NO. 20-5893

IN THE

SUPREME COURT OF THE UNITED STATES

JONNIE RAVON,– PETITIONER,

vs.

MARK INCH, AND ASHLEY MOODY,– RESPONDENT(S).

ON PETITION FOR A WRIT OF CERTIORARI TO

THE FLORIDA THIRD DISTRICT COURT OF APPEAL

PETITION FOR WRIT OF CERTIORARI

JONNIE RAVON; DC# M28600

Everglades Correctional Institution

1599 SW 187th Avenue

Miami, Florida, 33194 – 2801

305-228-2000

(Phone Number) Warden

QUESTION(S) PRESENTED

Whether the courts below decided an important federal question in a way that conflicts with the relevant decisions of this Honorable Court when they denied --without a hearing -- Petitioner's petition for writ of habeas corpus based upon manifest injustice, request for an evidentiary hearing and incorporated memorandum of law asserting that Petitioner's multiple life sentences without parole for violent offenses committed at the age of 18 violated the Eighth Amendment of the United States Constitution.

LIST OF PARTIES

[X] 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:

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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 ___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[ ] is unpublished.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 __ to the petition and is

[ ] reported at_____; or,

[ ] has been designated for publication but is not yet reported; or,

[ ] is unpublished.

[X] For cases from **state courts:**

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

[ ] reported at_____; or,

[ ] has been designated for publication but is not yet reported; or,

[X] is unpublished.

The opinion of the Eleventh Judicial Circuit in and for Miami-Dade appears at Appendix B to the petition and is

[ ] reported at _____; or,

[ ] has been designated for publication but is not yet reported; or,

[X] is unpublished.

JURISDICTION

[ ] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was _____.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition rehearing was denied by the United States Court of Appeals 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. §1254(1).

[ ] For cases from **state courts:**

The date on which the highest state court decided my case was April 1, 2020. A copy of that decision appears at Appendix A.

[X] A timely petition rehearing was thereafter denied on the following date: April 23, 2020, and a copy of the order denying rehearing appears at Appendix C.

[ ] 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

AMENDMENT 6

Rights of the accused.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

AMENDMENT 8

Bail-Punishment.

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

AMENDMENT 14

Section 1. [Citizens of the United States.]

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 laws.

STATEMENT OF THE CASE

Jonnie Ravon,[1] whose birth date is May 27, 1980, was arrested on November 22, 1998, with codefendants Max Harris and Loobens Joanem on One Count of Aggravated Battery with a firearm, Three Counts of Attempted Armed Robbery, Four Counts of Kidnapping with the intent to commit a felony, and Three Counts of Burglary with Assault or Battery therein while armed.

On September 18, 2000, the Petitioner was sentenced as follows: Count One, Aggravated battery with a firearm – 30 years; on Count Four, Attempted armed robbery with a firearm – 15 years; on Count Five, and Six, Kidnapping with a firearm – Life; Count Seven, Kidnapping with a firearm – Life; Count Eight, , Kidnapping with a firearm – Life; Count Eleven, Burglary with assault or battery with firearm – Life.

The Third District Court of Appeals of Florida affirmed Petitioner's judgment and sentence on December 12, 2001.

Petitioner has filed several motions for postconviction relief that have all been denied. In 2019, Petitioner filed a petition for writ of habeas corpus based upon manifest injustice, request for an evidentiary hearing and incorporated memorandum of law which was denied on August 23, 2019. Petitioner appealed the denial of his habeas corpus to the Third District Court of Appeal, and the State appellate court per curiam affirmed it on April 1, 2020. Petitioner filed a

[1]Jonnie Ravon is listed in the Florida Department of Corrections website as DC# M28600 presently housed at Everglades Correctional Institution.

motion for rehearing which was denied on April 23, 2020. The instant petition follows.

