No. 21-6473

IN THE
SUPREME COURT OF THE UNITED STATES

MICHAEL STUMPH,
Petitioner,

v.

STATE OF OHIO,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF OHIO

BRIEF OF *AMICI CURIAE* AUGLAIZE COUNTY PUBLIC DEFENDER, CUYAHOGA COUNTY PUBLIC DEFENDER, FRANKLIN COUNTY PUBLIC DEFENDER, MONTGOMERY COUNTY PUBLIC DEFENDER, OFFICE OF THE OHIO PUBLIC DEFENDER IN SUPPORT OF PETITIONER

PETER GALYARDT
Counsel of Record
CARLY M. EDELSTEIN
Office of the Ohio Public Defender
250 East Broad Street, Suite 1400
Columbus, Ohio 43215
(614) 466-5394

peter.galyardt@opd.ohio.gov
carly.edelstein@opd.ohio.gov

Counsel for Amici Curiae

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INTEREST OF AMICI CURIAE[1]

Auglaize County Public Defender

The Law Office of the Auglaize County Public Defender (ACPD) represents indigent adult and juvenile criminal defendants in felony, misdemeanor and neglect abuse dependency cases in Auglaize County, Ohio, both at the trial level and on appeal. The mission of the ACPD is to make sure our clients' rights are protected and to zealously pursue good and just outcomes for our clients. The ACPD seeks to provide our clients with the best legal advice and representation possible to ensure we positively impact their lives while hopefully improving the criminal justice system for our current clients and future clients.

Cuyahoga County Public Defender

The Office of the Cuyahoga County Public Defender is legal counsel to more than one-third of all indigent persons indicted for felonies in Cuyahoga County. The Office is the largest single source of legal representation of criminal defendants in Ohio.

Franklin County Public Defender

The Franklin County Public Defender is a countywide agency that provides comprehensive legal representation to indigent clients in criminal and juvenile proceedings in Franklin County, Ohio, so as to fulfill the constitutional mandate of "Equal Justice Under Law." The Office of the Franklin County Public

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[1] Consistent with this Court's Rule 37.6, *amici curiae* state that this brief was not authored in whole or in part by counsel for any party, and no person or entity other than *amici* and their counsel made a monetary contribution to the preparation or submission of this brief. *Amici curiae* certify under Rule 37.2 that counsel of record of all parties have consented to the filing of this brief.

Defender understands that "Equal Justice Under Law" must be extended to all Ohioans, but especially to the young and mentally ill who are charged with criminal offenses. For this reason, a division of the Office is dedicated solely to advocating the rights and privileges of youth involved in the juvenile system. The Franklin County Public Defender is comprised of Municipal, Juvenile, Common Pleas, and Appellate divisions. As one of the largest legal services offices in the State of Ohio, each division is staffed with attorneys, social workers, law clerks, and secretaries dedicated to ensuring high quality legal representation. There are 91 attorneys, 12 social workers, and adjunct support staff totaling 120 full-time and 40 part-time employees.

The Franklin County Public Defender strongly supports the position that the sentence imposed in this case and others like it are subject to appellate review, and further agrees with the words of Supreme Court Justice Sotomayor:

> This jurisprudence provides good reason to question whether [Ohio Rev. Code] § 2953.08(D)(3) really 'means what it says:' that a life-without-parole sentence, no matter how arbitrarily or irrationally imposed, is shielded from meaningful appellate review.
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> * * *
>
> And our jurisprudence questions whether it is permissible that [the citizen-defendant] must now spend the rest of his days in prison without ever having had the opportunity to challenge why his trial judge chose the irrevocability of life without

> parole over the hope of freedom after 20, 25, or 30 years. The law, after all, granted the trial judge the discretion to impose these lower sentences. See § 2929.03(A)(1).

Campbell v. Ohio, __ U.S. __, 138 S.Ct. 1059, 1060, 200 L.Ed.2d 502 (2018) (Sotomayor, J., concurring) (*cert.* den.) (bracketed material added).

Montgomery County Public Defender

The Law Office of the Montgomery County Public Defender (MCPD) represents indigent adults and juveniles in felony and misdemeanor cases in Montgomery County, Ohio, at trial and on appeal. The mission of the MCPD is to fight to uphold the dignity of our clients by protecting their fundamental rights and liberties through zealous, compassionate, and holistic defense services. The MCPD is dedicated to ethical and inclusive justice and is guided by the values of equity, empathy, innovation, and integrity.

