No. 18-

IN THE
Supreme Court of the United States

CARLTEZ TAYLOR, PETITIONER,

v.

STATE OF INDIANA, RESPONDENT.

On Petition For A Writ Of Certiorari To The Supreme Court Of Indiana

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

In light of Petitioner's character and the nature of the offense, the Supreme Court of Indiana invoked its authority and reduced his sentence of life without the possibility of parole because he did not deserve a "guaranteed death in prison" and his sentence was an inappropriate outlier. That court changed his sentence from life without the possibility of parole to a term of 80 years for a single offense, a sentence that, even with every potential reduction applied, will exceed his life expectancy. Because the Supreme Court of Indiana does not consider such a sentence to be life without the possibility of parole, it held that the protections announced in *Miller v. Alabama*, 567 U.S. 460 (2012) do not apply, presenting the following question:

Whether it is cruel and unusual punishment to sentence a juvenile to a term exceeding their life expectancy for a single offense even when the sentencing court holds that neither the character of the defendant nor the nature of the offense can sustain a sentence of life without the possibility of parole.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Carltez Taylor respectfully petitions for a writ of certiorari to review the judgment of the Supreme Court of Indiana.

OPINIONS BELOW

The opinion of the Supreme Court of Indiana's opinion is reported at 86 N.E.3d 157. Pet. App. 1a-23a. The order of the Supreme Court of Indiana denying rehearing is unreported but is reproduced in the appendix. *Id.* at 24a.

JURISDICTION

The Supreme Court of Indiana denied rehearing on February 15, 2018. On May 9, 2018, Justice Kagan granted an extension of time to file this Petition to and including July 15, 2018. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISION INVOLVED

The Eighth Amendment to the United States Constitution provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

STATEMENT OF THE CASE

The Supreme Court of Indiana found that neither Mr. Taylor's character nor the nature of his offense warranted "a guaranteed death in prison" and, exercising its constitutional authority to "review and revise" his sentence, imposed a term-of-years sentence instead. Pet. App. 13a, 19a-20a. Having imposed a term of years, the court purported to distinguish *Miller v. Alabama*, 567 U.S. 460 (2012) on that basis. Pet. App. 20a n.1. However, the term imposed—80 years for a single offense—renders Mr.

Taylor ineligible for parole during his lifetime. Pet. App. 5a.

Mr. Taylor was charged with killing a peer who was seeking the romantic attention of a mutual female acquaintance. While he was with the acquaintance, she received a text message about meeting up with her for a tryst. Petitioner convinced the acquaintance to lure their peer to her house, telling the peer that she was alone. When he arrived, Mr. Taylor confronted him with a gun he had obtained from a friend earlier that night. As the peer fled, Mr. Taylor shot him in the back, an injury that killed him within minutes. At the time, Mr. Taylor was seventeen years old. He was convicted of murder and conspiracy to commit murder.

At sentencing, Mr. Taylor's pastor testified that he was a respectable young man. Although he ultimately left formal schooling in the eleventh grade, growing up, Mr. Taylor was a curious child who was deeply involved with his family. He was responsible for assisting his grandmother with providing childcare for his younger cousins. His family and friends remember him as a helper with a good heart.

The jury learned that Mr. Taylor's father was absent from his life. Mr. Taylor's uncle testified that Mr. Taylor was very good with his hands, and that he showed interest in mechanics and basketball. By age eight, Mr. Taylor could name every compartment in a car. He liked fixing things. Mr. Taylor and his uncle volunteered together at the Evansville Christian Center where they would ride around town and clean up trash. They called themselves "Evansville's Finest Environmental Workers."

Upon the jury's recommendation, the trial court imposed a sentence of life without the possibility of

parole for the murder conviction and a concurrent sentence of thirty-five years for the conspiracy conviction. For each conviction, he received a fifteen-year sentencing enhancement for having used a firearm. He appealed to the Supreme Court of Indiana.