STATEMENT OF THE FACTS

The State's evidence at trial revealed that on November 22, 1998, at approximately 7:30 p.m., the defendant and two accomplices forced their way into the home of the Regis at gunpoint (T 384, 387-389). Emily Regis had stepped outside to take out the garbage when one of the armed men forced her inside (T 387). Ms Reigs' three children, ages 11, 8 and 4, were in their bedroom watching television (T 327, 535). Once inside the home, one of the men pointed a gun at Emily Regis and ordered her to lie face down on the floor (T 392). While she was on the floor, one of them sat on her armed (T 329, 392). One of the armed men went into the children's bedroom and brought the three children out and made them lie on their stomachs in the living room (T 329). The three children were then taken to an unlocked bathroom where a blanket was placed over them (T 330). One of the men told the children not to remove the blanket (T 333), but the suspect later removed the blanket covering from the children (T 334). The oldest child was so scared that she urinated on herself (T 334). The two younger children suffered asthma attacks and had trouble breathing under the blanket, so they were unable to access their asthma medication (T 334, 539). The children were not injured (T 354).

The men then forced Ms. Regis into her bedroom and ordered her to take off all her clothes (T 395). One of the men threatened that she would be the "first one to die" if she did not give them all the money in the house (T 396, 433). The men proceeded to ransack the bedroom (T 397, 520). Ms Regis was

ordered out of the bedroom and was struck on the head with a gun by the smallest of the men (T 404). At some point the telephone rang (T 405). One of the men directed her to answer the phone and act like everything was okay (T 405-406). The police was on the phone and wanted her co come outside to talk to them (T 406). Ms. Regis and the defendants then realized the police were outside (T 408). The two co-defendants eventually left through the front door, while Ms. Regis opened the back door for the defendant to exit the house with nothing in his hands. (T 409). The men had been inside the house for bout 30 to 35 minutes (T 407).

None of the victims were tied up (T 551). Ms Regis also acknowledged that she and her children were not continuously confined or restrained after the suspects left and were free to leave her residence, but didn't come out even after the police told her it was safe (T 435-436).

The next day, November 23, 1998, Ms. Regis and one of the children found two guns and a mask hidden in the kitchen (T 412-414). She called the police who came to the house and took the guns (T 414). The police also found a small purse or wallet (T 414).

Officer Neil Johnson testified that he was on patrol the evening of November 22, 1198, at almost 8:00 p.m. when he was called to go to the Regis' address (T 631, 640). Officer Johnson was assigned to a point in the perimeter where he could view the front of the house (T 632). After an hour, two suspects exited the front door and were arrested. The two suspects were identified in

court as co-defendants Harris and Joanem (T 636-637). Harris and Joanem did not have a mask on them nor did they carry firearms (T 636). Officer Johnson also testified that the victims were free to come outside their home after the defendants were arrested, but chose not to even after the police announced that it was safe (T 645-646); and that Ms. Regis eventually came outside of the home after the defendants' arrest but suddenly went back in (T 649, 650).

Officer Enrique Santos took a position in the perimeter where he could watch the Regis' backyard (T 653). According to this officer's written report, he arrived at 7:46 p.m. (T 655). Officer Santos first heard the fence rattle, observed a black ski mask caught on the fence and a person also caught on the fence, who fell to the ground holding a pillowcase containing a firearm (657-659). He arrested this suspect, whom he identified in court as the defendant (T 658). Office Santos also testified that he saw a glove on the ground around the defendant (T 663).

Crime Scene Technician Schuhman testified that she retrieved the pillowcase from the neighbor's yard, a watch from the side yard, and a ski mask from the Regis' fence (T 688-691). Inside the pillowcase was a firearm (T 691-692). This technician found Ms. Regis' bedroom ransacked. The house was thoroughly searched. A knife was found in the kids' room and a glove was found in the kitchen (700-707). Schuhman was the only one responsible for processing the Regis' house (T 709). The next day Detective Block provided her with additional evidence, including another firearm, a black ski mask, and a wallet

containing identification for Max Delva (T 710-715). Schuman entered the house on the night of November 22 only after a SWAT team had first entered, thoroughly searched, secured, and left the scene (T 738).