Office of the Ohio Public Defender

The Office of the Ohio Public Defender (OPD) is a state agency designed to represent indigent criminal defendants and to coordinate criminal-defense efforts throughout Ohio. The primary focus of the OPD is on the appellate phase of criminal cases, including direct appeals and collateral attacks on convictions. The primary mission of the OPD is to protect and defend the rights of indigent persons by providing and supporting superior representation in the criminal and juvenile justice systems.

As Amicus Curiae, the OPD offers this Court the perspective of experienced practitioners who routinely handle criminal cases in Ohio courts. This work includes representation at both the trial and appellate levels. The OPD has an interest in the present case

insofar as it involves significant categorical limitations on a defendant's ability to appeal the imposition of a life sentence.

SUMMARY OF ARGUMENT

In Ohio, a judge sentencing an offender for the offense of aggravated murder has unlimited discretion. If she woke up on the wrong side of the bed, got in a car accident on the way to work, or had an argument with her bailiff that morning before a sentencing hearing and decided to impose life without the possibility of parole instead of twenty years to life, that decision will go unchecked and that defendant will only see the outside of the prison walls if, by some miracle, the governor chooses to grant clemency. This is because an aggravated murder sentence is explicitly not reviewable for an abuse of discretion under Ohio Revised Code § 2953.08(D)(3).

But this cannot be. "By protecting even those convicted of heinous crimes, the Eighth Amendment reaffirms the duty of the government to respect the dignity of all persons." *Roper v. Simmons*, 543 U.S. 551, 560 (2005). Not just those sentenced to the death penalty. And not just those sentenced for non-homicide offenses. But all persons.

Amici curiae write to urge this Court to grant certiorari and to convey a deep concern that the State of Ohio is locking up its citizens and throwing away the key on the whim of one fallible human being with absolutely no mechanism for review.

ARGUMENT

I. THE REALITY OF BEING SENTENCED TO DIE IN PRISON.

There is no greater non-capital penalty than life in prison without the possibility of parole, and that sentence includes characteristics of a death sentence that are not present in any other sentence. The offender sentenced to life without the possibility of parole is not executed, but the sentence alters the offender's life by a forfeiture that is irrevocable. *Graham v. Florida*, 560 U.S. 48, 69-70 (2010). It deprives the incarcerated person of the most basic liberties without giving hope of restoration, except, perhaps, by executive clemency—the remote possibility of which does not mitigate the harshness of the sentence. *Solem v. Helm*, 463 U.S. 277, 300-01 (1983). Like a death sentence, sentencing a person to life without the possibility of parole "means denial of hope; it means that good behavior and character improvement are immaterial; it means that whatever the future might hold in store for the mind and spirit of [the offender], he will remain in prison for the rest of his days." *Naovarath v. State*, 779 P.2d 944 (Nev. 1989). *See also Glossip v. Gross*, 576 U.S. 863, 895 (2015) (noting that life-without-parole sentences are "equally horrendous" to death penalty sentences). In fact, due to the conditions offenders face in prison and the denial of hope they experience, many have noted that a life-without-parole sentence can be worse than death. *See* Jessica S. Henry, *Death in Prison Sentences: Overutilized and Underscrutinized*, *in* Life without Parole: America's New Death Penalty 66, 73 (Charles J. Ogletree, Jr., & Austin Sarat eds., 2012) (quoting John Stuart Mill, *Parliamentary Debate on Capital Punishment within*

Prisons Bill (Apr. 21, 1868) ("John Stuart Mill perceived life imprisonment as 'living in a tomb, there to linger out what may be a long life . . . without any of its alleviation or rewards—debarred from all pleasant signs and sounds, and cut off from earthly hope.").

And what does that mean in reality for the offender sentenced to die in prison? At their best, none of us would volunteer to make prison conditions our daily, unalterable environment, and at worst, prison conditions are psychologically unfathomable. On one side of the coin is the general population experience:

> In crowded, noisy, unhygienic environments, human being[s] tend to treat each other terribly. Imagine sleeping in a converted gymnasium with 150 to 200 prisoners. There are constant lines to use the toilets and phones, and altercations erupt when one irritable prisoner thinks another has been on the phone too long. There are rows of bunks blocking the view, so beatings and rapes can go on in one part of the dorm while officers sit at their desks in another area. The noise level is so loud that muffled screams cannot be heard. Meanwhile the constant noise and unhygienic conditions cause irritability on everyone's part. Individuals who are vulnerable to attack and sexual assault—for example, smaller men, men suffering from serious mental illness, and gay or transgender persons—have no cell to retreat to when they feel endangered.