That court has state constitutional authority to "review and revise the sentence imposed." Ind. Const. art. 7, § 4; *Wilkes v. State*, 917 N.E.2d 675, 693 (Ind. 2009). The court may revise sentences that are "inappropriate in light of the nature of the offense and the character of the offender." Ind. App. R. 7(B); *see also Gibson v. State*, 51 N.E.3d 204, 215 (Ind. 2016).

On appeal, Mr. Taylor raised several constitutional challenges to his sentencing proceeding, each of which were premised on the application of *Miller v. Alabama*, 567 U.S. 460 (2012). Among others, these included a claim that the state had made an inadequate showing of irreparable corruption, particularly in light of Mr. Taylor's age and background, as well as the nature of the offense.

In the opinion below, the Supreme Court of Indiana declined to address his constitutional challenges to his sentence. Instead, the court reduced his life without the possibility of parole sentence to 80 years: 65 years for the murder and a fifteen-year sentencing enhancement. Invoking its state constitutional authority to do so, the court reduced the sentence because Mr. Taylor'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." Pet. App. at 19a. The court left the concurrent sentence for the conspiracy charge intact. Having reduced Mr. Tay-

lor's life without the possibility of parole sentence, the court did not address whether "his LWOP sentence was constitutionally disproportionate and that the jury failed to make required special findings supporting LWOP." Pet. App. 20a n.1.

Assuming that Mr. Taylor avails himself of all available sentencing reductions to which he could be entitled while in prison, he will be 75 years old before he is first eligible for parole. That is, he is limited to a two-year sentence reduction for educational credits and will earn only one day of "good time" credit for every three days served. Ind. Code §§ 35-50-6-4(a), 35-50-6-3.3(j)(1). Therefore, Mr. Taylor's best case scenario is to reduce his sentence from 80 years to 58 years, which, because he started serving his sentence at age 17, would make him eligible for parole for the first time at age 75.

This age of eligibility assumes that Mr. Taylor has the capacity and opportunity to obtain a bachelor's degree and that he has virtually no disciplinary problems while incarcerated. Indiana Department of Correction, *Manual of Policies and Procedures*, No. 01-04-101 VII-10-11 (2015). However, Indiana's Department of Correction does not itself provide an opportunity to obtain a bachelor's degree. Instead, inmates may pay college tuition to take correspondence courses at one of two outside universities. Financial assistance is not available. Indiana Department of Correction, *Education Division: College Degree Access* ("Incarcerated adults may participate in an associate or bachelor's degree self—pay correspondence program, through Grace College or Oakland City University."); Kyle Stokes, *What Indiana Will Miss With The State Prisons' College Programs Gone*, State Impact (July 4, 2012) (describing recent

substantial cuts to inmate education). Mr. Taylor is indigent, making this opportunity unavailing.

As he explained to the court below, Mr. Taylor's life expectancy is approximately 68 years. U.S. Dep't of Health and Human Services, *Health, United States Report* Table 15 (2016) available at https://tinyurl.com/ya6u6e5c. Even with the most optimistic outcome, he should not expect to be eligible for parole during his lifetime.

In Mr. Taylor's petition for rehearing at the Supreme Court of Indiana, he argued that the new 80-year sentence violated the Eighth Amendment for the same reasons his sentence of life without the possibility of parole sentence did, emphasizing that his new sentence would, like the original, span the rest of his life. The court denied the petition for rehearing (Pet. App. 24a), and this petition followed.

REASONS FOR GRANTING THE PETITION

Mr. Taylor is serving a term-of-years sentence for a single juvenile offense that, if left standing, will mean he dies in prison having never had an opportunity to demonstrate his rehabilitation. Yet the court that imposed his sentence determined that neither his character nor the nature of the offense could support imposing life without the possibility of parole. It matters not one iota to Mr. Taylor whether his sentence is labeled life without the possibility of parole or anything else. What is important to him is what should be important as a matter of constitutional law: the real world impact of his sentence.

