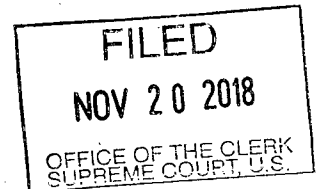


18-7019  
No. \_\_\_\_\_

ORIGINAL

\_\_\_\_\_  
IN THE

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



Jeff Jones

— PETITIONER

(Your Name)

VS.

Quentin Byrne, warden

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Court of Appeals of the State of Nevada

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jeff Jones # 25525

(Your Name)

Love Lock Corr. Ctr.  
1200 Prison Rd.

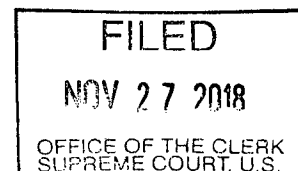
(Address)

Love Lock, Nevada 89419

(City, State, Zip Code)

Petitioner In Pro-se

(~~Phone Number~~)



## QUESTION(S) PRESENTED

Does The U.S. Supreme Court's holding in Graham v. Florida, 176 L.Ed. 2d 825. Dealing with Juvenile Offenders only apply to the sentencing of a Juvenile offender or does it also apply to the Parole Board Proceedings

Does The U.S. Supreme Court ruling in Graham v. Florida, 176 L.Ed. 2d 825 create sufficient Liberty Interest and Due Process pertaining to offenders who committed their crimes as a Juvenile in Parole Board Proceedings

Did The Nevada Parole Board Deny Petitioner a meaningful opportunity to obtain Release, By Denying him Parole repeatedly, and not Basing their Decision on Growth, maturity, or Rehabilitation under The U.S. Supreme Court Holding in Graham v. Florida, 176 L.Ed. 2d 825

## 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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IN the I  
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

I

Opinions Below

The order of Affirmance By the Court of Appeals of the  
State of Nevada, appears at Appendix A to the Petition  
and is unpublished.

The order Denying Rehearing By the Court of Appeals  
of the State of Nevada, appears at Appendix B to the  
Petition and is unpublished.

The order Denying Petition for Review By the Nevada  
Supreme Court, appears at Appendix C to the Petition  
and is unpublished.

The Findings of Fact, Conclusion of Law and order of  
the 11<sup>th</sup> Judicial District Court of Pershing County  
State of Nevada, appears at Appendix D

II

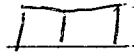
Jurisdiction

The order of Affirmance By the Nevada Court of Appeals  
was filed on May 15<sup>th</sup> 2018. A copy of that decision  
appears at Appendix A. Nevada Rules of Appellate  
Procedure N.R.A.P. 40(c)(3) states that a decision by  
the court of appeals resolving a claim for post conviction  
relief, is final for purposes of exhaustion of state  
remedies in subsequent federal proceedings, a timely  
petition for rehearing was thereafter denied on July 27<sup>th</sup>  
2018. Copy of the order denying for rehearing appears at  
Appendix B. Nevada Rules of Appellate Procedure 40B(c)  
states that a decision of the court of appeals is a final  
decision that is not reviewable by the Supreme Court of  
Nevada except on petition for review.

A timely petition for review by the Nevada Supreme  
Court was thereafter denied on October 18<sup>th</sup> 2018. A  
copy of the order denying petition for review appears at  
Appendix C. The Jurisdiction of this Court is invoked



Under 28 U.S.C. § 1257 (a).



### Constitutional and Statutory Provisions Involved

- 1) U.S. Constitution, Amendment V; "No person shall [...] be deprived of Life, Liberty, or property without due process of Law"
- 2) U.S. Constitution, Amendment VIII "Excessive Bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted"
- 3) U.S. Constitution, Amendment XIV, Section 1: "No State shall [...] deprive any person of Life, Liberty, or property, without due Process of Law"
- 4) This petition implicates NRS 34,360 which appears at Appendix M
- 5) This petition implicates NRS 34,500 (2) (3) which appears at Appendix N
- 6) This petition implicates NRS 176.017 which appears at Appendix O
- 7) This petition implicates NRS 176.025 which appears at Appendix P
- 8) This petition implicates NRS 213, 10705 which appears at Appendix Q
- 9) This petition implicates NRS 213, 10885 which appears at Appendix E
- 10) This petition implicates NRS 213, 12135 which appears at Appendix R

## STATEMENT OF THE CASE

on November 4<sup>th</sup> 1987 Petitioner was certified by the Juvenile Division of the 8<sup>th</sup> Judicial District Court in Las Vegas, Nevada, to stand trial as a adult on Charges of Sexual assault with use of a Deadly Weapon, Robbery with use of a deadly weapon, Burglary. a Criminal complaint was filed November 6<sup>th</sup> 1987 and on November 24<sup>th</sup> 1987 Petitioner unconditionally waived his right to a Preliminary Hearings on these charges.

on December 10<sup>th</sup> 1987 Petitioner entered a guilty plea to count "1" of sexual assault, victim under age of 14 with use of a weapon, and count "7" Robbery with use of a Deadly Weapon, and Burglary. on January 29<sup>th</sup> 1988 the Judgment of Conviction was entered and Petitioner was sentenced to 5 to Life consecutive 5 to Life, 15-year consecutive 15-year. Petitioner was 17-years old when he committed these crimes.