Terry Yupers, *Prison and Decimation of Pro-Social Life Skills, in* The Trauma of Psychological Torture 127, 130 (Almerindo Ojeda ed., 2008). *See also* Jessica S. Henry, *Death in Prison Sentences: Overutilized and*

Underscrutinized, *in* Life without Parole: America's New Death Penalty 66, 75 (2012) ("[P]risons in the United States are overcrowded and stark, full of violence, long-term isolation, abusive guards, disease, inadequate health care, and other dehumanizing conditions. The endless monotony alone ensures that time passes painfully and slowly.").

On the other side, segregation guarantees "deleterious psychological effects." *See Williams v. Sec'y Pa. Dep't of Corr.*, 848 F.3d 549, 567 (3d Cir. 2017); *see also* Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, 22 Wash. U. J.L. & Pol'y 325, 331 (2006); Craig Haney & Mona Lynch, *Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement*, 23 N.Y.U. Rev. L. & Soc. Change 477, 531 (1997). These effects take hold after just a few days of isolation. *Williams*, 848 F.3d at 567. Thus, perhaps the least psychologically equipped of us are placed in the most challenging of circumstances, and then demonized for the failure that was virtually guaranteed from the start. *See id.*

Universally, "inmate health care is frequently so inadequate that 'preventable suffering and death behind bars' has been 'normalized.'" Sharon Dolovich, *Cruelty, Prison Conditions, and the Eighth Amendment*, 84 N.Y.U. L.Rev. 881, 887-88 (2009), citing Benjamin Fleury-Steiner and Carla Crowder, *Dying Inside: The HIV/AIDS Ward at Limestone Prison* 5 (2008) and Paul von Zielbauer, *As Health Care in Jails Goes Private, 10 Days Can Be a Death Sentence*, N.Y. Times, Feb. 27, 2005, at A1.

None of this is to ignore the innumerable challenges in housing large numbers of human beings in an institutional setting, but it is to highlight the effect of human limitations in such pursuits. The ultimate effect is pervasive and burdening beyond our wildest

imaginations, minute by minute, every day. And so, "[w]hile there may not be universal agreement that [death in prison] sentences are *worse* than death, it is clear that [these] sentences are uniquely severe and degrading in their own right." Jessica S. Henry, *Death in Prison Sentences: Overutilized and Underscrutinized*, *in* Life without Parole: America's New Death Penalty 66, 75 (2012). "As in the capital context, a penal policy that locks people up and permanently discards the key, in essence, discards the inviolate and innate humanity of the individual." *Id*. at 76.

The difference, then, between a life without the possibility of parole sentence and the other sentencing options a trial court in Ohio may choose from is significant. *See* R.C. § 2929.03 (statutory sentencing options for aggravated murder include life imprisonment without parole, life imprisonment with parole eligibility after serving twenty years in prison, life imprisonment with parole eligibility after serving twenty-five years in prison, or life imprisonment with parole eligibility after thirty years).

II. THE OVERRELIANCE ON LIFE-WITHOUT-PAROLE SENTENCES.

The problem highlighted by Mr. Stumph's case is not a hypothetical one. As of 2020, there were 55,945 inmates in the United States serving life-without-parole sentences, and an additional 42,353 serving virtual life-without-parole sentences of 50 years or more. Ashley Nellis, *No End in Sight: America's Enduring Reliance on Life Imprisonment*, The Sentencing Project 10 (2021). That means 98,298 fellow human beings will die in prison, no matter what they do in their remaining days. The numbers in Ohio are 699 and 1,095, respectively. *Id*. These numbers have

increased by 66% over the past eighteen years. *Id*. at 15. Meanwhile, life sentences *with* parole eligibility have decreased over that same period. *Id.* As capital sentences have become less and less common, life-without-parole sentences, in Ohio and nationally, have swelled radically. *See, e.g.*, John Caniglia, *The sentence of life without parole spikes in Ohio as death-penalty cases drop*, Cleveland.com, (Mar. 22, 2020), https://www.cleveland.com/court-justice/2020/03/life-without-parole-spikes-in-ohio-as-death-penalty-cases-drop.html (explaining that the number of Ohio inmates sentenced to life in prison without the possibility of parole has increased by 150 percent since 2010).

