

**19-6811**  
No. \_\_\_\_\_

Supreme Court, U.S.  
FILED  
**SEP 24 2019**  
OFFICE OF THE CLERK

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

**LAMONT HEARD et al.,** — PETITIONER  
(Your Name)

vs.

**RICK SNYDER et al.,** — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

**UNITED STATES COURT OF APPEAL FOR SIXTH CIRCUIT**  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

**Lamont Heard (252329)**

(Your Name)

**141 First St.**

(Address)

**Coldwater, MI 49036**

(City, State, Zip Code)

**517-278-6942**

(Phone Number)

**ORIGINAL**

## QUESTION(S) PRESENTED

1. Should this Court afford Eighth Amendment protection to youthful offenders based on this Court's own precedent and national census that youth is a mitigating factor against the states harshest penalty since this category of offenders are in a transitional stage in life, lack fixed character and are distinguished from mature adults?
2. Should this Court find the lower courts committed error in failing to apply the Eighth Amendment categorical rule approach to Petitioners Eighth Amendment claims that there is a national census that youthful offenders are distinguished in the law and society from mature adults, and that their class would serve a disproportionate amount of their lives in prison than mature adults offenders that commit the same offense?
3. Does the Eighth Amendment treat 18-20 year olds as mature adults or youths deserving protection from life without parole sanctions?

## 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:

Petitioner: Lamont B. Heard, 252329, Lakeland Corr. Fac.  
141 First St., Coldwater, MI 49036

Richard Baldwin, 236673, Thumbs Corr. Fac.  
3225 John Conley Dr., Lapeer, MI 48446

Jerome Smith, 256926, Michigan Reformatory, 1342 W. Main St.  
Ionia, MI 48846

Respondents: Rick Snyder, P.O. Box 30013, Lansing, MI 48909

Heidi Washington, 206 East Michigan Avenue, Lansing, MI 48909

Michael Eager, 206 East Michigan Avenue, Lansing, MI 48909

## RELATED CASES

HEARD et al. v. Snyder et al., United States District Court  
Eastern District of Michigan, Case No. 16-14367

Heard et al. v. Snyder et al., United States Court of Appeals  
For The Sixth Circuit, Case No. 18-1638

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IN THE  
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.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix   A   to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the United States district court appears at Appendix   B   to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was July 9, 2019.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: Aug 23, 2019, and a copy of the order denying rehearing appears at Appendix D.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves Amendment VIII to the United States Constitution which provides:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

It also involves Amendment XIV to the United States Constitution, which provides:

Section 1 All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

The Amendment is enforced by Title 42, Section 1983, United States Code: Every person who, under color of any statute, ordinance, regulation, custom or usage, of any state or Territory or District of Columbia, subject, or cause to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any right, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action of law, suit in equity, or other proper proceeding for redress, except that in any action brought against a



judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For purpose of this section, any Act of Congress applicable exclusively to the District of Columbia.

This case also involves Michigan Compile Laws 791.234(6) which provides:

A prisoner sentenced to imprisonment for life for any of the following is not eligible for parole and is instead subject to the provisions of section 44:

(a) First degree murder in violation of section 316 of the Michigan penal code, 1931 PA 328, MCL 750 316

## STATEMENT OF THE CASE

### Procedural History

Petitioner Lamont Heard, Richard Baldwin and Jerome Smith (collectively "Petitioners") are incarcerated within the jurisdiction of Michigan Department of Corrections and each were convicted under Michigan first degree murder statute, Michigan Compiled Law § 750.316, for offenses they committed when Heard and Smith were age 18 and Baldwin was 19 years old.

Under Michigan law, like other states, a person convicted of first degree murder is subject to a statutory penalty of life imprisonment. See, Mich. Comp. Laws § 750.316(a). And under Michigan's parole statute, a person sentenced to life imprisonment for first-degree murder is ineligible for parole. Mich. Comp. Laws § 791.234(a).

Petitioners filed their 42 U.S.C. § 1983 civil rights lawsuit against Michigan governor Rick Snyder; Heidi Washington, the director of the Michigan Department of Correction, and Michael Eager, the chairman of the Michigan Parole Board (collectively, "Respondent"), seeking a declaration that Michigan Compiled Laws § 791.234(a), as applied to them, violates the Eighth and Fourteenth Amendment, because the statute fails to take into account Petitioners youth at the time of their crimes to be a mitigating factor against mandatory life without punishment.

