whether the judicially determined facts *require* a sentence enhancement or merely *allow* it," the "verdict alone does not authorize the sentence." *Id.* at 305 n.8 (emphasis in original).

Most recently, this Court struck down Florida's death penalty statute on *Apprendi* grounds. *Hurst v. Florida*, 136 S.Ct. 616, 619 (2016). Florida's capital sentencing scheme did not require a jury finding on the aggravating factors or the

defendant's eligibility for death. Rather, the jury merely "render[ed] an 'advisory sentence' of life or death without specifying the factual basis of its recommendation." *Id.* at 620. The task then fell on the judge to "weigh[] the aggravating and mitigating circumstances" and decide whether death was the appropriate sentence. *Id.*

Hurst found this sentencing scheme to be constitutionally infirm since it did not "require the jury to make the critical findings necessary to impose the death penalty." *Id.* at 622. By allowing the court to make factual findings on the aggravating and mitigating factors, Florida's death penalty statute permitted a "judge [to] increase[] Hurst's authorized punishment based on her own factfinding." *Id.* at 622. This Court concluded that the "Sixth Amendment protects a defendant's right to an impartial jury. This right required Florida to base Timothy Hurst's death sentence on a jury's verdict, not a judge's factfinding." *Id.* at 624.

B. Section 921.1401 requires extensive factfinding on the *Miller* factors before a juvenile can be sentenced to life in prison. In allowing a judge rather than jury to perform this necessary factfinding, the statute violates the Sixth Amendment and *Apprendi*.

The same Sixth Amendment problem that rendered Florida's death penalty statute unconstitutional exists in its juvenile sentencing statute. Section 921.1401 requires additional factfinding beyond the jury's verdict before a life sentence can be imposed on a juvenile convicted of homicide. It therefore violates *Apprendi* by allowing these critical facts to be found by the judge rather than jury.

Automatically sentencing a juvenile to life in prison without parole violates the Eighth Amendment. *Miller*, 567 U.S. at 465. In response to *Miller*, Florida enacted various statutes to bring its sentencing laws into compliance with the Eighth

Amendment. *See* ch. 2014-200, Laws of Fla. (effective July 1, 2014); Fla. Stat. §§ 775.082(1)(b), 921.1401 (2014). The lynchpin of chapter 2014-220 is section 921.1401, which requires an individualized sentencing hearing for juvenile defendants convicted of offenses punishable by life in prison.

Chapter 2014-220 does not permit a juvenile to be sentenced to life in prison "without any additional findings" merely because he has been convicted of first-degree murder. *See Blakely*, 542 U.S. at 303-04. Such a sentence is only permissible "if the judge conducts a sentencing hearing in accordance with s. 921.1401 and finds that life imprisonment" is the appropriate sentence. Fla. Stat. § 775.082(1)(b)1. This sentencing procedure clearly satisfies *Miller*. But in solving an Eighth Amendment problem, the Florida Legislature has created a Sixth Amendment violation.

Section 921.1401 requires a judge to resolve numerous factual issues as a prerequisite to a life sentence. For example, the juvenile either did or did not have mental health issues at the time of the offense. Fla. Stat. § 921.1401(2)(c). Immaturity either did or did not have an impact on the juvenile's decision making. Fla. Stat. § 921.1401(2)(e). The juvenile either is or is not amenable to rehabilitation. Fla. Stat. § 921.1401(2)(j). Because these factors *must* be considered before a life sentence can be imposed on a juvenile, this factfinding falls squarely within the ambit of *Apprendi*. *See Blakely*, 542 U.S. at 303-04. By allowing a judge rather than a jury to undertake this critical factfinding, Florida's juvenile sentencing procedure is as constitutionally infirm as its pre-*Hurst* death penalty regime.