Detective Tanya Block testified that she conducted a show-up the night of the attempted robbery and kidnapping (T 769). She testified that Ms. Regis identified the defendant as one of the individuals who had been inside the house (770), and identified co-defendant Harris as the small man who had initially accosted her on the evening in question (T 815). The next day, before Detective Block returned to the residence to interview the Regis, she was advised that the Regis had found some guns in the kitchen (T 772). When she arrived at the residence the victims pointed out the guns which the detective impounded along with the wallet and ski mask (T 777).

Jean Regis, Ms. Regis' husband, testified for the defendant (T 553). Mr. Regis testified that he was not present at the time of the incident (T 561), but was at this girlfriend's house although he told everyone that evening that he had been at church (T 567-568). Mr. Regis testified that he received a phone call from Ms. Regis at 9:30 or 10:00 p.m., which was after the police had the defendants in custody (T 562). Mr. Regis owned a gun that he at time hid inside his house (T 573-574).

One of the co-defendants, Max Harris a/k/a Max Delva, testified and claimed that he had done some business with Mr. Regis in the past (T 849-851). He claimed that on the day in question, he, the defendant and co-defendant

Loobens were at Mr. Regis' home with his permission, waiting for Mr. Regis to come back with some money that he owed from the sale of two vehicles exported to Haiti (T 857). Harris also testified that he had left his gun and wallet in Mr. Regis' car the day before when they were discussing related business (T 854). Mr. Regis was home when they arrived, but had to leave in order to pick up the money and bring it back to Harris (T 856-857). Harris further testified that nothing unusual happened that evening until the police suddenly surrounded the house with a helicopter overhead (T 859). No one had been harmed or threatened inside the house (T 860), and they did not terrorize any of the Regis (T 863). Harris also explained that the defendant was present only because he had washed Loobens' car just before Loobens drove Harris to meet Mr. Regis (T 863). After Harris' testimony, the defense rested its case (T 883).

The defendant moved for judgment of acquittal on all charges after the State rested its case and renewed it at the end of the defense's case (T 830-831, 883-884). The defendant specifically moved for judgment of acquittal on all the kidnapping charges based on the lack of evidence that the Regis were continuously confined for a kidnapping conviction under the State's alternate theory of kidnapping with the intent to commit a felony, as a matter of law (T 831-843). The trial court denied the motion (T 842-843, 886-887).

During closing arguments, the parties maintained their respective positions about the case. The defendant's position was consistent with co-defendant Harris' testimony, that they were invited into the victim' residence to simply

receive a debt owed by Mr. Regis to Harris for his purchase of two cars exported to Haiti; that none of the Regis were threatened, assaulted, confined or restrained in any way; that the Regis conspired against the defendants in attempt to absolve Mr. Regis' debt; that the inconsistencies in the Regis' testimonies rendered such unreliable; and that the SWAT team's failure to find any weapon or incriminating evidence after an immediate and thorough search of the victims' residence-all created a reasonable doubt for the defendant's acquittal of all charges (T 897-907, 946-985, 999-1006). In its closing arguments, the State conceded that the police were shoddy in their investigation, but disputed the fact that the Regis' testimonies were concocted; and argued its testimonial position on the kidnapping counts that the defendants entered the Regis' residence uninvited, terrorized then, and held them captive incidental to the attempted robbery (T 908-938, 985-999). The State did not assert that the Regis were tied up or remained confined upon the suspects' departure. *Id*. Although the State disputed the defense's opinion that the Regis concocted their version of the events, it acknowledged that Mrs. Regis and the children voluntarily remained in the house for about 30 minutes after the defendants left (T 989, 992).

The Court subsequently instructed the jury, in pertinent part, as follows: "THE COURT: ... Before you can find the defendants guilty of kidnapping with a weapon the State must prove the following three elements beyond a reasonable doubt:

Number one, Max Harris, also known as Max Delva, Loobens Joanem and Jonnie Ravon forcibly secretly or by threat confined, and/or abducted, and/or imprisoned Emily Regis, and/or K.R., the older daughter...

In order for kidnapping to be confinement, and/or abduction, and/or imprisonment, it must be slight, inconsequential or merely incidental to the [underlying] felony."(T 1022-1023).