III. LIFE-WITHOUT-PAROLE SENTENCES ARE FOR THE IRREDEEMABLE.

Under Ohio law, a trial court is not required to impose a life-without-parole sentence for aggravated murder in a non-capital case. Instead, the court has an opportunity to exercise its discretion and choose between four possible sentences:

(a) Life imprisonment without parole;
(b) Life imprisonment with parole eligibility after serving twenty years of imprisonment;
(c) Life imprisonment with parole eligibility after serving twenty-five full years of imprisonment;
(d) Life imprisonment with parole eligibility after serving thirty full years of imprisonment.

R.C. § 2929.03.

Although each of these sentences is severe, the difference between them is truly the difference between certainty of death in prison and a second chance

at life outside prison walls. And so, when a court chooses from this list, the court is ultimately deciding whether to offer a defendant hope and recognize his potential for growth and change or cast him aside as irredeemable. Making this decision is critical as "[a]ll but the deadliest and most unsalvageable of prisoners have the right to appear before the board of parole to try to show that they have behaved well in prison confines and that their moral and spiritual betterment merits consideration of some adjustment of their sentences." *Naovarath v. State*, 779 P.2d 944 (Nev. 1989).

And so, like the death penalty, a life without the possibility of parole sentence "involves a finality in judgment, a confidence that offenders are beyond redemption. When we sentence someone to die in prison, we assume that nothing could change or alter the assessment of what that person deserves, even if they spend thirty, forty, or fifty years behind bars." Austin Sarat, *Death Penalty Opponents Should Rethink Their Support for Life Without Parole Sentences*, Verdict (Feb. 26, 2021), https://verdict.justia.com/2021/02/26/death-penalty-opponents-should-rethink-their-support-for-life-without-parole-sentences. In *Graham*, this Court expressed a deep concern about the accuracy of these sentencing judgments, specifically noting the difficulty in making an incorrigibility determination when the "characteristics of youth make that judgment questionable" at best. *Graham*, 560 U.S. at 72-73. *See also* Carissa Byrne Hessick, *Finality and the Capital/Non-Capital Punishment Divide*, Final Judgments: The Death Penalty in American Law and Culture 1, 11 (Austin Sarat ed., 2017).

Of course, the *Graham* decision focused on life without the possibility of parole sentences for adolescents, but its rationale applies equally to adults.

"[A]dolescence is not the only period in which transformation and reform are possible and a meaningful opportunity for release does not have to be limited to those who commit crime in their youth. The capacity for change is inherent in most people given time and engagement in rehabilitative programming." Ashley Nellis, *Life Goes On: The Historic Rise in Life Sentences in America*, The Sentencing Project 18 (2013), https://www.sentencingproject.org/wp-content/uploads/2015/12/Life-Goes-On.pdf. Most of the men serving life without parole sentences "'not only experience the normal process of maturation through which immature, irresponsible, conscienceless, often psychologically disturbed, and socially disconnected young people 'grow up.' But they also, through the imprisonment experience, gain insight and remorse, and vigorously participate in programs to improve themselves.'" Margaret E. Leigey, The Forgotten Men: Serving a Life without Parole Sentence 24 (2015) (quoting John Irwin, Lifers: Seeking Redemption in Prison 126 (2009)). In fact, according to the Bureau of Justice Statistics, homicide and drug arrest rates peak at age 19, and more than half of all people who commit crimes during their lifetimes will be arrested by the time they are thirty years old. Dana Goldstein, *Too Old to Commit Crime?*, The Marshall Project (Mar. 20, 2019), https://www.themarshallproject.org/2015/03/20/too-old-to-commit-crime. The United States Sentencing Commission's 2017 "The Effects of Aging on Recidivism Among Federal Offenders" tells a similar story. Older federal offenders are substantially less likely than younger offenders to recidivate following release. *The Effects of Aging on Recidivism Among Federal Offenders*, United States Sentencing Commission 3 (Dec. 2017), https://www.ussc.gov/sites/default/files/pdf/research-

and-publications/research-publications/2017/20171207_Recidivism-Age.pdf#page=9. Over an eight-year period following release, only 13.4 percent of offenders age 65 or older were rearrested compared to 64.8 percent of offenders younger than age 30 at the time of their release. *Id*. at 22.