Respondents jointly moved to dismiss petitioners complaint under Rule 12(b)(6) for failure to state a claim upon which relief may be granted.

Petitioners opposed the motion to dismiss, but a magistrate judge recommended granting the motion on the following ground:

Plaintiff contend that there is no principled reason to distinguish seventeen year-olds from eighteen and nineteen year-olds when scientific evidence shows individuals younger than twenty suffer from the same brain development issues as seventeen year-olds. However, federal case law has drawn the line and defined a juvenile as a person under the age of eighteen. Every court of which this judicial officer is aware that has considered this issue has maintained that definitive line ....Accordingly, I recommend that Plaintiffs' Complaint be dismissed for failure to state a claim upon which relief can be granted.

See. Appendix E.

The error in the magistrate judge report, is the failure to conduct an independent analysis of Petitioner claims under the Eighth Amendment categorical rule approach jurisprudence to ascertain if there is a national census that those under age 21 is treated differently in the law and society than mature adults. Also determine if a youthful offender sentence to life without parole would serve a disproportional amount of his or her life locked away in prison til death than an older adult who have the same in sentence name only.

The district court accepted the magistrate judge report and recommendation without conducting the Eighth Amendment analysis. And dismissed the complaint. See. Appendix C.

Petitioner filed motions for reconsideration and relief from judgment based on a conflicting opinion from a federal district court of Connecticut, Cruz v. United States, 2018 WL 1541898, and and state of Illinios appellate court decision, People v. House, 2015 Ill Lexis 983,

that granted relief on the same principle claim after conducting the two part Eighth Amendment analysis relying on Supreme Court precedent.

However, the district court responded that it is not controlled by those decisions, and that it is bound by Sixth Circuit precedent, United States v. Marshall, 736 F.3d 492 (6th. Cir.2013), which hold the only factor that matter is Petitioners age. See. Appendix D.

Petitioners appealed to the Sixth Circuit, seeking for the court to apply the Eighth Amendment categorical rule approach to their claims. That court decided not to apply the approach and stated it was required to follow Marshall, which held age is the only factor that matter. Thus, the district court judgment was affirmed.

Petitioners filed this Writ of Certiorari for the purpose of having the Court resolve conflicts in the state and federal court. Also for the Court to apply Eighth Amendment categorical rule approach to their claim, to determine if the youth offender class is treated differently from mature adults.

## REASONS FOR GRANTING THE PETITION

### Summary

This Court should grant review of this case because thousand of youthful offenders sentenced to life without eligibility of parole lives depend on it. This is an issue this court has not directly addressed before. Thus, guidance from this court would prevent federal and state courts from further meting out decisions differently. For example, 38 states allows youthfulness and the prospect of reform to be mitigating factors against life without parole. However, in 12 states, Michigan being one of them, a sentencer and parole board are prohibited by statute from considering youth over age 17 prospect for reform. In these 12 states, the law is, youth over 17 can never be reform because their character is purportedly fix to always be anti-social.

Thus, justice being meted out differently depending upon what jurisdiction a person is in.

### A. Conflict with Relevant Decisions of This Court

#### Supreme Court Rule 10(c)

The holding of the courts below that age is the only factor that matter when determining an Eighth Amendment claim is in direct conflict with this Court precedent, *Johnson v. Texas*, 509 U.S. 350, 367 (1993), where this Court held "Our cases recognize that" youth is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damages," 509 U S at 367. And "The relevance of youth as a mitigating factor derives from the fact that the signature qualities of youth are transient; as individuals mature, the

impetuosity and recklessness that may dominate in younger years can subside."

id at 368.

Again, this Court cited with approval *Johnson*, in a non-capital case when reviewing a district court's use of a 20 year old defendant's character for mitigation against a harsh penalty. See *Gall v. United States*, 552 U.S. 38, 57-58 (2007) (" Given the dramatic contrast between Gall's behavior before he joined the conspiracy and the conduct after withdrawing, it was not unreasonable for the District Judge to view Gall's immaturity at the time of the offense as a mitigating factor, and his later behavior as a sign that he had matured and would not engage in such impetuous and ill-considered conduct in the future. Indeed, this consideration of that factor finds support in our cases". Citing to, *Johnson v. Texas*, 509 U.S. 350, 367 (1993).

