

No. 18-81

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

REPLY BRIEF IN SUPPORT OF
CERTIORARI

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INTRODUCTION

Respondent rests its opposition on the propositions (1) that favorable resolution of the question presented would not affect the outcome for Petitioner and (2) that this Court has recently rejected another case presenting a related question. Opp. 8. Petitioner's case simplifies this inquiry for the Court in ways recently rejected petitions did not.

Petitioner is serving a lifetime sentence for a single offense, and the state high court here has already effectively held that Petitioner is not irreparably corrupt. Thus, this case cleanly presents the question for the Court, the resolution of which will have significant implications for Petitioner.

Respondent at least implicitly acknowledges the substantial split of authority related to the question presented in this case: whether a term-of-years sentence that exceeds life expectancy is the equivalent of a sentence of life without the possibility of parole. Opp. 12-13; *see also* Pet. at 6-9. The persistent, well-formed conflict among the state courts of last resort and Federal Courts of Appeals, as well as the stakes involved for Petitioner and those like him call out for guidance from this Court.

ARGUMENT

A sentence of life without the possibility of parole is the severest sentence a juvenile may receive under the law: “Life in prison without the possibility of parole gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope.” *Graham v. Florida*, 560 U.S. 48, 79 (2010). For this reason, a “guaranteed death in prison” Pet. App. 19a, is forbidden both for juveniles who have not committed a homicide and for all but the rare juvenile homicide offenders who are

irreparably corrupt. *Graham*, 560 U.S. at 82; *Miller v. Alabama*, 567 U.S. 460, 479-80 (2012). Yet that is precisely what the Indiana Supreme Court imposed after concluding that Mr. Taylor’s sentence was “inappropriate in light of the nature of the offense and the nature of the offender.” Pet. App. 13a (quoting *Gibson v. State*, 51 N.E.3d 204, 215 (Ind. 2016)).

**A. Resolving The Question
Presented Will Provide
Meaningful Relief For Petitioner.**

Respondent’s argument is largely factual, and the facts do not bear out Respondent’s core position that a “determination that *Miller* applies to some term of years sentences would have no practical consequences on remand.” Opp. 13. First, *Miller* categorically bars a sentence of life without the possibility of parole for juveniles who are not irreparably corrupt. *See Miller*, 567 U.S. at 479-80. The Indiana Supreme Court made this very finding, determining that 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. 19a. Thus the question here would have very significant practical consequences for Mr. Taylor. The answer would resolve whether he will die in

prison or have a meaningful opportunity to obtain release.

Respondent furthers its argument by taking a single phrase in decision of the Supreme Court of Indiana out of context to argue that the lower court held Mr. Taylor's sentence of life without the possibility of parole complied with *Miller*. At the outset of the lower court's opinion, the court makes clear that because it has reduced his sentence to eighty years, it would "decline to address his other challenges to LWOP." Pet. App. 2a. Later in the opinion, as Respondent notes, the court stated, "Taylor's LWOP sentence was lawful." Pet. App. 14a; Opp. 7.

That phrase was used in the context of describing whether the sentence complied with the state's statutory scheme. In the same paragraph, the court discussed the finding of an aggravating circumstance and the recommendation of the jury, prerequisites for the legality of the sentence. Pet. App. 14a. Beyond holding that *Miller* did not bar imposition of a lifetime term-of-years sentence on someone who is not irreparably corrupt, the court kept the promise made at the outset of its opinion and did not further address the scope of *Miller's* protections.

Respondent's next argument, that Petitioner received an individualized sentencing hearing that fully considered the factors as outlined in *Miller* is simply beside the point. The product of the state court litigation was a finding that Mr. Taylor's character and the nature of the offense do not warrant a guaranteed death in prison, *i.e.* that he is not irreparably corrupt. Yet that is precisely what he faces. Resolving whether an eighty-year sentence for a juvenile who is not irreparably corrupt would have profound consequences for Petitioner and provide crucial guidance to lower courts, which are substantially split on the question.

At bottom, the Eighth Amendment should not tolerate the formalism of a juvenile whose character and nature of his offense puts him in a category not deserving of the severest punishment available under law, to receive that punishment simply because it does not carry the label of life without the possibility of parole.

B. This Case Presents An Excellent Opportunity to Resolve Whether A Sentence To A Term Of Years Can Ever Amount To Life Without The Possibility Of Parole.

Petitioner's case is uniquely situated to resolve the uncontested split of authority on the question presented. The existence of other cases seeking guidance on how the Eighth Amendment applies to sentences functionally equivalent to a sentence of life without the possibility of parole demonstrates that this is an ongoing issue in the administration of the harshest sentence a juvenile can face. The conflict will persist among the state and federal courts until the Court resolves it.

Mr. Taylor's case presents a clearly defined question, free from the drawbacks present in many of the other cases that have come before this Court on related question. Specifically, Respondent argues that because the Court declined review in *Veal v. Georgia*, 810 S.E.2d 127 (Ga. 2018) *cert. denied* No. 17-1510, 2018 WL 2102458 (Oct. 9, 2018), it should also decline review of Petitioner's case here. Opp. 13.

Unlike *Veal*, Petitioner's sentence was imposed for a single offense, not an aggregate sentence

resulting from multiple crimes. In *Veal* the Respondent argued that case was “not ideal” because Petitioner Veal’s conviction involved “multiple criminal transactions against multiple victims.” Brief of Respondent-Appellee at 17, *Veal v. Georgia*, No. 17-1510, (U.S. Aug. 27, 2018). Petitioner’s single term-of years-sentence resulting from a single homicide, cleanly presents the issue in ways superior to the recently denied cases presenting related questions.¹

Moreover, beyond Petitioner’s term-of-years-sentence being the product of a single offense, the Indiana Supreme Court determined that Petitioner’s character and the nature of this offense, did not warrant a guaranteed death in prison. Thus, although Petitioner did not receive an individualized sentencing hearing that took into consideration the sentencing factors provided in *Miller*, the Indiana Supreme Court determined Petitioner should not be the fifth juvenile in the state sentenced to life without the possibility of parole.

¹ The superiority of the presentation of the question presented in this case as compared to the “oft, recently” denied petitions on similar questions is further developed in the Petition. Pet. 15-17. The discussion here is largely directed toward *Veal* because that is the only case discussed by Respondent. Opp. 13.

Respondent concedes this issue may be worth the Court's attention, but that the Court should wait to take a case "where the answer will have an impact." Opp. 13. However Petitioner's term-of-years-sentence exceeds his life expectancy. While *Miller* did not make lifetime sentences unconstitutional for all juvenile offenders, *Miller* did mandate that in order for a juvenile to be sentenced to the harshest punishment under law, he must be irreparably corrupt. The Supreme Court of Indiana determined Petitioner's offense and character did not support imposing a guaranteed death in prison but nonetheless sentenced him to an eighty-year-sentence, exceeding his life expectancy, in the process concluding that *Miller* had no application to such a sentence. Granting review will not only fulfil the promises of *Miller* to Mr. Taylor, it will put an end to the minority of jurisdictions holding *Miller* and *Graham* have no application to term-of-years sentences exceeding the defendant's lifetime.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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November 2018