In 1992 Petitioner went in front of the Nevada Parole Board on his first 5 to Life sentence and was given a 3-year Denial, then in 1995 Petitioner went in front of the Parole Board again and was given another 3-year Denial, then in 1998 Petitioner went in front of the Parole Board again, and was given a 3rd Denial. in 2001 Petitioner was Paroled after 14-years to his 2nd consecutive 5 to Life sentence. then in 2006 Petitioner went in front of the Parole Board for the first time on his 2nd 5 to Life sentence, and was given a 3-year Denial then in 2009 Petitioner went in front of the Parole Board the 2nd time and was granted parole after 8-years on his 2nd 5 to Life sentence to his 3rd sentence of 15-years. in 2012 Petitioner went in front of the Parole Board for the first time on his 15-year sentence, and was given a 3-year Denial, then on July 20<sup>th</sup> 2015, Petitioner went in front of the Parole Board for the 2nd time and was given another 3-year Denial.

During that same period in 2015 the Nevada Legislature was working to pass a Bill called A.B. 267 and it was passed. it dealt with offenders who committed their crimes as a Juvenile. see Nevada Revised Statutes N.R.S. 213.12135, N.R.S. 176.017, N.R.S. 176.025. this Bill made Juvenile offenders parole eligibility after 15-years for non Homicide cases, and 20-years for

for Homicide, no matter if a offender had a Life with out sentence, or had multiple consecutive sentences, and if you make parole the offender was paroled on all sentences and is released, and no longer can a Juvenile be sentenced to a Life with out sentence and Before a Juvenile can be sentenced, the Court must consider the Difference between Juvenile and adult offenders, and diminished culpability of Juveniles as compared to that of adults, and the typical characteristics of youth, this Law was suppose to go into effect on 10/1/15, so that made Petitioner parole eligibility again, in October of 2015. But there was some confusion who the Law applied to, once that was fixed, Petitioner was scheduled to see the Parole Board again on April 18<sup>th</sup> 2016 6 months after the Law went into effect, Before that on November 24<sup>th</sup> 2015 Petitioner Filed a Writ of Habeas corpus under N.R.S, 34.360 & 34.500 subsection (2) (3) that Petitioners continued incarceration amounts to cruel & unusual punishment under the 8<sup>th</sup> amendment to the U.S. Constitution & Nevada constitution article 1 section 6 and violation of Petitioners Due Process rights under the U.S. constitution 5<sup>th</sup> & 14<sup>th</sup> amendment & Nevada constitution article 1 section 8 & 20. The Nevada Parole Board has Denied Petitioner a meaningful opportunity to obtain release based on Corowth, maturity, and Rehabilitation, By repeatedly Denying parole based on his crime or his past as a Juvenile, and Petitioner at that time had been in Prison for 21-years, Petitioner applied for a attorney and was appointed the pershing county Public Defender office Love Lock, Nevada, Steve Cochran, on March 14<sup>th</sup> 2016 MR. COCHRAN Filed a Supplemental Petition for Writ of Habeas corpus in the alternative, Petition for a Writ of Mandamus on April 11<sup>th</sup> 2017 the 11<sup>th</sup> Judicial District Court Ruled on the Petition Granted in Part and Denied in Part, see Appendix D, the Pershing county Public Defender office Appealed the Ruling to the State Supreme Court, and on May 15<sup>th</sup> 2018 the Court of Appeals Affirmed the District Court Decision, see

Appendix A, Petitioner then filed a petition for rehearing in the court of Appeals state of Nevada and filed a motion to withdraw perishing County Public Defenders Office. Due to Attorneys refusal to do a Petition for Rehearing, petitioner was now able to proceed in Pro se. on July 27<sup>th</sup> 2018 the court of Appeals denied Petition for Rehearing see Appendix B then on August 23<sup>rd</sup> 2018 Petitioner filed a Petition for Review in the Nevada state supreme court see N.R.A.P. (Nevada Rules of Appellant Procedures) Rule 40 B

Then on October 18<sup>th</sup> 2018 the Nevada state Supreme Court Denied a Petition for review see Appendix C so now Petitioner seeks a Petition for a writ of *Cetiorari*.