Florida's juvenile sentencing scheme is comparable to California's determinate sentencing law ("DSL"), struck down by this Court on *Apprendi* grounds. *Cunningham v. California*, 549 U.S. 270 (2007). California's DSL regime prescribed "three precise terms of imprisonment" for most offenses—a "lower, middle, and upper term sentence." *Id.* at 277. A court was required to impose the middle term unless there were aggravating or mitigating circumstances warranting the upper or lower term. Any aggravating fact had to be found by a preponderance of the evidence, and the trial court was free to consider any "criteria reasonably related to the [sentencing] decision being made," provided that an element of the crime itself could not be used to impose the upper term. *Id.* at 279.

The California Supreme Court found that the upper term was the statutory maximum for *Apprendi* purposes, theorizing that DSL factfinding was akin to traditional factfinding at sentencing "incident to the judge's selection of an appropriate sentence within a statutorily prescribed sentencing range." *Id.* at 289. But this Court held that the *middle* term was the statutory maximum for *Apprendi* purposes, since it was the only sentence that could be imposed solely on the basis of the jury's factfinding and verdict. *Id.* at 288. In doing so, *Cunningham* reiterated that "[i]f the jury's verdict alone does not authorize the sentence, if, instead, the judge must find an additional fact to impose the longer term, the Sixth Amendment requirement is not satisfied." *Id.* at 290 (citing *Blakely*, 542 U.S. at 305).

Like the DSL sentencing regime rejected by *Cunningham*, section 921.1401 does not allow a trial court to sentence a juvenile to life based solely on the jury's

verdict. Petitioner's case boils down to this: the trial court was powerless to impose the sentence it did without first engaging in statutorily mandated factfinding. This sort of sentencing scheme was rejected by *Apprendi*, *Ring*, *Blakely*, *Cunningham*, and *Hurst*. It should be rejected once again. This Court's review is necessary to rein in Florida's juvenile sentencing procedure and bring it into compliance with the Sixth Amendment guarantee of a trial by jury.

C. The intersection between *Miller* and *Apprendi* is a constitutional question this Court has not yet resolved.

This Court has never addressed the jury's role in juvenile sentencing. Although *Miller* noted that "our individualized sentencing decisions make clear that a judge or jury must have the opportunity to consider mitigating circumstances before imposing the harshest possible penalty for juveniles," that language does not resolve the Sixth Amendment claim at bar. "*Miller* does not discuss who is empowered to make the sentencing decision that the case involves a 'rare' instance where the juvenile is 'irreparably corrupt' and may be sentenced to life without parole." Sarah Russell, *Jury Sentencing and Juveniles: Eighth Amendment Limits and Sixth Amendment Rights*, 56 B.C. L. Rev. 553, 569 (2015). Rather, "*Miller* generally avoids the issue by referencing the 'sentencer' throughout the opinion, rather than specifying a judge or a jury." *Id.* "Because Sixth Amendment jury rights can be waived," *Miller's* passing reference to the judge as a possible sentencer "is hardly dispositive." *Id.*

This dicta from *Miller* must also be read in context. The decision in *Miller* was based on "two strands" of this Court's Eighth Amendment jurisprudence. *Miller*, 567 U.S. at 470. One strand was the requirement in death penalty cases that the

sentencer must "consider the characteristics of a defendant" and afford him an individualized sentencing. *Id.* 470, 475. These decisions emphasize a judge or jury's obligation to consider any mitigation weighing against a death sentence. *Id.* at 475 ("[C]apital defendants [must] have an opportunity to advance, and the judge or jury a chance to assess, any mitigating factors …"); *see also, e.g., Lockett v. Ohio*, 438 U.S. 586 (1978) (requiring that judges and juries in capital cases consider all mitigating evidence). But there is no dispute now that individualized sentencing in death penalty cases must abide by Sixth Amendment limitations. *Ring*, 536 U.S. at 605-09; *Hurst*, 136 S.Ct. at 621-22. The same holds true for juvenile sentencing where a life sentence requires additional factfinding beyond the jury's verdict.