A general verdict on all counts, including the kidnapping charges, was submitted to the jury (T 1037-1041).

Subsequently, the jury returned a verdict finding the defendant and both of his co-defendants guilty of all seven felony counts charged in the Amended Information (T 1051-1054). The only exception was on the aggravated battery count, for which Loobens was convicted of a lesser battery charge (T 1052). The Court adjudicated the defendant guilty on all counts (T 1059-1960).

The defendant was then sentence to five life terms of imprisonment, three of them consecutive. In addition, the defendant was sentenced to consecutive prison terms of thirty and fifteen years (T 1100). During sentencing, the defendant reminded the court of the State's earlier plea offer at 2 years imprisonment followed by 5 years probation he was willing to accept; its substantial disparity to the sentence at bar; and the relative unfairness of such harsher sentence (T 1090-1092, 1100). In response, the court dismissed the defendant's complaint by simply stating that "it's my duty" to impose such

sentence (T 1100). The Petitioner, Jonnie Ravon was 18 years of age at the time of the above stated offenses.

REASONS FOR GRANTING THE PETITION

The lower courts' decisions erred in failing to correct unconstitutional sentences, where the Petitioner was sentenced to life without parole for multiple offenses committed when the Petitioner was 18 years of age and lacked the moral culpability of an adult. The lower courts' decisions conflict with the relevant decisions of this Honorable Court in Roper[2], Graham[3], and Miller[4]. This case is a timely opportunity to correct an injustice. Additionally, the decision below is erroneous, and the issue that it addresses is important.

I. The State court erred in denying the Petitioner's petition for writ of habeas corpus based upon manifest injustice, request for an evidentiary hearing and incorporated memorandum of law asserting that Petitioner's multiple life sentences without parole for violent offenses committed at the age of 18 violated the Eighth Amendment of the United States Constitution, where science has proof that young adults should be treated differently as well.

The United States Constitution bars "cruel and unusual punishment." U.S. Const. Amend. VIII. This provision is applicable to the States through the due process clause of the Fourteenth Amendment. U.S. Const. Amend. XIV. Multiple sentences of life imprisonment without any possibility of parole ("LWOP") for a

[2] Roper v. Simmons, 543 U.S. 551 (2005)
[3] Graham v. Florida, ___ U.S. ___, 130 S.Ct. 2011 (2010)
[4] Miller v. Alabama, ___ U.S. ___, 132 S.Ct. 2455 (2012)

young adult who was eighteen years old at the time of his offenses are cruel and unusual.

In 2005, the United States Supreme Court held that the Eighth Amendment of the United States Constitution prohibits the death penalty for crimes committed by juveniles, meaning any person under the age of 18. See *Roper v. Simmons*, 543 U.S. 551 (2005).

In 2010, the United States Supreme Court held that the imposition of a life sentence without parole to a juvenile for non-homicide offenses is prohibited by the Eighth Amendment of the United States Constitution. See *Graham v. Florida*, 560 U.S. 48 (2010). In the instant case, the Petitioner is serving multiple life sentences for non homicide offenses that occurred at the age of 18, not too far from being a juvenile.

In 2012, this Honorable Court prohibited mandatory sentences of life without parole for homicide juvenile offenders. See *Miller v. Alabama*, 567 U.S. 460, 132 S. Ct. 2455, 183 L. Ed 2d 407 (2012) which cited *Graham*, and *Roper*, supra. Now, the age of eighteen for a juvenile offender as set forth in Miller, supra, should be extended to 20 based on the reasoning in *Roper*, *Graham*, and *Miller*, the latest case, stating that it is unconstitutional to sentence a juvenile offender to life for a homicide offense. In the same way, Petitioner's multiple life sentences for nonhomicide offenses committed at the age 18 are unconstitutional as well.

The Petitioner's multiple life sentences on the above stated convictions violate the Eighth Amendment of the United States Constitution and Florida's prohibition against cruel and unusual punishment, Article I, Section 17 of the Florida Constitution.