Yet the court below upheld the constitutionality of his sentence precisely because it was not labeled life without the possibility of parole. This empty

formalism is at odds with this Court's precedents and implicates a substantial split of authority.

A. There Is A Split Of Authority On Whether A Term-Of-Years Sentence That Exceeds Life Expectancy Is The Equivalent Of Life Without The Possibility Of Parole.

There is a substantial split of authority on whether a term-of-years sentence that exceeds a juvenile offender's life expectancy is, for purposes of the Eighth Amendment, the equivalent of a sentence of life without the possibility of parole.

In a trio of cases, the Court has, based on the Eighth Amendment, categorically excluded most or all juveniles from the harshest penalties under law, the death penalty and life without the possibility of parole. *See Miller*, 567 U.S. 460; *Graham v. Florida*, 560 U.S. 48 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005). Each of the exclusions is premised on the notion that the traditional justifications for punishment—retribution, deterrence, incapacitation, and rehabilitation—are insufficient to support the most severe punishments on most, if not all, juveniles.

Roper excluded all juveniles from capital punishment. *Graham* excluded all juveniles convicted of nonhomicide offenses from life without the possibility of parole. And *Miller*, while declining to address whether a juvenile could ever constitutionally be sentenced to life without the possibility of parole, limited that sentence only to the rare juvenile homicide offender who is irreparably corrupt. 567 U.S. at 479. That is, "*Miller* drew a line between children whose crimes reflect transient immaturity and those rare children whose crimes reflect irreparable cor-

ruption." *Montgomery v. Louisiana*, 136 S. Ct. 718, 734 (2016).

The split of authority at issue here arises in the context of both *Graham* and *Miller* cases. That is, courts are split over whether a term of years sentence that guarantees a death in prison is the equivalent of life without the possibility of parole for purposes of applying the protections announced in those cases.

Some jurisdictions have concluded that they are equivalent sentences. These jurisdictions take a practical approach to implementing the central holding of *Graham* and *Miller*: "[a] term-of-years sentence that meets or exceeds the like 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*." *United States v. Grant,* 887 F.3d 131, 142 (3rd Cir. 2018). They recognize that "states may not circumvent the strictures of the Constitution merely by altering the way they structure their charges or sentences." *Budder v. Addison,* 851 F.3d 1047, 1058-59 (10th Cir. 2017).

The Third, Seventh, and Tenth Circuit Courts of Appeal, along with California, Illinois, Iowa, Louisiana, Montana, New Jersey, Ohio, Washington, and Wyoming constitute the majority position. They apply the protections of *Graham* and *Miller* as long as the juvenile offender receives a sentence to die in prison. *See Grant,* 887 F.3d at 142; *McKinley v. Butler,* 809 F.3d 908, 914 (7th Cir. 2016); *Budder,* 851 F.3d at 1058-59; *State v. Zuber,* 152 A.3d 197, 211-12 (N.J. 2017), *cert. denied,* 138 S. Ct. 152 (Oct. 2, 2017); *State v. Ramos*, 387 P.3d 650, 660 (Wash. 2017), *cert. denied*, 138 S. Ct. 467 (Nov. 27, 2017);

Steilman v. Michael, 407 P.3d 313, 319 (Mont. 2017); *Sam v. State*, 401 P.3d 834 (Wyo. 2017), *cert. denied*, 138 S. Ct. 1988 (May 14, 2018);*People v. Reyes*, 63 N.E.3d 884, 888 (Ill. 2016); *State ex rel. Morgan v. State,* 217 So.3d 266, 276-77 (La. 2016);[1] *State v. Moore,* 76 N.E.3d 557 (Ohio 2016), *cert. denied,* 138 S. Ct. 62 (Oct. 2, 2017); *Cloud v. State,* 334 P.3d 132, 141-42 (Wyo. 2014); *State v. Null,* 836 N.W. 2d 41, 72 (Iowa 2013); *People v. Caballero*, 55 Cal.4th 262, 268 (Cal. 2012).