#### B. Conflict With Decisions of Other Courts

##### Supreme Court Rule 10(c)

Furthermore, the Sixth Circuit decision conflicts with a decision of a federal district court of Connecticut, *Cruz v. United States*, 2018 WL 1541898 \* 7071, which held "the Eighth Amendment forbids a sentencing scheme that mandates life in prison without possibility of parole" for offenders who were 18 years old at the time of their crimes. As applied to 18-year-olds as well as to juveniles, "[b]y making youth (and all that accompanies it) irrelevant to imposition of the harshest prison sentence, such a scheme poses too great a risk of disproportionate punishment". See also, where the Illinois Appellate Court relying on this Court's precedent, held in *People v. House*, 2019 IL App (1st) 110580-B \* 63, 64, 65". "The lack of discretion afforded the court for the imposition of a mandatory life sentence is especially relevant when the defendant is a young adult, over 18, but still not considered a fully mature adult". Turning to the case at bar, while clearly no longer a juvenile, defendant, at age 19 years and 2 months, was barely a legal adult and still a teenager,

His youthfulness is relevant when considered alongside his participation in the actual shooting. "Id at 65 " "Accordingly, we hold defendant's sentence violates the proportionate penalties clause of the Constitution as applied to him." id at 65.

In both cases, the Court relied upon Supreme Court precedent that holds the background, prospect of reform and the signature qualities of youthfulness are to be mitigating factors to life without parole as applied to the class of youthful offenders. However, the Sixth Circuit, contriving its own precedent, has held the only factor that matter is the offenders age.

Accordingly, this Court should grant Certiorari review pursuant to Rule 10(c) of the Supreme Court rules to resolve the conflict.

C. The Sixth Circuit Court of Appeals Has Decided An Important Question Of Federal law That Has Not Been, But Should Be, Settled By This Court.  
Supreme Court Rule 10(c)

This case should be accepted for review because it presents an important federal question that has not been, but should be settled by this Court. That question is how does the Eighth Amendment's "evolving standard of decency that mark the progress of a maturing society" jurisprudence apply to youthful offenders (age 18-20)? In *Roper v. Simmons*, 543 U.S. 551 (2005) this Court held that age 18 is the brightline where society distinguishes between juveniles and adults. However, since that finding, society has evolved to recognize, "late adolescent" and "youth" to be a transitional stage of life inbetween juvenile and adulthood. YoungAdulthood as a Transitional legal Category; Science, Social change, and Justice Policy, 85 Fordham L. Rev. 641, 642 (2016) and also Note: The inbetweeners: Standardizing Juvenileness and

Recognizing Emerging Adulthood For Sentencing Purposes After Miller, 92 Wash. U. L. Rev. 1393 (2015).

This issue has not been previously addressed by this Court, but it should be, because it affects thousands of prisoners lives. At least 12 states may have laws on the books that may be flawed under the Eighth Amendment. Lower courts have urged this Court to resolve the issue. See *Commonwealth v. Lee*, 206 A.3d 1, n.11 (March 1, 2019) ("We urge our Supreme Court to review this issue in light of the research available".) And *In re Phillips*, 2017 U.S. App Lexis 17766 \* 10-11 (Chief Judge Cole, because these arguments touch on the essential guaranties against cruel and unequal protection, concerns regarding the culpability of such young adults merit further consideration by the Supreme Court".)

This issue's importance is enhanced by the fact that lower courts in this case only look at age as the determining factor to decide the merits of an Eighth Amendment claim. The courts are failing to apply Eighth Amendment evolving standards of decency jurisprudence, which implement the two part categorical rule test. This test required the court to determine if there is a national consensus that has formed against the sentence for the class of offenders, and (2) is the sentence disproportionate to the culpability of the class of offenders. See *Roper*, 543 U.S. at 564-68.

