

10-8810  
No. 20-  
ORIGINAL

SUPREME COURT OF THE UNITED STATES

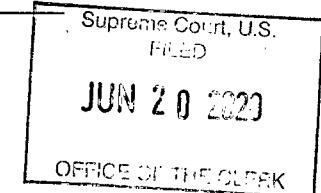
Linda Pedroza.

*Petitioner,*

vs.

State of Florida.

*Respondent.*



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On Petition For Writ of Certiorari to the Supreme Court of Florida

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**PETITION FOR WRIT OF CERTIORARI**

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Linda Pedroza, pro se  
DC# W21278  
Lowell Correctional Institution  
11120 NW Gainesville Road  
Ocala, Florida 34482  
Tel.: N/A

## **I. Question Presented**

Where a juvenile offender is sentenced to a term of 40 years in prison for a second degree homicide, and that sentence places her in a worse position than if she had been given a life sentence for first degree murder, does the forty-year sentence violate the eighth amendment to the United States Constitution's prohibition against cruel and unusual punishment?

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#### **IV. Petition For Writ Of Certiorari**

Linda Pedroza, an inmate currently incarcerated at Lowell Correctional Institution in Ocala, Florida respectfully petitions this court for a writ of certiorari to review the judgment of the Florida Supreme Court.

#### **V. Opinions Below**

The opinion of the Florida Supreme Court who reviewed the merits appears at Appendix A to the petition and is reported at 291 So. 3d. 541 (Fla. 2020).

The opinion of the Fourth District Court of Appeals of Florida appears at Appendix B to the petition and is reported at 244 So. 3d. 1128, 2018 Fla. App. LEXIS 7511).

The trial Court's denial of Petitioners Motion To Correct illegal Sentence filed June 12, 2017 appears at Appendix C to the petition.

The Motion To Correct illegal sentence filed in the trial court on January 6, 2017 appears at Appendix D to the petition.

## **VI. Jurisdiction**

Ms. Pedroza's petition for review to the Florida Supreme Court was decided and Pedroza was denied relief on March 12, 2020. Ms. Pedroza invokes this Court's jurisdiction under 28 U.S.C. § 1257, having timely filed this petition for writ of certiorari within ninety days of the Florida Supreme Court's judgment.

## **VII. Constitutional Provision Involved**

United States Constitution, Amendment VIII:

Excess bail shall not be required, no excessive fines imposed, nor cruel and unusual punishment inflicted.

## Statement of the Case

In the context of juveniles, the United States Supreme Court has consistently recognized that children are constitutionally different from adults for purposes of sentencing,” Montgomery v. Louisiana, 136 S. Ct. 718, 733 (2016), and “cannot be viewed simply as miniature adults.” J.D.B. v. North Carolina, 564 U.S. 261, 274 (2011). This recognizes that children “often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them.” Bellotti v. Baird, 443 U.S. 622, 635 (1979) as well as developments in psychology and brain science, which have shown there are fundamental difference between juvenile and adult minds. Graham, 560 U.S. At 68; Miller, 567 U.S. T 471-72.

In Graham v. Florida, 560 U.S. 48 (2010), the Supreme Court held that juvenile non-homicide offenders could not receive a life without parole sentence without violating the Eighth Amendment and although states are “not required to guarantee eventual freedom” to juvenile non-homicide offenders, they may not sentence these offenders to life imprisonment without affording them “some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.” 560 U.S. at 75. The Graham holding was extended to Miller v. Alabama, 567 U.S. 460 (2012) to invalidate sentencing schemes that mandated life without parole for juveniles convicted of homicide offenses. 567 U.S. at 465.

In the Supreme Court, the Graham decision and the cases that followed and expanded upon the Graham decision all center around the fact that juvenile offenders are not irredeemable and that they should be given a chance to show that they have matured, been rehabilitated and the opportunity for an earlier release. In response to Graham, The Florida legislature passed Chapter 2014-220, Laws of Florida, which enacted sentencing provisions for juveniles whose offenses occurred on or after July 1, 2014. Their purpose was to “bring Florida’s juvenile sentencing statutes into compliance with the United States Supreme Courts...Eighth Amendment juvenile sentencing jurisprudence.” Horsley v. State, 160 So. 3d 393,394 (Fla. 2015). The provisions entitled juvenile homicide offenders sentenced to lengthy sentences to review of their sentence after a set period of time. In Pedroza’s case, she would have been entitled to a review of her sentence after serving 25 years had her offense occurred *after* this statute was enacted. Had she been convicted of first degree murder as charged, her sentence would have been overturned by *Miller* and she would have received a review of her sentence after serving 20 years irrespective of the date of her offense.

This case presents that question of whether a juvenile homicide offenders 40 years sentence, that places her in a worse position than if she were sentenced to a life sentence for first degree murder and does not afford her the opportunity for early release based on demonstration of maturity and rehabilitation violates

the Eighth Amendments prohibition on cruel and unusual punishment.