At least one jurisdiction has held that even where the evidence did not clearly establish that petitioner's prison term was beyond his life expectancy, relief was nonetheless required where the defendant would not be parole eligible until he was elderly: "[t]he prospect of a geriatric release, if one is to be afforded the opportunity for release at all, does not provide a 'meaningful opportunity' to demonstrate the 'maturity and rehabilitation' required to obtain release and reenter society as required by *Graham*." *Null,* 836 N.W. at 71.

A minority of jurisdictions, including Indiana, take a formalistic approach: the protections of *Graham* and *Miller* only apply if the sentence is not "life without the possibility of parole." Some of these jurisdictions do not extend these protections if there are consecutive sentences that are, in aggregate, a term exceeding life expectancy. *See e.g., Lucero v. People,* 394 P.3d 1128, 1132 (Colo. 2017), *cert. de-*

[1] Louisiana does not extend *Graham* protections to consecutive sentences that exceed life expectancy. *State v. Brown*, 118 So. 3d 332, 342 (La. 2013). That state does, however, recognize that such a sentence is the functional equivalent of life without the possibility of parole.

nied, 138 S. Ct. 641 (2018); *Vasquez v. Com.,* 781 S.E.2d 920, 925 (Va. 2016), *cert. denied,* 137 S. Ct. 568 (2016). Others explicitly decline to extend Eighth Amendment protection to sentences other than those imposing literal "life without the possibility of parole" unless and until this Court requires as much, refusing to independently interpret the Constitution. *See, e.g., Starks v. Easterling,* 659 Fed. Appx. 277, 280 (6th Cir. 2016) (declining to apply *Miller* to term-of-years-sentences until this Court does so because "it is not our role to predict future outcomes."), *cert. denied,* 137 S. Ct. 819 (Jan. 17, 2017); *Veal v. State*, 810 S.E.2d 127, 129 (Ga. 2018) (declining to apply *Miller* to term-of-years sentences "[b]ecause the Supreme Court has not . . . ."), *cert. filed*, No. 17-1510 (U.S. May 3, 2018); *State v. Ali,* 895 N.W.2d 237, 239 (Minn. 2017) (declining to "extend the *Miller*/*Montgomery* rule" because the "Court has not squarely addressed the issue"), *cert. denied,* 138 S. Ct. 640 (2018). The Sixth Circuit, along with Arizona, Colorado, Georgia, Minnesota, Missouri, Nebraska, and Virginia all decline to extend *Graham* and *Miller* protections to at least some term-of-year sentences that exceed life expectancy. *Starks*, 659 Fed. Appx. at 278-80; *Armstrong v. People*, 395 P.3d 748, 749 (Colo. 2017), *cert. denied*, 138 S. Ct. 641 (2018); *Veal*, 810 S.E.2d at 129; *Ali,* 895 N.W.2d at 239; *Willbanks v. Dep't of Corr.*, 522 S.W.3d 238, 239 (Mo. 2017), *cert. denied*, 138 S. Ct. 304 (2017); *State v. Trotter,* 908 N.W.2d 656, 661 (Neb. 2018); *Vasquez*, 781 S.E.2d at 925; *State v. Kasic*, 265 P.3d 410, 411 (Ariz. Ct. App. 2011).

This substantial split of authority merits review.

B. Despite Not Being Irreparably Corrupt, Mr. Taylor Was Sentenced To Die In Prison.

The Supreme Court of Indiana has positioned itself as an outlier within the minority camp. By its own account, neither Mr. Taylor's offense nor his character support a sentence of life without the possibility of parole. And yet—for a single offense—that same court revised his sentence of life without the possibility of parole to a term-of-years sentence that exceeds his life expectancy. The rationale for excluding juveniles from the severest penalties under law applies with equal force, no matter the label. And the rationale applies with particular force where a court has effectively found that the juvenile in question is not irreparably corrupt.