Issue one - Nevada Parole Board has Denied Petitioner a meaningful opportunity to obtain release Based on Growth, maturity, and Rehabilitation under Graham.

Issue two Petitioners continued In incarceration amounts to cruel and unusual Punishment by the Nevada Parole Boards repeatedly denial of Parole under Graham

Issue three Nevada Parole Board Denied Petitioner Due Process rights under Graham

## Reason For Granting The Writ

The existence of a distinction between juveniles and adults is well rooted in federal jurisprudence see e.g., Johnson v. Texas, 509 U.S. 350, 367, 113 S.Ct. 2658, 125 L.Ed.2d 296 (1993) ("A lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults and are more understandable among the young. These qualities often result in impetuous and ill-considered actions and decisions"); Eddings v. Oklahoma, 455 U.S. 104, 115-16, 102 S.Ct. 869, 71 L.Ed.2d 1 (1982) (stating that age is "more than a chronological fact" and observing that children "generally are less mature and responsible than adults"); Bellotti v. Baird, 443 U.S. 622, 635, 99 S.Ct. 3085, 61 L.Ed.2d 797 (1979) (plurality) (noting that juveniles "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them"); Gallagos v. Colorado, 370 U.S. 49, 54, 82 S.Ct. 1209, 8 L.Ed.2d 325 (1962) ("the prosecution says that the youth and immaturity of the petitioner... are irrelevant... But if we took that position, it would... be in callous disregard of this boy's constitutional rights. He cannot be compared with an adult in full possession of his senses and knowledgeable of the consequences of his admissions.") Haley v. Ohio, 332 U.S. 596, 599, 68 S.Ct. 302, 92 L.Ed. 224 (1948) (plurality) (emphasizing that "special care" must be employed in evaluating the voluntariness of a juveniles confession; "Age 15 is a tender and difficult age for a boy of any race. He cannot be judged by the more exacting standards of maturity that which would leave a man cold and unimpressed can outrage and overwhelm a lad in his early teens. This is the period of great instability which the crisis of adolescence produces") In light of this distinction, the United States Supreme Court has issued numerous decisions in the last few decades concluding that the Eighth Amendment dramatically limits the imposition of the harshest sentences on juvenile offenders. In Thompson v. Oklahoma, a plurality of the Court concluded that evolving standards of decency prohibited a death sentence for persons under age sixteen at the time

OF THE COMMISSION OF THE OFFENSE, see 487 U.S. 815, 108 S. Ct. 2687, 101 L. Ed. 2d 702 (1988) SEVENTEEN YEARS LATER, in Roper v. Simmons, THE SUPREME COURT EXPANDED THIS HOLDING TO INDIVIDUALS UNDER AGE EIGHTEEN AT THE TIME OF THE COMMISSION OF THE OFFENSE, EXPLAINING THAT JUVENILES UNDER AGE EIGHTEEN DIFFER FROM ADULTS IN VERY FUNDAMENTAL WAYS: (1) THEY HAVE A "LACK OF MATURITY AND AN UNDERDEVELOPED SENSE OF RESPONSIBILITY" AS COMPARED TO ADULTS THAT "OFTEN RESULT IN IMPETUOUS AND ILL-CONSIDERED ACTIONS AND DECISIONS," (2) THEY ARE "MORE VULNERABLE OR SUSCEPTIBLE TO NEGATIVE INFLUENCES AND OUTSIDE PRESSURES, INCLUDING PEER PRESSURE" AND (3) "THE CHARACTER OF A JUVENILE IS NOT AS WELL FORMED AS THAT OF AN ADULT" AND THE "PERSONALITY TRAITS OF JUVENILES ARE MORE TRANSITORY, LESS FIXED." see Roper, 543 U.S. at 569-71. ACCORDING TO THE ROPER COURT, "[T]Hese differences render suspect any conclusion that a JUVENILE FALLS AMONG THE WORST OFFENDERS" AND MAKE CLEAR THAT THE PENOLOGICAL JUSTIFICATIONS FOR THE DEATH PENALTY - RETRIBUTION AND DETERRENCE - APPLY TO JUVENILES WITH LESSER FORCE THAN THEY DO TO ADULTS.