In 2000, Pedroza and boyfriend, Antoine Wright, were charged as co-defendants with the first-degree murder of Pedroza's mother. In the same indictment, Pedroza was charged with conspiracy and false report of a crime. Pedroza committed the offenses when she was seventeen years old.

On December 20, 2002, Pedroza entered into a negotiated plea and for Count I, she pled guilty to the lesser offense of second-degree murder and was sentenced to forty years imprisonment.

On January 6, 2017, Pedroza filed a pro se post-conviction motion alleging that her sentence was illegal and violated Miller v. Alabama, 567 U.S. 460, 469 (2012) (Appendix D) Pedroza alleged that because her sentence did not provide her a meaningful opportunity for early release based upon her demonstrated maturity and rehabilitation. As relief, she requested a resentencing hearing where mitigating evidence of her youth could be considered. The trial court entered a summary denial of the motion on June 12, 2017. (Appendix C) Pedroza appealed the trial courts order and on May 30, 2018, the Fourth District Court of Appeals affirmed and certified conflict with other district Court of Appeals on this issue. (Appendix B) On March 13, 2020, the Florida Supreme Court decided the case against Pedroza. (Appendix A).

Justice Labarga dissented because of the disproportionate results in Pedroza's case . Justice Labarga stated: Ironically, if Pedroza had pleaded guilty to first degree murder and received a mandatory life sentence, she would actually be in a better position because she would have been entitled to resentencing pursuant to *Miller v. Alabama*, 567 U.S. 460,479 (2012) (holding that "a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders' violates the Eighth Amendment), and she would have been eligible for judicial review of her sentence after 25 years. Instead, Pedroza who was sentenced in 2002, is not entitled to a judicial review of her sentence prior to her projected release in 2037. (Appendix A).

### **Reasons For Granting The Petition**

To ensure that all child offenders receive sentences that do not violate the Eighth Amendment; that they are not only proportional to their moral culpability by recognizing their youth and its attendant characteristics as contemplated by Miller, but they receive one that affords them a meaningful opportunity for early release based on maturation and rehabilitation.

The decision made by the Florida Supreme Court is incorrect. The entire reasoning of this Court in Graham and the relevant cases that followed it all recognized that juvenile minds, actions, impulsiveness and immaturity all require that juvenile offenders receive sentences that take all of those things into account and allow for the juvenile to have the opportunity to demonstrate their subsequent rehabilitation and maturity to reduce their sentence. To do otherwise was found to be a violation of the Eighth Amendment.

The instant case presents just such a situation. Linda Pedroza was a minor when she committed her crime thus falling under the same reasoning of this Court regarding juvenile offenders. She received a forty -year sentence. Because of the date of her offense, and for no other reason, Pedroza will not be afforded the same relief/benefits of a sentence review as any other juvenile offender will with a lengthy sentence. She will not be afforded a meaningful opportunity to demonstrate her maturity.

However, when this Court decided that juvenile offenders must be sentenced differently than adult offenders because of their immaturity and all that comes with it; it applied to ALL juvenile offenders; not just the ones whose crime occurred after a certain date.

Pedroza's sentence is a violation of the Eighth Amendment.

This case presents this Court with the opportunity to clarify Graham, Miller, Montgomery, et.al. To ensure that all courts apply the rights afforded to juvenile offenders regarding the opportunity for meaningful review to ALL juvenile offenders who received sentences of more than twenty years.

The Florida Supreme Court ruled that Pedroza's forty year sentence was not a de facto life sentence, therefore she was not entitled to relief. Pedroza was a juvenile at the time of her crime. She received a forty years sentence . Hence she will be in her fifties when she is released. She will go from a child to middle age incarcerated. She will not have the opportunity to attend college; establish a career; make a home and have children of her own. She will not have learned to make her way in the real world.....Pedroza submits that her forty year sentence IS a life sentence. She should be granted the same opportunity to demonstrate her maturity and rehabilitation and possibly receive an earlier release.

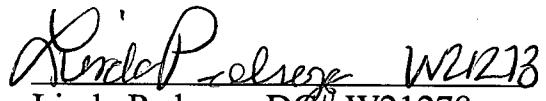
Absent the intervention of this Court, the Florida Supreme Court's published decision will prevent Pedroza and all others who are in her same position from receiving the safeguards that this Court recognized were needed and granted to juvenile all offenders.

## Conclusion

For the foregoing reasons, Ms. Pedroza respectfully requests that this Court issue a writ of certiorari to review the judgment of the Florida Supreme Court.

Dated June 10, 2020.

Respectfully submitted,

  
Linda Pedroza DC# W21278  
11120 N.W. Gainesville Road  
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STATE OF FLORIDA  
COUNTY OF MARION

Sworn to or affirmed before me on this 10<sup>th</sup> day of June, 2020 by Linda Pedroza who provided her Florida Department of Corrections inmate Identification Tag Number W21278 as proof of identity.

My Commission Expires: \_\_\_\_\_