The Petitioner submits to this Honorable Court that this is the type of case where the Petitioner's young age (18) at the time of the offenses should be taken into consideration in assessing whether a true manifest injustice occurred based on the Petitioner's lack of moral culpability as it has been established by the field of neuroscience and decisional law from the United States Supreme Court as well as Florida law.

The American Academy of Child and Adolescent Psychiatry declared that the age of 18 does not have any significant meaning when it comes to defining a minor as an adult because young offenders who commit their offenses all the way until the mid 20's have the intellectual capacity of an adult but lack the emotional and social capacity of a mature person.

Based on the above referenced facts and law, the Petitioner's multiple life sentences without parole on the above stated offenses committed at the age of 18 amounts also to virtually a death sentence.

The Petitioner's life sentences are in conflict with the holding in *Roper* and *Graham,* supra and the latest assessment of neuroscience declaring that young adults up to the mid 20's experience a lack of self control that is responsible for the age of crime reaching its highest point at such age among most

communities in the United States. The Petitioner submits to this Honorable Court that scientists have declared that young adult offenses are the result of developmental immaturity and thus young adults should be treated differently in the criminal justice system. See 2011 report from the American Academy of Child and Adolescent Psychiatry. See also Adolescence Brain Development and Legal Culpability, American Bar Association, Juvenile Justice Center 1-3 (Jan. 2004). In addition, Dr. Ruben C. Gur, Director of the Brain Behavior Laboratory at the Neuropsychiatry Section of the University of Pennsylvania, School of Medicine, stated at the United States Supreme Court in 2002 that "the evidence now is strong that the brain does not cease to mature until the early 20's in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable." Ruben C. Gur, Declaration of Ruben C. Gur, Ph. D., *Patterson v. Texas*, Petition for Writ of Certiorari to the United States Supreme Court (2002).

The Petitioner asserts that as the above-stated facts show that a young person brain continues to mature, past of the age of twenty, it is unconscionable to apply multiple life sentences without parole to a Defendant who was 18 years of age at the time the alleged offenses were committed in this cause.

On all of the above, Petitioner states that a sentence of life without parole serves no legitimate penological purpose when imposed on a person under 18, it is unconstitutional. On this line, the *Miller* Court declared that

> the distinctive attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes. Because `` '[t]he heart of the **retribution** rationale' relates to an offender's blameworthiness, `` 'the case for retribution is not as strong with a minor as with an adult.' Graham, 560 U.S., at -- - --, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (quoting Tison v. Arizona, 481 U.S. 137, 149, 107 S. Ct. 1676, 95 L. Ed. 2d 127 (1987); Roper, 543 U.S., at 571, 125 S. Ct. 1183, 161 L. Ed. 2d 1). Nor can **deterrence** do the work in this context, because `` 'the same characteristics that render juveniles less culpable than adults' -their immaturity, recklessness, and impetuosity- make them less likely to consider potential punishment. Graham, 560 U.S., at --, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (quoting Roper, 543 U.S., at 571, 125 S. Ct. 1183, 161 L. Ed. 2d 1). Similarly, **incapacitation** could not support the life-without-parole sentence in Graham: Deciding that a ``juvenile offender forever will be a danger to society would require ``mak[ing] a judgment that [he] is incorrigible-but `` 'incorrigibility is inconsistent with youth.' 560 U.S., at --, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (quoting Workman v. Commonwealth, 429 S.W.2d 374, 378 (Ky. App. 1968)). And for the same reason, **rehabilitation** could not justify that sentence. Life without parole ``forswears altogether the rehabilitative ideal. Graham, 560 U.S., at --, 130 S. Ct. 2011, 176 L. Ed. 2d 825. It reflects ``an irrevocable judgment about an offender's value and place in society, at odds with a child's capacity for change. Ibid.

Miller v. Alabama, 183 L. Ed. 2d at p. 420. (Emphasis added).