THE SUSCEPTIBILITY OF JUVENILES TO IMMATURE AND IRRESPONSIBLE BEHAVIOR MEANS THEIR IRRESPONSIBLE CONDUCT IS NOT AS MORALLY REPREHENSIBLE AS THAT OF AN ADULT. THEIR OWN VULNERABILITY AND COMPARATIVE LACK OF CONTROL OVER THEIR IMMEDIATE SURROUNDINGS MEAN JUVENILES HAVE A GREATER CLAIM THAN ADULTS TO BE FORGIVEN FOR FAILING TO ESCAPE NEGATIVE INFLUENCES IN THEIR WHOLE ENVIRONMENT. THE REALITY THAT

JUVENILES STILL STRUGGLE TO DEFINE THEIR IDENTITY MEANS IT IS LESS SUPPORTABLE TO CONCLUDE THAT EVEN A HEINOUS CRIME COMMITTED BY A JUVENILE IS EVIDENCE OF IRRETRIEVABLY DEGRADED CHARACTER. FROM A MORAL STANDPOINT, IT WOULD BE MINGUIDED TO EQUATE THE FAILINGS OF A MINOR WITH THOSE OF AN ADULT, FOR A GREATER POSSIBILITY EXISTS THAT MINOR'S CHARACTER DEFICIENCIES WILL BE REFORMED. INDEED, THE RELEVANCE OF YOUTH AS A MITIGATING FACTOR DERIVES FROM THE FACT THAT THE SIGNATURE QUALITIES OF YOUTH ARE TRANSIENT, AS INDIVIDUALS MATURE, THE IMPETUOUSNESS AND RECKLESSNESS THAT MAY DOMINATE IN YOUNGER YEARS CAN SUBSIDE. *Id.* at 570 (internal quotations and citations omitted.)

IN 2011, THE SUPREME COURT WENT A STEP FURTHER IN GRAHAM, HOLDING THAT THE EIGHTH AMENDMENT PROHIBITS THE IMPOSITION OF A LIFE SENTENCE WITHOUT PAROLE FOR NONHOMICIDE OFFENSES

committed by Juvenile offenders, Graham, 560 U.S. at 74. Reiterating the differences between juveniles and adults identified in Roper, and explaining that "[I]f without parole is an especially harsh punishment for a juvenile," the court determined that, "none of the goals of penal sanctions that have been recognized as legitimate - retribution, deterrence, incapacitation, and rehabilitation - provides an adequate justification" for a life without parole sentence for a juvenile nonhomicide offender. Id. at 71-74 In further articulating the constitutional requirements for juvenile offenders in such circumstances, the court held:

"A state is not required to guarantee eventual freedom to a juvenile offender convicted of a non homicide crime. What the state must do, however, is give defendants like Graham some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation. It is for the state, in the first instance, to explore the means and mechanisms for compliance. It bears emphasis, however, that while the Eighth Amendment forbids a state from imposing a life without parole sentence on a juvenile nonhomicide offender, it does not require the state to release that offender during his natural life. Those who commit truly horrifying crimes as juveniles may turn out to be irredeemable, and thus deserving of incarceration for the duration of their lives. The Eighth Amendment does not foreclose the possibility that persons convicted of non homicide crimes committed before adulthood will remain behind bars for life. It does forbid states from making the judgment at the outset that those offenders never will be fit to reenter society, ... Terrance Graham's sentence [of life without parole] guarantees he will die in prison with out any meaningful opportunity to obtain release, no matter what he might do to demonstrate that the bad acts he committed as a teenager are not representative of his true character, even ~~for~~ if he spends the next half century attempting to atone for his crimes and learn from his mistakes. The state has denied him an chance to later demonstrate that he is fit to rejoin society based solely on a non homicide crime that he committed when he was a child in the eyes of the law. This is the Eighth Amendment does not permit. ... The Constitution

prohibits the imposition of a Life without parole sentence on a juvenile offender who did not commit homicide. A state need not guarantee the offender eventual release, but if it imposes a sentence of Life, it must provide him or her with some realistic opportunity to obtain release before the end of that term. *Id.* at 75, 79, 82."

In 2012, the Supreme Court added one additional restriction on Life without parole sentencing of juveniles. In Miller v. Alabama, the Court held that the Eighth Amendment forbids subjecting a juvenile to a mandatory sentence of Life imprisonment without parole in homicide cases, finding that "[S]uch mandatory penalties, by their nature, preclude a sentencer from taking account of an offender's age and the wealth of characteristics and circumstances attendant to it." 132 S. Ct. 2455, 2467, 183 L. Ed. 2d 407 (2012) Thus, under Miller, a state may ultimately impose a Life without parole sentence against a juvenile convicted of homicide, but only after the sentencer has the opportunity to consider all the mitigating circumstances, including the offender's age and age-related characteristics. *Id.* at 2475. Though technically permissible, the Supreme Court emphasized that, "given all we have said in Roper, Graham, and this decision about children's diminished culpability and heightened capacity for change, we think appropriate occasions for sentencing juveniles to the harshest possible penalty will be uncommon." *See id.* at 2469 ("This is especially so because of the great difficulty we noted in Roper and Graham of distinguishing at this early age between 'the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption.'" (quoting Roper, 543 U.S. at 573, Graham, 540 U.S. at 685)).