Before sentencing a juvenile to die in prison, "*Miller* requires a sentencer to consider a juvenile offender's youth and attendant characteristics before determining that life without parole is a proportionate sentence." *Montgomery*, 136 S. Ct. 718, 734 (citing *Miller*, 132 S. Ct. at 2471). This finding is required because a life sentence "is an 'especially harsh punishment for a juvenile,' because he will almost inevitably serve 'more years and a greater percentage of his life in prison than an adult offender.'" *Miller*, 567 U.S. at 475 (quoting *Graham*, 506 U.S. at 70).

The protections in *Graham* and *Miller* also "rested on not only common sense—what 'any parent knows'—but on science and social science as well: relative to adults, juveniles possess a "lack of maturity," are "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 471-72. These characteristics and related behaviors do not change depending on the label attached to a criminal sanction. *Id.* at 471 ("[C]hildren are constitutionally different from adults for purposes of sentencing.").

Endorsing the rank formalism that lies at the heart of the opinion below is "an enterprise that [the courts] have consistently eschewed." *Bd. of City. Comm'rs v. Umbehr*, 518 U.S. 668, 679 (1996). That is, "in passing upon constitutional questions the court has regard to substance and not to mere matters of form, and that, in accordance with familiar principles, the statute must be tested by its operation and effect." *Near v. State of Minnesota ex rel. Olson*, 283 U.S. 697, 708 (1931).

In the context of assessing the impact of lengthy sentences in particular, the Court has consistently emphasized function, not form. In *Sumner v. Shuman*, 483 U.S. 66 (1987), for example, the Court equated a sentence of life without the possibility of parole with a sentence or several "sentences of a number of years, the total of which exceeds his normal life expectancy." *Id.* at 83. The Court concluded that the presence of a mandatory death sentence for a murder committed while serving a formal life without the possibility of parole sentence, but not for a murder committed while serving its functional equivalent, undermined the state's claimed need for a mandatory death sentence. *Id.*

The State is likely to argue that Mr. Taylor will be parole eligible during his lifetime and that he, therefore, has a meaningful opportunity to obtain release within the meaning of *Graham* and *Miller*.

The Court should reject this argument for several reasons.

Mr. Taylor's sentence, 80 years for an offense committed at age 17, would guarantee that he is imprisoned until age 97. It is flatly unreasonable to conclude that such a sentence is anything other than the equivalent of a life without the possibility of parole sentence.

The State may argue that Mr. Taylor will, in fact, be eligible for parole at age 75. That is a best case scenario based on the limited good time and educational sentence credits available in Indiana. That scenario rests upon three assumptions: (1) Mr. Taylor's life expectancy is at least 75 years, (2) that Mr. Taylor will obtain a bachelor's degree while incarcerated, and (3) that he will maintain a spotless disciplinary history. None of these assumptions were fair to make at the time of his sentence.

As was provided to the court below, Mr. Taylor's demographics (his year of birth and race) place his life expectancy closer to 68 years, not the 75 necessary to provide *any* opportunity for release. U.S. Dep't of Health and Human Services, *Health, United States Report* Table 15 (2016) available at https://tinyurl.com/ya6u6e5c. This expectancy does not account for the substantial impacts of being imprisoned, circumstances that will very likely shorten his expected lifespan. *See, e.g.*, Evelyn Patterson, Ph.D, *The Dose-Response of Time Served in Prison on Mortality: New York State 1989-2003*, 103 Am. J. Pub. Health 523 (2013) (concluding that each year spent in prison results in an approximate two-year decline in life expectancy).

Furthermore, despite Mr. Taylor's general inquisitiveness, his strengths do not appear to be in

academics, having dropped out of school in the eleventh grade. Setting aside the impediments to accessing higher education while in prison, including Mr. Taylor's indigence and Indiana's requiring inmates to pay for their own tuition,[2] his academic aptitude may make it especially unfair to assume he (or other defendants) will obtain the educational credits related to obtaining a bachelor's degree. Caroline Wolf, Ph.D, Bureau of Justice Statistics, *Education and Correctional Populations* Table 6 (Jan. 2003) (reporting very low educational attainment of state prison inmates) available at https://tinyurl.com/kpsgzx4.