Moreover, from the above stated analysis, the Miller Court expressed that Graham concluded establishing that life-without-parole sentences, like capital punishment, violates the Eighth Amendment when imposed on young adults. To be sure, Graham's flat ban on life without parole applied only to nonhomicide crimes, and the Court took care to distinguish those offenses from murder, based on both moral culpability and consequential harm. See id., at --, 130 S. Ct. 2011, 176 L. Ed. 2d 825. *Miller v. Alabama*, 183 L. Ed. 2d at p. 419. The Miller Court also noted that "none of what it said about young adults-about their

distinctive (and transitory) mental traits and environmental vulnerabilities-is crime-specific. Those features are evident in the same way, and to the same degree, when (as in both cases here) a botched robbery turns into a killing. So Graham's reasoning implicates any life-without-parole sentence imposed on a young adult, even as its categorical bar relates only to nonhomicide offenses." *Miller v. Alabama*, 183 L. Ed. 2d at p. 420. The Graham and Miller's reasoning applies to Petitioner's life sentences without parole.

The Miller Court declared that youth was an important matter in determining the appropriateness of sentencing a young adult to a lifetime of incarceration without the possibility of parole. *Miller v. Alabama*, 183 L. Ed. 2d at p. 420. The Miller opinion built upon the rulings in Roper and Graham establishing that an offender's age is relevant to the Eighth Amendment, and criminal procedure laws that fail to take defendants' youthfulness into account at all would be flawed. *Miller v. Alabama*, 183 L. Ed. 2d at p. 421.

Miller relied on Graham to affirm that a sentence of life without parole on a young adult share some characteristics with death sentences that are shared by no other sentences. 560 U.S., at --, 130 S. Ct. 2011, 176 L. Ed. 2d 825. Imprisoning an offender until he dies alters the remainder of his life ``by a forfeiture that is irrevocable." Ibid. (citing Solem v. Helm, 463 U.S. 277, 300-301, 103 S. Ct. 3001, 77 L. Ed. 2d 637 (1983)). And this lengthiest possible incarceration is an ``especially harsh punishment for a [young adult], because he will almost inevitably serve ``more years and a greater percentage of his life in prison than

an adult offender." Graham, 560 U.S., at -- - --, 130 S. Ct. 2011, 176 L. Ed. 2d 825. *Miller v. Alabama*, 183 L. Ed. 2d at p. 422. Research further bears out the many ways in which lengthy adult sentences – especially life sentences – work against a youth's rehabilitation. Understandably, many young adults sent to prison fall into despair. They lack incentive to try to improve their character or skills for eventual release because there will be no release. Indeed, many young adults sentenced to spend the rest of their lives in prison commit suicide, or attempt to commit suicide. See Human Rights Watch, *The Rest of Their Lives: Life without Parole for Child Offenders in the United States* 63-64 (2005), http: See also, Wayne A Logan, *Proportionality and Punishment: Imposing Life Without Parole on Juveniles*, 33 Wake Forest L. Rev. 681, 712, nn. 141-47 (1998) (discussing the "psychological toll" associated with LWOP, including citations to cases and sources suggesting that LWOP may be a fate worse than the death penalty). Thus, a life sentence without parole for a young adult is antithetical to the goal of rehabilitation.

The Petitioner submits to this Honorable Court that this is the type of case where the Petitioner's young age (18) at the time of the offense should be taken into consideration in assessing whether a true injustice occurred.

On the above stated facts, arguments and law, it is submitted to this Honorable Court that the lower courts erred in not ruling that Petitioner's life sentences without parole for offenses committed at the age of 18 were in violation of the United States Constitution.

Additionally, the Petitioner submits that the evolving of the juvenile laws up to this point is consistent with the Florida Legislature understanding that young adults under 21 years of age should be treated different from adults. Florida Youthful Offender Statute states that it is the "intent of the Legislature to provide an additional alternative to be used in the discretion of the Court when dealing with offenders who have demonstrated that they can no longer be handled safely as juveniles and who require more substantial limitations upon their liberty to ensure the protection of society." Section 958.021, Florida Statute (2016).

Based on the above legislative intent, Section 958.04, Florida Statute, authorizes the Court to sentence as a youthful offender any person:

- Who is at least 18 years of age and who has been transferred for prosecution to the criminal division of the Circuit Court pursuant to Chapter 985;
- Who is found guilty of or who has tendered, and the Court has accepted a plea of nolo contendere, or guilty to a crime that is under the laws of this State, a felony if the offender is younger than 21 years of age at the time the sentence is imposed;
- Who has not previously been classified as a youthful offender under provisions of this act; and
- Who has not been found guilty of a capital or life felony.