Finally in 2016 this Court in Montgomery v. Louisiana, 136 S. Ct. 718 193 L. Ed. 2d 599 ruled Miller's prohibition on mandatory Life without parole for juvenile offenders was substantive and applied retroactively and ("Extending Parole Eligibility to Juvenile offenders does not impose an onerous burden on the states, nor does it disturb the finality of state convictions, those prisoners who have



show an inability to reform will continue to serve life sentences. The opportunity for release will be afforded to those who demonstrate the truth of Miller's central intuition, that children who commit even heinous crimes are capable of change. In light of what this court has said in Roper, Graham, and Miller about how children are constitutionally different from adults, in their level of culpability, however, prisoner like Montgomery must be given the opportunity to show their crime did not reflect irreparable corruption, and, if it did not, their hope for some years of life outside prison walls must be restored")

In 2015 the Nevada Legislature Passed Assembly Bill A.B. 267, it dealt with offenders who committed their crimes as a juvenile. see Nevada Revised Statutes N.R.S. 213.12135, N.R.S. 176.017, N.R.S. 176.025. This Bill made juvenile offenders parole eligibility after 15-years for non homicide cases, and 20-years for homicide. no matter if a offender had a life with out sentence, or had multiple consecutive sentences and if you make parole the offender is paroled on all sentences and is released, and no longer can a juvenile be sentenced to a life with out sentenced and before a juvenile can be sentenced, the court must consider the difference between juvenile and adult offenders, and diminished culpability of juveniles as compared to that of adults, and the typical characteristics of youth. This Law was Based on the Roper, Graham, and Miller Decisions by this court on the juvenile issue. This Law was suppose to go into effect on 10/1/15, so that made petitioner parole eligibility again in October of 2015, But there was some confusion who she applied too, once that was fixed, petitioner was scheduled to see the Parole Board again on April 18<sup>th</sup> 2016, 6-months after the Law went into effect.

When the Nevada Legislature Passed this Law, the Nevada Parole Board did not change there Procedure or Policy to reflect the purpose of the Law, instead the only thing the Law did was to make juvenile offenders eligible to see the Parole Board sooner on their sentence again see A.B. 267 and N.R.S. 213.12135 the Nevada Parole Board is required to adopt standards

for determining whether to grant or deny parole see N.R.S.  
213, 10885 Nevada Parole provisions see Appendix E  
 copy of the statute  
 see also Nevada Administrative Code N.A.C. 213, 516  
 determining whether to grant parole to a prisoner, the Board  
 will Apply the severity level of the crime for which  
 parole is being considered as assigned see Appendix F  
 copy of Administration code  
 see also Nevada Administrative Code N.A.C. 213, 518  
 Determination of whether to grant parole; Consideration of  
 additional aggravating and mitigating factors see Appendix  
G copy of Administration code  
 These N.A.C.'s are guidelines that the Parole Board use,  
 as this court can see throughout the Parole process  
 every felony offender adult or juvenile is reviewed  
 in the same way. The Parole commissioners give no  
 consideration to an offenders age at the time of the  
 offense, that doesn't benefit a juvenile offender,  
 instead the Nevada Parole Board risk assessment  
 penalize juvenile offenders for committing a crime as a  
 juvenile. see Appendix H Nevada Parole risk  
 assessment age at first arrest 19-years or younger, since  
 I was a juvenile 2-points goes against petitioner,  
 everything on the risk assessment penalize petitioner as  
 a juvenile see also Appendix I Board of Parole  
 commissioners action order Denying Parole for the July  
 20<sup>th</sup> 2015 Parole Board Hearing, in which this appeal is based  
 on, was given a 3-year denial, after Nevada State  
 Legislature passed A.B. 267 N.R.S. 213, 12135 which made  
 juvenile offenders Parole eligibility sooner on their  
 sentences. Petitioner saw the Parole Board again on April  
 18<sup>th</sup> 2016 under this Law, as this court can see the Board  
 used the same standards as they do for adult offenders  
 see Appendix J Board of Parole commissioners action  
 order Denying Parole April 18<sup>th</sup> 2016 and was given  
 another 2-year Parole Denial, they used the same  
 standards as they did at the July 20<sup>th</sup> 2015 Parole Hearing,  
 Petitioner just recently went back up in front of the  
 Nevada Parole Board, on August 8<sup>th</sup> 2018, under the  
 same juvenile Law, and was given another Denial,  
 this time for 1-year, and again used the same standards

as they do for adults. see Appendix K "Board of Parole Commissioners action order Denying parole, for august 8th 2018 Parole Hearing, see also Appendix L static 99A coding form for sex offenders, since Petitioner committed a sex offense, the Parole Board also considered the static 99A form assessment, which this can see is based on unchanging factors, and also based on at the time Petitioner committed his crime which was a juvenile, Petitioner wanted to show this court that the Parole Board is denying Petitioner a meaningful opportunity to obtain release based on growth, maturity, or rehabilitation.