Although *Montgomery*, 136 S.Ct. 718 at 735, noted that "*Miller* did not impose a formal factfinding requirement," this observation likewise does not resolve Petitioner's *Apprendi* claim. "When a new substantive rule of constitutional law is established," this Court "is careful to limit the scope of any attendant procedural requirement to avoid intruding more than necessary upon the States' sovereign administration of their criminal justice systems." *Id.* There are numerous ways a state can bring its juvenile sentencing law into compliance with *Miller*. For example, a state "may remedy a *Miller* violation by permitting juvenile homicide offenders to be considered for parole," *id.*, instead of requiring a fact-intensive individualized sentencing or resentencing hearing. But once a state chooses to address *Miller* by making juvenile life sentences contingent on additional factfinding, that procedure must abide by the Sixth Amendment and *Apprendi*.

Finally, the doctrine of constitutional avoidance underscores that this issue has not yet been addressed by this Court. It is axiomatic that this Court does not resolve "constitutional questions unnecessarily." *Bowen v. United States*, 422 U.S. 916, 920 (1975). The sole question addressed by *Miller* was whether automatic life without parole sentences for juveniles comport with the Eighth Amendment. The sole question addressed by *Montgomery* was whether *Miller* applies retroactively. Neither case contemplates whether a juvenile sentencing scheme with statutorily-mandated factfinding must comply with *Apprendi*. They therefore do not resolve the Sixth Amendment question posed by Petitioner's case.

D. The Sixth Amendment claim raised by this case is an important question of federal law implicating juvenile offenders, a class that is constitutionally different than adults for purposes of sentencing.

The constitutional issue raised by this case implicates every juvenile in Florida convicted of an offense punishable by life in prison. As this Court has emphasized, such defendants "are constitutionally different from adults for purposes of sentencing." *Miller*, 567 U.S. at 471. This Court's review is necessary to ensure that the procedure used to determine whether a juvenile in Florida can receive the harshest permissible punishment abides by the constitutional limitations on judicial factfinding at sentencing.

This *Apprendi* issue is not limited to Florida, further warranting this Court's review. Multiple states have implemented a juvenile sentencing procedure that lists various sentencing factors for a judge to consider when sentencing a juvenile convicted of homicide. *See, e.g.,* La. Code Crim. Proc. Ann. art. 878.1(C) (2017) ("At

the [juvenile sentencing] hearing, the prosecution and defense shall be allowed to introduce any aggravating and mitigating evidence that is relevant to the charged offense or the character of the offender, including but not limited to the facts and circumstances of the crime, the criminal history of the offender, the offender's level of family support, social history, and such other factors as the court may deem relevant."). In recognition of the Sixth Amendment ramifications of such a sentencing scheme, Missouri requires the jury to undertake this critical factfinding. *See* Mo. Ann. Stat. § 565.033(2) (2016) ("When assessing punishment in all first-degree murder cases in which the defendant was under the age of eighteen at the time of the commission of the offense or offenses, the judge … shall include in instructions to the jury for it to consider, the following factors…").

Unsurprisingly, there have been multiple challenges across the country to *Miller* sentencings on *Apprendi* grounds. *People v. Blackwell*, 3 Cal.App.5th 166 (Cal. Ct. App. 2017); *State v. Doise*, 185 So. 3d 335 (La. Ct. App. 2016); *People v. Skinner*, ___ N.W.2d ___, 2018 WL 3059768 (Mich. 2018); *State v. James*, 786 S.E.2d 73 (N.C. Ct. App. 2016); *Commonwealth v. Batts*, 163 A.3d 410 (Pa. 2017). Although these decisions have taken a position similar to the Third District Court of Appeal of Florida's decision in Petitioner's case, they show that this Sixth Amendment claim is a recurring matter throughout the lower courts. Given that this is a persistent issue involving a class of defendants protected by heightened constitutional safeguards, this Court should grant certiorari to ensure that juvenile sentencing across the country comports with the fundamental right to a trial by jury.

CONCLUSION

"Our Constitution and the common-law traditions it entrenches … do not admit the contention that facts are better discovered by judicial inquisition than by adversarial testing before a jury." *Blakely*, 542 U.S. at 313. Petitioner therefore respectfully requests that this Court grant certiorari and reverse his sentence.

Respectfully submitted,

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