By failing to apply the test, Courts are not reaching the merits of the claim, which there is a national consensus that legislature, in both the federal and state government are giving more protection to 18-20 year olds, and not treating them as mature adults. Society view this class as being in a transitional stage of life. Therefore, in certain circumstances they treat them as youth, instead of responsible mature adults.

For example, recently in the First Step Act of 2018, 115 PL 391, subsection 608(c) "youth" is defined as a person under the age of 21.



Also the State of Illinois enacted a special parole review for persons under the age of 21 convicted of First degree murder. They become eligible for parole after serving 20 years. See 730 ILCS 515-45-110. The State of California has enacted a similar law. Cal. Pen. Code § 3051 (b). Furthermore, individuals are required to be 21 years old to consume alcohol or marijuana (where legal), purchase tobacco in many jurisdiction, or to rent a car. Similarly, federal law prohibits licensed gun dealers from selling handguns and ammunition to those under 21, See 18 U.S.C. § 92 (6)(1). See Cruz v. United States, 2018 U.S. Dist. Lexis 52924, \* 47-49, for an exhausted list of legislative enactments that recognize the difference between 18-20 year olds being treated differently from fully mature adults. Furthermore, the age of majority at common law is 21, and it was not until the 1970s that states enacted legislation to lower the age of majority to 18. NRA of Am. v. Bureau of Alcohol, 700 F.2d 185, 201 n.21 (5th Cir. 2010). 8 U.S.C. §§ 110, 1151.

The difficulty of this case is not just age, the gravest concern arises from the combination of Petitioners youth and the nature of their crimes. First degree murder involves heinous and inexplicable crimes and Petitioners cases present no exception. But statutes that mandate a teenage spend the rest of his or her life in prison without the benefit of considering mitigating factors, such as age and background of the offender rules without the possibility that their crimes was a product of the immature mind of youth rather than fixed depravity. And imposing life without parole presumes that youth are incapable of reform even though the stories of other teenage killers, many of whom have been rehabilitated behind bars, reveals other possibilities. The judgment that youth merit the most sever punishment is in tension with Supreme Court precedent focusing on the lesser blameworthiness and greater prospect for reform that is characteristic of youth. Gall, 552 U.S. at 57-58, and Johnson, 509 U.S. at 367,368.

In a series of cases starting with *Roper v. Simmons*, 543 U.S. 551, 571 (2005), then *Graham v. Florida*, 560 U.S. 48, 74-75 (2010), followed by *Miller v. Alabama*, 567 U.S. 460, 479-80 (2012) and finally in *Montgomery v. Louisiana*, 136 S.Ct. 718 (2016), this Court recognizes neurological evidence that establish there are significant gaps in the brain development of juvenile reasoning and regulatory functions in the frontal cortex. Since those cases the evidence has gotten stronger and have now completed research on late adolescent (18-20) brains and have concluded the same gaps that exist in teenagers brains 17 and under, also are found in teenagers 18-20 See *Young Adulthood as a Transitional Legal Category: Science, Social change, and Justice Policy*, 85 Fordham L. Rev. 641, 642 (2012); *When Does A Juvenile Become an Adult?*, 88 Temple L. Rev. 769, 783 n.63 (2016) (Collecting articles), and *Assessing Cognitive Control in Emotional and Nonemotional Contexts*, 27 Psychol. Sci. 549, 559-60 (2016).

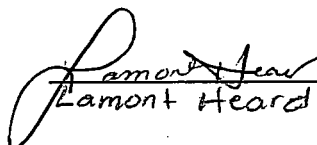
Therefore, treating this class as mature adults and ignoring all the undisputed evidence that they are not mature adults will continue to result in youthful offenders spending the rest of their teenage years and all of their adult lives in prison without any hope of returning to society. While older offenders serve shorter time for the same offenses. Laws that prohibit the consideration of reform, becomes cruel and unusual punishment to a prisoner who has reform but has no hope of ever having his reform recognized. Dying in prison because archaic laws state his character was fixed in his teenage years. This Court should find this intolerable.

### CONCLUSION

Accordingly, for the foregoing reasons, this Court should grant certiorari review pursuant to Rule 10(c) of the Supreme Court.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

 Lamont Heard, Richard Baldwin, Jerome Smith  
Lamont Heard, Richard Baldwin, Jerome Smith

Date: September 23, 2019