In Graham, this Court made clear that when a state sentences a juvenile to life in prison "it must provide [the child] with some realistic opportunity to obtain release before the end of that term." 560 U.S. at 81, although Graham left it up to the states to figure out how to comply with its ruling. Id at 75, the decision nevertheless established at least three minimum requirements for parole or early release programs. First the opportunity for release must be "based on demonstrated maturity, and rehabilitation." Id at 75, second, it must be "meaningful," which means the opportunity must be realistic "and more than a remote possibility." 2d Id at 70, 75, 82, third, the state parole or early release system must take into account the defendant's youthfulness when the crime was committed, a fact that makes him or her less culpable than an adult, Id at 76, see Contreras v. Davis, 229 F. Supp. 3d 475 (2017)

moreover, district courts in other circuits have held that Graham's requirement that states offer juvenile offenders a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation" Graham, 560 U.S. at 75 130 S.Ct. at 2030, extends to juveniles that are sentenced to life with the possibility of parole. Hayden v. Keller, NO 5:10-CT-3123-B0, 134 F. Supp. 3d 1000, 2015 M.S. Dist. Lexis 134426 2015 WL 5773634 at 8 (E.D.N.C. Sept 28, 2015) Coreiman v. Hedges, 79 F. Supp. 3d 933, 943 (S.D. Iowa 2015) As a North Carolina district court explained, "[I]f a juvenile offender's life sentence, while ostensibly labeled as one 'with parole,' is the

functional equivalent of a Life sentence with out parole, then the state has denied that offender the "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation" that the Eighth Amendment demands, Hayden, 2015 U.S. Dist. Lexis 134426, 2015 WL 5773634 at \*8. Similarly, an Iowa district court concluded that because a juvenile offender may only prove increased maturity and rehabilitation after a sentence is imposed, the responsibility for ensuring that an offender "receives his constitutionally mandated 'meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation lies squarely with [the Parole Board]" Greiman, 79 F. Supp.3d at 943, see also Wershe v. Combs, 2014 U.S. Dist. Lexis 43150 the court in this case [found] the decisions from those other district courts persuasive. Graham imposed a categorical rule that prohibits states from deciding at the time of sentencing, that a juvenile offender will spend the rest of his life in prison. The court's discussion of a meaningful opportunity to obtain release, however, suggests that the decision imposes some requirements after sentencing as well.

further more those courts that have held that a state's parole system did not satisfy Graham's requirements focused on the lack of opportunity for an offender to demonstrate that he had matured and changed, see Hayden, 2015 U.S. Dist. Lexis 134426, 2015 WL 5773634, at \*8, Greiman, 79 F. Supp.3d at 944. For instance in holding that the North Carolina parole review process did not comply with Graham, the Hayes court noted that the case summaries provided to the parole commission did not contain information about an offender's status as a juvenile offender or specific information about maturity or rehabilitation efforts. Hayden, 2015 U.S. Dist. Lexis 134426, 2015 WL 5773634, at \*8. Similarly, the court Greiman held that the plaintiff's complaint stated a claim under Graham because it alleged that the parole board did not take into account his youth at the time of the offense and instead considered only the seriousness of his offense. Greiman, 79 F. Supp.3d at 943, as this court can see and Petitioner pointed out. That the Nevada Parole Board Denied Petitioner's parole Based on

the seriousness of his crime and other factors, and also the Parole Board's Parole Risk Assessment & Guide Lines shows that the Parole Board penalized petitioner for everything he did as a Juvenile and used that for reasons to deny Parole see Appendixes "H", "I", if the Parole Board did not penalize petitioner for everything he did as a Juvenile, and instead took in his Growth, maturity & Rehabilitation and seen that he matured out of that behavior, the Parole Board would of had no choice but to Grant Parole, and Petitioner's points on his risk assessment would of been Lower, where Guidelines Recommendation would not of been to Deny Parole. Petitioner has did 20-Classes & Programs that has addressed the issues that led him to Prison, petitioner has 1 minor Disciplinary write up in 19-years, Petitioner has worked most of his time while in Prison. Current Job he has held for 10-years, Petitioner has received his Education. Petitioner has clearly shown Growth, maturity, & Rehabilitation, But the Parole Board has continued to Deny Petitioner a meaningful opportunity to obtain release, Based on his crime and Past as a Juvenile.