In addition, Section 958.11, Florida Statute authorizes the Florida Department of Corrections to classify as a youthful offender any person:

- Who is at least 18 years of age or who has been transferred for prosecution to the criminal division of the Circuit Court pursuant to Chapter 985;
- Who has not been previously been classified as a youthful offender under provisions of this act;
- Who has not been found guilty of a capital or life felony;
- Whose age does not exceed 24 years; and
- Whose total length of sentence does not exceed 10 years.

In regards to the above stated Florida Statutes, the Petitioner points out that the Legislature is aware that the youthful offender is not fully developed mentally until after the age of 24. On this line, although the youthful offender statute excludes youthful offenders for being treated as such on capital and life felony offenses, the Petitioner's conviction in this case should be treated as what he was, a minor; all based on new research on neuroplasticity, and United States Supreme Court law.

Furthermore, the Petitioner submits that Section 958.11(6), Florida Statute, authorizes the Department to assign inmates 20 or younger (except capital or life felons) to youthful offender facilities, if the Department determines that the inmate's mental or physical vulnerability would substantially or materially jeopardize his or her safety in a non-youthful offender facility.

Again, the above stated Florida laws show that the State is aware by its own observations and rules even prior to recent developments in law that young adults under 25 years of age possess all the distinctive developmental characteristics of juvenile offenders and therefore, they should be treated differently when compared to adult offenders.

On the above stated facts, arguments and law, it is submitted to this Honorable Court that the trial court erred in not ruling that Petitioner's multiple life sentences on a person who was 18 years of age at the time of his offenses were in violation of the State and Federal Constitutions.

In sum, the consideration of the Petitioner's case via the instant petition gives this Court an opportunity to consider the diminish culpability of the Petitioner as a young adult in an effort to shape with forgiveness a nation more aware of a human disability; otherwise it would result in a manifest injustice. Therefore, on all of the above, this Honorable Court should reverse because the lower courts failed the Petitioner in not correcting a manifest injustice.

II. The Question Presented is Important.

Petitioner is presenting an important Federal question of constitutional dimension in which the lower courts did not reasonably extend the standard prescribed by this Court in Roper, Graham, and Miller, supra, appropriately to the facts of the Petitioner's case. Petitioner affirmatively asserts that this case would have had a different outcome if the lower court had conducted an evidentiary hearing to determine whether the decisions of this Honorable Court

in Roper, Graham, and Miller, supra, could be extended to young adults offenders serving life without parole available to them. There is no doubt that an evidentiary hearing on the question presented in this petition would have resulted in the trial court finding that the same factors used to grant relief in Roper, Graham, and Miller, supra, were present in the instant case.

In this case, this Honorable Court should set a new precedent requiring that cases like the Petitioner's be set for an evidentiary hearing to determine whether the appropriate sentences were imposed on a juvenile offender.

Finally, review of the decision below is important because while this Court has already provided a tremendous service to the cause of treating juvenile offenders serving life sentences without parole this Court's duty is not finished. Young adult offenders who committed their offenses at the age of eighteen, and were sentenced to life without parole are suffering the same injustice as juveniles serving a life sentence without parole. Therefore, this honorable Court should afford similar treatment based upon judicial precedents already set by this Court. Anything less than this, would be a disservice to a class of offenders who this Honorable Court has already determined lack a fully developed cognitive ability to weigh the consequences of their actions and make rational decisions.

In sum, lower courts across this nation would benefit greatly from this Court's input on an issue like Petitioner's. Moreover, a decision in this case would no doubt bring more justice to the young adult cause of this country and

underscore how awesome the Constitution of this great country, the United States of America, is. Therefore, this Court should grant the petition.

CONCLUSION

The Petitioner respectfully prays that this Honorable Court grants his petition for a writ of certiorari.

Respectfully submitted,

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