

No. ____

IN THE
SUPREME COURT OF THE UNITED STATES

CARLTEZ TAYLOR

Petitioner,

v.

THE STATE OF INDIANA,

Respondent.

**APPLICATION FOR EXTENSION OF TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI
TO THE INDIANA SUPREME COURT**

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To the Honorable Justice Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Seventh Circuit, in which the Indiana Court of Appeals sits:

The Petitioner, Carltez Taylor, respectfully requests a 61-day extension of time, to and including Monday, July 16, 2018, to file a petition for a writ of certiorari. In support of this application, the Petitioner says:

1. The Indiana Supreme Court issued its decision on December 5, 2017. In its opinion, the Indiana Supreme Court affirmed the Petitioner's convictions for murder and conspiracy to commit murder. However, the court vacated the Petitioner's sentence of Life Without Parole and revised it to a term of eighty years pursuant to its authority under Indiana Appellate Rule 7(B). *Taylor v. State*, 86

N.E.3d 157 (Ind. 2017). A copy of this decision is attached to this application. The Petitioner sought rehearing in the Indiana Supreme Court; rehearing was denied on February 15, 2018. A copy of the order denying rehearing is attached to this application. Absent an extension of time, the petition for a writ of certiorari would therefore be due on Wednesday, May 16, 2018. The Petitioner is filing this application by deposit in the United States mail at least ten days before the petition's due date. *See Sup. Ct. R. 13.5.*

2. The court to which certiorari would be directed is the Indiana Supreme Court. This Court has jurisdiction to review the judgment of the Indiana Supreme Court under 28 U.S.C. § 1257(a) and Sup. Ct. R. 13.1.

3. The Petitioner was convicted in 2016 for murder and conspiracy to commit murder, offenses he committed when he was only seventeen years-old. He was initially sentenced to life without parole for murder, along with fifteen years based upon the Indiana firearms sentencing enhancement, and to a concurrent term of thirty-five years for conspiracy to commit murder.

The Petitioner appealed his convictions and sentences directly to the Indiana Supreme Court. That court affirmed the Petitioner's convictions but vacated his sentence of life without parole, finding such a sentence inappropriate for a juvenile offender under Indiana Appellate Rule 7(B). Specifically, the Indiana Supreme Court held that “[the Petitioner’s] character and the nature of his offense—grievous as it was—do not warrant making him Indiana’s fifth juvenile sentenced to a guaranteed death in prison.” The Indiana Supreme Court revised the Petitioner’s

sentence for murder to sixty-five years plus fifteen years for the firearms sentencing enhancement, for total sentence eighty years. In so doing, the Indiana Supreme Court did not reach the Petitioner's argument that a sentence of life without parole for a juvenile offender violated the Eighth Amendment and this Court's decisions in *Graham v. Florida*, 560 U.S. 48, 68 (2010), and *Miller v. Alabama*, 567 U.S. 460, 479 (2012).

4. In his petition for rehearing, the Petitioner made two arguments. First, he argued that his revised eighty year aggregate sentence constitutes a *de facto* life sentence that would guarantee him a lifetime behind bars. As the Indiana Supreme Court expressly determined that the nature of the offense and the Petitioner's character did not warrant such a sentence, the Petitioner argued that the eighty year revised sentence was also inappropriate under Indiana Appellate Rule 7(B) and was therefore in need of further revision.

Second, the Petitioner reasserted his claim under the Eighth Amendment. In this rehearing argument, the Petitioner noted that in *Miller*, this Court held that sentencing schemes that provide for mandatory sentences of life without parole for juveniles convicted of murder violate the Eighth Amendment. He further noted that in *Graham* this Court held that juveniles convicted of non-homicide offenses are ineligible for a sentence of life without parole. In large part, both *Miller* and *Graham* were based on the principle that "a lifetime in prison is a disproportionate sentence for all but the rarest of children, those whose crimes reflect 'irreparable corruption.'" *Montgomery v. Louisiana*, 136 S. Ct. 718, 726 (2016), as revised Jan.

27, 2016 (quoting *Miller*, 567 U.S. at 479); *see also Graham*, 560 U.S. at 73. The Petitioner noted that this Eighth Amendment proportionality analysis in *Graham* and *Miller* is predicated upon the biological reality that children are categorically less culpable than adults and possess a greater capacity for change and rehabilitation. *Miller*, 567 U.S. at 479; *Graham*, 560 U.S. at 68. More particularly, the Petitioner argued that the increased protection for children under the Eighth Amendment mandated by *Graham* and *Miller* is based on the following, proven biological realities: that, relative to adults, juveniles possess a “lack of maturity and an underdeveloped sense of responsibility,” tend to be “more vulnerable ... to negative influences and outside pressures, including from their family and peers,” and are more capable of change. *Miller*, 567 U.S. at 471 (internal citations and quotations omitted).

The Petitioner further argued that exempting lengthy term of years sentences from the reach of *Graham* and *Miller* would reduce the protections of these precedents to form over substance, a practice that this Court has soundly disapproved in a number of contexts. The Petitioner argued that, consistent with *Miller* and *Graham*, the law’s most extreme sentences—including long sentences for a term of years—should be considered constitutionally inappropriate under the Eighth Amendment for the vast majority of juvenile offenders. *See, e.g., Miller*, 567 U.S. at 579. With regard to his case in particular, the Petitioner noted a unique circumstance: that the Indiana Supreme Court had already expressly determined that he was not the rare juvenile offender who should spend a lifetime behind bars.

Under *Graham* and *Miller*, that finding should have foreclosed the *de facto* life sentence imposed upon him. In summary, the Petitioner asserted that, based upon *Miller* and *Graham*, his revised eighty year sentence is unconstitutional under the Eighth Amendment.

The Indiana Supreme Court denied the petition for rehearing containing these arguments without opinion.

5. The Petitioner is requesting an extension of time to file a petition for a writ of certiorari first because undersigned counsel is attempting to recruit counsel for the Petitioner. Second, undersigned counsel did not represent the Petitioner in the state courts. Third, undersigned counsel has had to spend much of the last two weeks on matters related to *Brown v. Brown*, Southern District of Indiana Case No. 1:13-cv-1981-JMS-DML, after this Court, on April 16, 2018, denied certiorari in *Brown v. Brown*, 847 F.3d 502 (2017), *reh'g and reh'g en banc denied, cert denied* (April 16, 2018). Finally, undersigned counsel teaches a clinical course on federal habeas litigation at the Indiana University Maurer School of law. Classes only ended last week.

6. The Petitioner's case raises an important question regarding whether this Court's decisions in *Graham v. Florida*, 560 U.S. 48 (2010), and *Miller v. Alabama*, 567 U.S. 460 (2012), prohibit sentencing a juvenile to a *de facto* life sentence when that juvenile is not that rare juvenile offender whose crime reflects irreparable corruption. The Petitioner is requesting an extension of time to file a petition for a

writ of certiorari so that that question may be properly presented to the Court in this case.

CONCLUSION

Wherefore, the Petitioner, Carltez Taylor, respectfully requests a 61-day extension of time, to and including Monday, July 16, 2018, to file a petition for a writ of certiorari.

Respectfully submitted,



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May 4, 2018