Petitioner's Due Process rights were Violated under the 5<sup>th</sup> and 14<sup>th</sup> Amendment to the U.S. Constitution this Court has held that Prisoners have no Constitutional right to release before expiration of a valid sentence even where a state provides for the possibility of Parole. Greenholtz v. Inmates of Neb. Penal and Corr. Complex, 442 U.S. 1, 7-8, 10-11, 99 S.Ct. 2100 60 L.Ed.2d 668 (1979) it is true that a state Parole statute may create a Liberty interest, even if the parole decision involves subjective and predictive consideration provided that the statute contains mandatory language and imposes substantive limitations on the discretion of those making the Parole decision Greenholtz, 44 L.Ed. 2d 303 (1977) also held that [W]hether a state statute provides such a protectable entitlement depends on the structure and language of the statute as well as the state court's interpretation of the scope of the interest... if a statutory scheme requires the Board to release a prisoners once the

Board determines that certain necessary prerequisites exist, that scheme may give rise to a Liberty interest in early release... Significant to the determination of whether parole or other early release statutes create such a protectable Liberty interest in their use of mandatory language see Bergen v. Spaulding, 881 F.2d 719, 721 (9th Cir 1989) (citations omitted) even though Nevada statute N.R.S. 213.10705 does not create a Liberty interest in Parole Hearings. Graham v. Florida, 560 at 48 (2010) does create a Due Process right and Liberty interest dealing with offenders who committed his other crimes as a Juvenile at Parole Board Hearings. Petitioner could not show Growth, Maturity, and Rehabilitation at the time of sentence 31-years ago.

This court decision on the Juvenile issue, has given rights to Juvenile offenders not only at the time of sentencing. But also at Parole Board hearings.

Petitioner asserts that the U.S. Supreme Court's cases mentioned above, guarantees him a meaningful opportunity to obtain release based on demonstrated, maturity and Rehabilitation and that respondents existing procedures and policies deprive Petitioner of the meaningful opportunity to which Petitioner is entitled through subtle the distinction is important in Greenholtz v. Inmate of Neb. Penal & Corr. Complex, 402 U.S. 1, 7, 99 S.Ct. 2106 66 L.Ed.2d 668 this court determined that when a state holds out the possibility of parole "it provides no more than a mere hope that the benefit will be obtained" such a general interest "is no more substantial than the inmates hope that he will be transferred to another prison. a hope which is not protected by due process" 442 U.S. at 11 the present case is

Distinguishable because although Graham stops short of guaranteeing parole, it does provide the Juvenile offender with substantially more than a possibility of parole or a mere hope of parole, it creates a categorical entitlement to "demonstrate maturity and reform to show that he is fit to rejoin society and to have a meaningful opportunity for release see Graham, 560 U.S. at 79. Because Petitioner Petition clearly alleges

Facts that, if true, would support a conclusion that Respondents have denied him Due Process to which Petitioner is due, namely a meaningful opportunity to obtain release based on demonstrated maturity and Rehabilitation. The ultimate length of Petitioner's prison sentence will be determined by the Nevada Board of Parole, because it alone now has the authority to grant Petitioner release. The responsibility of determining the length of a prison sentence was shifted from the trial court to the Board of Parole," thus it appears clear that at least under the facts of this case, the responsibility for ensuring that Petitioner receives his "constitutionally mandated" Due Process right to a meaningful opportunity to obtain release based on demonstration maturity and Rehabilitation" lies squarely with the parole Board, see Greiman v. Hodges, 79 F. Supp. 3d 933, 943 (S.D. Iowa 2015).

Finally in Greenholtz - which notably did not address whether Nebraska's parole scheme comported with Due Process as applied to juvenile offenders - held that "a mere hope" of parole suffices 442 U.S. at 11, see Hawkins, 195 F.3d at 747. But even Greenholtz acknowledged that "Due process is flexible and calls for such procedural protections as the particular situation demands," 442 U.S. at 12 (emphasis added). The Supreme Court has now clarified that juvenile offenders' parole reviews demand more procedural protections, see Graham, 560 U.S. at 79. Greiman, 79 F. Supp. 3d at 945 clearly, in Nevada parole process juvenile and adult offenders are reviewed in the same way, also juveniles are penalized on the parole Board risk assessment, the parole Board uses to determine to grant or deny parole. They are penalized for committing a crime as a juvenile, for no work history, for a prior parole revocation, for prior convictions, and for alcohol and drug abuse, even given 1-point for gender. so juvenile offenders are not heard on the question of maturity and Rehabilitation. What Jones seeks is what he is constitutionally entitled to, "a meaningful opportunity to obtain release based on demonstrated maturity and Rehabilitation". If Nevada Parole process fails to meet this constitutional

mandate. Petitioner has shown a Due Process Violation see Mathews v. Eldridge, 424 U.S. 319, 333 96 S.Ct. 893 47 L.Ed. 2d 18 (1976) ("the fundamental requirement of Due Process is the opportunity to be heard at a meaningful time and in a meaningful manner.") quoting Armstrong v. Manzo, 380 U.S. 545, 572, 85 S.Ct. 1187, 14 L.Ed. 2d 62 (1965)

the Nevada Parole Board's actions of repeatedly denying petitioner's Parole amounts to cruel and unusual Punishment under the 8<sup>th</sup> Amendment to the U.S. Constitution.

