

In The  
Supreme Court of the United States

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ABDUR RAHIM AMBROSE,  
*Petitioner,*

V.

STATE OF MISSISSIPPI,  
*Respondent.*

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On Petition for Writ of Certiorari  
to the Supreme Court of Mississippi

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**AMICUS CURIAE BRIEF IN SUPPORT OF  
PETITIONER SUBMITTED ON BEHALF OF  
THE ROMAN CATHOLIC DIOCESE OF  
BILOXI, MISSISSIPPI**

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BRIEF OF AMICI CURIAE IN SUPPORT OF  
PETITION FOR CERTIORARI

Amicus curiae, the Roman Catholic Diocese of Biloxi, Mississippi, respectfully submits this brief supporting the Petition for Writ of Certiorari filed by ABDUR RAHIM AMBROSE.<sup>1</sup>

INTEREST OF AMICI CURIAE

The Roman Catholic Diocese of Biloxi, Mississippi (hereinafter also referred to as “Church”), is an ecclesiastical entity within the Roman Catholic Church. Harrison County, Mississippi, located in the Second Circuit Court District of Mississippi, the venue in which the trial court proceedings below were tried, and where many capital sentences are given such as the one in the case at bar, lies within the Roman Catholic Diocese of Biloxi. The Roman Catholic Church is opposed to the death penalty and seeks to safeguard the sanctity of all human life. The Roman Catholic Diocese of Biloxi has an important perspective to offer this Honorable Court.

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<sup>1</sup> Pursuant to Rule 37.2(a), amici have received written consent to the filing of this brief from all parties. No counsel for a party authored this brief in whole or in part, and no counsel for a party (nor a party itself) made a monetary contribution intended to fund the preparation or submission of this brief. No person other than amici or its counsel made a monetary contribution to its preparation or submission.

## SUMMARY OF ARGUMENT

Capital punishment is geographically arbitrary in nature and violates evolving standards of decency. This Amicus Curiae requests this Court grant certiorari so that the capital sentence of Mr. Ambrose might be reversed, a sentence less than death imposed, and capital punishment abolished in the United States of America.

## ARGUMENT

The time has come for the death penalty to be abolished. Capital punishment constitutes “cruel and unusual punishment” in violation of the Eighth Amendment of the United States Constitution and further violates our nation’s evolving standards of decency. The Court has observed:

“The prohibition against “cruel and unusual punishments,” like other expansive language in the Constitution, must be interpreted according to its text, by considering history, tradition, and precedent, and with due regard for its purpose and function in the constitutional design. To implement this framework we have established the propriety and affirmed the necessity of referring to “the evolving standards of decency that mark the progress of a maturing society” to determine which punishments are so disproportionate as to be cruel and unusual.”

*Roper v. Simmons*, 543 U.S. 551, 560–61 (2005) (citing *Trop v. Dulles*, 356 U.S. 86, 100–101, 78 S.Ct.

590, 2 L.Ed.2d 630 (1958) (plurality opinion).

Justice Bryer, in a recent dissent, cited a claim that “the Second Circuit Court District of Mississippi... accounts for the largest number of death sentences of any of the State's 22 districts since 1976.” *Jordan v. Mississippi*, 138 S. Ct. 2567, 2569 (2018) (Bryer, dissenting) (referencing a claim by Timothy Evans, petitioner in that case, who cited death sentencing data maintained by Mississippi's Office of the State Public Defender). Justice Bryer continued to state that “[t]his geographic concentration reflects a nationwide trend. Death sentences, while declining in number, have become increasingly concentrated in an ever-smaller number of counties.” *Id.* (citing Joint State Government Commission, *Capital Punishment in Pennsylvania: The Report of the Task Force and Advisory Committee* 90 (June 2018) (“[D]ifferences among counties in death penalty outcomes ... were the largest and most prominent differences found in the study. In a very real sense, a given defendant's chance of having the death penalty sought, retracted, or imposed depends upon where that defendant is prosecuted and tried”) (other citations and quotations omitted)). *See also*, Ashley Rupp, Death Penalty Prosecutorial Charging Decisions and County Budgetary Restrictions: Is the Death Penalty Arbitrarily Applied Based on County Funding?, 71 *Fordham L. Rev.* 2735 (2003) (Arguing that because prosecutorial consideration of county budgets results in arbitrary application of the death penalty, the death penalty must be abolished.). The death penalty cannot be "so wantonly and so freakishly imposed" as it is when its imposition is based on such arbitrary conditions as the location of the

crime. See *Furman v. Georgia*, 408 U.S. 238, 310 (1972) (Stewart, J., concurring).<sup>2</sup> This Court has recognized that standards of decency evolve. *Roper v. Simmons*, 543 U.S. at 563. Capital punishment is indecent and must be abolished.

This is truly a tragic case. The Church opens its arms to the victim in this case, the victim's family, friends, and all those affected by this case. The Church opens its arms to Mr. Ambrose, and Mr. Ambrose's family, and friends. Certainly, the Church does not condone any illegal or immoral act, including unwarranted physical force upon another person which injures or takes a life of another person. At the same time, no matter what Mr. Ambrose has allegedly done, Mr. Ambrose has constitutional rights, as do all persons accused and convicted of crimes, which are to be protected by the law, and he has a right to life bestowed upon him by God. These rights must be protected, and that is the purpose of this amicus brief.

This is too high a cost for this issue to again be put off. "The death penalty costs too much. Allowing our government to kill citizens compromises the deepest moral values upon which this country was conceived: the inviolable dignity of human persons." Helen Prejean, Dead Man Walking: The Eyewitness Account of the Death Penalty in the United States, at 197 (1993 Ed). In the light of the Gospel, the Church's position is that "the death penalty is

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<sup>2</sup> It is the duty of this Court to exercise its judgment and examine the constitutionality of the death penalty. *Marbury v. Madison*, 1 Cranch 137, 177, 2 L.Ed. 60 (1803). This Court must find that the current national death penalty scheme is unconstitutional as it does not conform to the "spirit" of the Constitution. *M'Culloch v. Maryland*, 17 U.S. 316, 421 (1819).



inadmissible because it is an attack on the inviolability and dignity of the person”, and she works with determination for its abolition worldwide. Catechism of the Catholic Church, at Section 2267. (Citing Francis, Address to Participants in the Meeting organized by the Pontifical Council for the Promotion of the New Evangelization, 11 October 2017: *L’Osservatore Romano*, 13 October 2017, 5). Christ himself, when asked about capital punishment, declared: “Let him who is without sin among you be the first to throw a stone at her.” John 8:7 (Ignatius Catholic Study Bible, Second Catholic Edition RSV).<sup>3</sup> The Petition for certiorari should be granted and the death penalty declared unconstitutional.

### CONCLUSION

Capital punishment is geographically arbitrary in nature and violates evolving standards of decency. This Amicus Curiae requests this Court grant certiorari so that the capital sentence of Mr. Ambrose might be reversed, a sentence less than death imposed, and capital punishment abolished in the United States of America.

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<sup>3</sup> Consideration must also be taken for mentally ill persons who are sentenced to death. This Court has already carved out an exception for minors, *Roper*, and for intellectually disabled. *Atkins v. Virginia*, 536 U.S. 304 (2002). Christ himself declared “Father, forgive them, they know not what they do.” Lk. 23:34.

Respectfully submitted,

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