Finally, the pressures of spending a lifetime in prison make it unlikely as a practical and statistical matter that he (or anyone) would be able to maintain a perfect disciplinary record, a predicate for obtaining good time credit.[3] The assumptions necessary to conclude that Mr. Taylor's sentence provides for parole eligibility during his lifetime are not well

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[2] Indiana Department of Correction, *Education Division: College Degree Access*; Kyle Stokes, *What Indiana Will Miss With The State Prisons' College Programs Gone*, State Impact (July 4, 2012).

[3] *See, e.g,* Timothy J. Flanagan, *Correlates of Institutional Misconduct Among State Prisoners,* 21 Criminology 29, 30 (1983) (finding "the most adequately established correlate of misconduct among prison inmates is age."); *see also* Michael O'Hear, *Good Conduct Time for Prisoners: Why (And How) Wisconsin Should Provide Credit Toward Release,* 98 Marq. Law Rev. 487, 531 (2014) (finding that most states broadly define what constitutes a disciplinary infraction, while only a few states limit forfeiture of credit to more serious violations.).

founded and should not be relied upon to conclude his sentence is constitutional.[4]

Even if the Court assumes that Mr. Taylor will earn all of his time credits and survive in prison until age 75, it should still strike down his sentence because it fails to provide him with a meaningful opportunity to obtain release.[5] As the Supreme Court of Iowa explained in a case where the trial court sentenced a juvenile to 52.5 years: "we do not regard the juvenile's future release in his or her late sixties after a half century of incarceration sufficient to escape the rationales of *Graham* or *Miller*." *Null*, 836 N.W.2d at 71. It so concluded because a release so late in life fails to provide a "'meaningful opportunity' to demonstrate the 'maturity and rehabilitation' required to obtain release and *reenter society*." *Id.* (emphasis added). The same rationale applies with even greater force to being released at age 75.

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[4] *Rummel v. Estelle*, 445 U.S. 263 (1980) is not to the contrary. There, the Court held that a "proper assessment" of the length of a sentence must account for the realities and availabilities of sentence reductions. Surely such an assessment must account for both their availability and whether it is realistic to assume *all* available reductions will be applied.

[5] In *Virginia v. LeBlanc*, 137 S. Ct. 1726 (2017) (*per curiam*) the Court explained that it was not objectively unreasonable in light of clearly established federal law to conclude that Virginia's geriatric release program provided a meaningful opportunity to obtain release within the meaning of *Graham*. The primary issue in that case was whether "clearly established federal law" established the answer. *Id.* at 1727. The Court went out of its way to explain that it expressed "no view of the merits" of the question and that it only was addressing whether the federal habeas statute's requirements had been met. *Id.* at 1729 (quoting *Woods v. Donald*, 135 S. Ct. 1372, 1378 (2015)).

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The formalism at the heart of the decision of the Supreme Court of Indiana has no place in the law and should give way to a realistic assessment of Mr. Taylor's sentence; his 80-year sentence is equivalent in all but name to a sentence of life without the possibility of parole.

C. This Case Presents A Good Opportunity To Address The Merits Of The Question Presented.

Mr. Taylor's case is an excellent vehicle for addressing the question presented and is favorably distinguished from the cases in which the Court is considering or has declined to review related questions. First, the Supreme Court of Indiana denied all constitutional claims related to *Miller* for a single reason: Mr. Taylor is not serving a sentence labeled "life without the possibility of parole." Pet. App. 20a n.1. In its published decision, that court re-labeled Mr. Taylor's *de jure* sentence of life without the possibility of parole as a *de facto* one to "comply" with *Miller* and declined the one opportunity to revisit its position when it denied rehearing.[6] Pet. App. 24a. The Court can resolve the above split of authority by clarifying that such formalisms have no place when determining the constitutional protections accorded juveniles at sentencing.