When Petitioner was sentenced he was given a 5 to Life consecutive, 5 to Life consecutive, 15-year consecutive, 15-year consecutive, if Petitioner would of made Parole for the 1st time on each sentence, Petitioner would of did 16 to 17 years straight. But instead Petitioner has did 31-years so far with another 1-year Denial which when Petitioner goes back in front of the Parole Board he will have 32-years in, and could be facing many more years in Prison.

The Nevada Parole Board made Petitioner do 14-years on his 1st 5 to Life sentence 3- Three year Denials then was Paroled to his 2nd 5 to Life sentence, which Petitioner did 8-years on the sentence. 1- 3-year Denial. then was Paroled to his 3rd sentence which was a 15-year sentence with a 3-year minimum did 9-years on it 2- 3-year Denials, and ended up expiring this sentence. Petitioner started his last 15-year sentence on June 18<sup>th</sup> 2018, and was given a 1-year Denial on the sentence

Petitioner could be facing many more years in Prison. The Parole Board could continue to Deny Parole for Life, and continue to use an inaccurate risk assessment applied to Juvenile offenders. Because it Penalizes Juvenile offenders and their Procedures and Policies is not based on a meaningful opportunity to obtain release based on Growth, maturity, and Rehabilitation.

The Eighth Amendment states: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. Furman v. Georgia, 408 U.S.



238, 239 92 S.Ct., 2726 33 L.Ed.2d 346 (1972) to determine whether a punishment is cruel and unusual, courts must look beyond historical conceptions to the evolving standards of decency that mark the progress of a maturing society. Atkins v. Virginia, 536 U.S. 304, 311, 122 S.Ct. 2242 153 L.Ed. 2d 335 (2002) (noting that "[t]he right flows from the basic precept of justice that punishment for crime should be graduated and proportioned to [the] offense." Roper v. Simmons, 543 U.S. 551, 561, 125 S.Ct. 1183 161 L.Ed. 2d 1 (2005) this is because the standard of extreme cruelty is not merely descriptive, but necessarily embodies a moral judgment. The standard itself remains the same, but its applicability must change as the basic mores of society change. Graham, 560 U.S. at 58. Importantly, Graham then found that "[t]he constitution prohibits the imposition of a life without parole sentence on a juvenile offender who did not commit homicide." 560 U.S. at 82; see also Miller, 132 S.Ct. at 2465 (recognizing "this court held in Graham that life without parole violates the Eighth Amendment when imposed on juvenile nonhomicide offenders"). They continued the court that when a state sentences a juvenile and imposes a sentence of life it must provide [that child] with some realistic opportunity to obtain release before the end of that term." Graham, 560 U.S. at 82. therein, the opportunity must be "meaningful" and "based on demonstrated maturity and rehabilitation." Id. at 75.

Juvenile offenders will most likely be serving disproportionately longer sentences, the longer sentence does not present an opportunity for parole. What presents the best statistical opportunity for parole is not to commit a sexual offense crime. again, this is not the holding in Graham, 560 U.S. at 59 (citing Weems v. United States, 217 U.S. 349, 367, 30 S.Ct. 544, 54 L.Ed. 793 (1910) ("the concept of proportionality is central to the Eighth Amendment. Embodied in the constitution's ban on cruel and unusual punishments is the precept of justice that punishment for crime should be graduated and proportioned to [the] offense") Hayden v. Keller, 134

f. supp. 3d 1000 (2015) The Nevada Parole process violates the Eighth Amendment as outlined in Graham.

### CONCLUSION

Petitioner has shown that he is entitled to relief

Graham does apply to the Nevada Parole Board Proceedings for a Juvenile who was sentenced to a Life sentence

the Nevada Parole Board Proceedings and Policies deny Petitioner a meaningful opportunity to obtain release Based on Growth, maturity, and Rehabilitation

The Nevada Parole Board violates Due Process under Graham.

The Nevada Parole Process violates the Eighth Amendment as outlined in Graham.

For the reasons stated above, the Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

Jeff Jones

DATE: NOVEMBER 20TH 2018