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[6] By contrast, at least one closely watched petition presenting a similar question was seeking review of an unpublished decision. *See State ex rel. Bostic v. Pash*, No. SC93110, 2017 Mo. LEXIS 388 (Mo. Aug. 22, 2017), *cert. denied*, 138 S. Ct. 1593 (2018); Aurora Barnes, *Petition of the Day*, SCOTUSBlog (Feb. 20, 2018); Hon. Evelyn Baker, *I Sentenced a Teen to Die in Prison. I Regret It.*, Washington Post (Feb. 13, 2018).

Second, the case cleanly presents the question. That is, Mr. Taylor is serving a lifetime sentence for a single offense. Pet. App. 19a-20a. This distinguishes him from the cases this Court has recently turned away and from those pending review, cases where the defendant's sentence is the product of multiple convictions and stacked sentences. *See e.g., Armstrong,* 395 P.3d 748; *Lucero,* 394 P.3d 1128; *People v. Rainer,* 394 P.3d 1141 (Colo. 2017), *cert. denied,* 138 S. Ct. 641 (2018); *Veal*, 810 S.E.2d 127; *Flowers v. State,* 907 N.W.2d 901 (Minn. 2018), *petition for cert. filed,* No. 17-9574 (U.S. June 26, 2018); *Ali,* 895 N.W. 2d at 239; *Willbanks*, 522 S.W.3d at 240; *State v. Russell,* 908 N.W.2d 669 (Neb. 2018), *cert. filed,* No. 17-9579 (U.S. June 22, 2018); *State ex rel. Bostic*, 2017 Mo. LEXIS at 388; *Vasquez v. Com.,* 781 S.E.2d 920 (Va. 2016), *cert. denied,* 137 S. Ct. 568 (2016). Mr. Taylor's sentence being for a single offense simplifies the Court's inquiry.

Third, a favorable ruling on the merits would assuredly result in meaningful relief for Mr. Taylor. He may be singularly unique in that his state's high court has already effectively held that Mr. Taylor is not irreparably corrupt, but is nonetheless serving a life without the possibility of parole sentence. That is, the court revised his sentence in light of his "character and the nature of his offense." Pet. App. 19a. And his revised sentence is so lengthy as to assure his death in prison.

For this reason, Mr. Taylor's case is distinguished from those cases where a court still may conclude that the defendant is eligible for a lifetime sentence. *E.g., State v. Nathan,* 522 S.W.3d 881 (Mo. 2017), *cert. denied*, 138 S. Ct. 304 (2017); *Kinkel v. Persson,* 417 P.3d 401 (Or. 2018). It is also

distinguished from those in which the Court's intervention was not required to provide relief, *i.e.*, those cases where the state sought review. *See State v. Moore,* 76 N.E.3d 1127 (Ohio 2016), *cert. denied,* 138 S. Ct. 62 (2017); *Sam,* 401 P.3d at 834.

Mr. Taylor's case, which involves a juvenile who effectively has been found not to be irreparably corrupt and yet has been sentenced to die in prison for a single offense, presents a compelling opportunity to address whether such a sentence amounts to life without the possibility of parole.

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Granting review and ruling for Mr. Taylor will provide him with an opportunity to demonstrate that he has been rehabilitated. His sentence will no longer mean "a denial of hope" and that "whatever the future might hold in store for [his] mind and spirit . . . he [may not] remain in prison for the rest of his days." *Graham*, 560 U.S. at 69-70 (internal quotation marks and bracket omitted). At the same time, this Court can put an end to the position of the minority of jurisdictions, that sentencing courts can circumvent the protections of *Miller* and *Graham* simply by restructuring a life without parole sentence to a term of years that will equally condemn the juvenile to death in prison. This is precisely how the Supreme Court of Indiana has guaranteed that Mr. Taylor—an admittedly redeemable juvenile defendant—will nonetheless never realize the promise of *Miller*: a meaningful opportunity for redemption and release.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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