With this data in mind, it is even more critical that we ensure every criminal defendant is afforded an opportunity to challenge the imposition of sentences that condemn him to death in state custody. Death-sentenced individuals have that opportunity. Life without the possibility of parole-sentenced individuals in Ohio do not.

IV. CALIBRATION BEYOND CONSTITUTIONAL FAIRNESS IS NECESSARY FOR LIFE WITHOUT PAROLE SENTENCES.

Ohio's practice of condemning citizens to die in prison after an irredeemability declaration by a single human being with no meaningful calibration of that decision denies the undeniable—our shared, and flawed, humanity. The fragility of this practice is magnified by the fruits of our human failings such as racial disparities, the burdens of an aging prison population, the "aging out" of violence by offenders, and exonerations. *See* Katie Rose Quandt, *Life without parole is no moral alternative to the death penalty*, America: The Jesuit Review (Apr. 10, 2018), https://www.americamagazine.org/politics-society/2018/04/10/life-without-parole-no-moral-alternative-death-penalty (noting that 56% of individuals sentenced to serve life in prison without the possibility of parole are African Americans, a greater overrepresentation of African Americans than even death row).

This Court has noted the important role states play in channeling the discretion of a sentencing jury "in order to avoid a system in which the death penalty would be imposed in a 'wanton' and 'freakish' manner." *Johnson v. Texas*, 509 U.S. 350, 359 (1993) (quoting *Furman v. Georgia*, 408 U.S. 238, 310 (1972) (Stewart, J., concurring)). But "[e]xisting state laws, allowing imposition of [aggravated murder] sentences based only on a discretionary, subjective judgment by a judge or jury that the offender is irredeemably depraved, are insufficient to prevent the possibility that the offender will receive a life without parole sentence for which he or she lacks the moral culpability." *Graham* at 77. While protections are now in place for capital defendants and for juveniles sentenced to life without the possibility of parole, Ohio adults are entitled to no such protection from the wanton and freakish imposition of a death-in-prison sentence.

With respect to the death penalty, on the one hand, this Court and others have "approved a wide range of substantive protections designed to promote a fair and uniform system of adjudication," a system that ensures the irredeemability determination is correct, or, at the very least, not arbitrary. Jessica S. Henry, *Death in Prison Sentences: Overutilized and Underscrutinized*, *in* Life without Parole: America's New Death Penalty 66, 81 (2012). *See also* Marc Mauer, et al., *The Meaning of "Life": Long Prison Sentences in Context*, The Sentencing Project (May 2004), https://www.sentencingproject.org/wp-content/uploads/2016/01/The-Meaning-of-Life-Long-Prison-Sentences-in-Context.pdf. Across the country, automatic direct appeals and collateral appeals, including an opportunity to challenge the appropriateness of the sentence itself, are assured for individuals sentenced to death. *Id*.

Life without the possibility of parole sentencing, on the other hand, can be entirely arbitrary and capricious. "Who is sentenced to a life behind bars is not determined by a consistently applied jurisprudence across jurisdictions. Rather, random factors . . . lead to the all too frequent haphazard application of [life without parole] sentences." Jessica S. Henry, *Death in Prison Sentences: Overutilized and Underscrutinized*, *in* Life without Parole: America's New Death Penalty, 66, 83 (2012). In Ohio, Defendants facing these sentences are entitled to far fewer procedural protections at the trial level and no appellate review of their sentence. But when a defendant's hope of someday stepping outside the walls of a prison and rejoining society is on the line, getting it right must matter in these cases, too.

Despite the Ohio General Assembly identifying numerous aggravating and mitigating factors for consideration in felony sentencing, those sentenced to life without the possibility of parole for aggravated murder in Ohio are limited to constitutional challenges to their sentences. *See State v. Jones*, 163 Ohio St.3d 242, 246-48, 252-54, 2020-Ohio-6729, 169 N.Ed.3d 649; *State v. Toles*, No. 2020-1242, 2021 Ohio LEXIS 1961, *1 (Ohio Oct. 4, 2021); *State v. Patrick*, 164 Ohio St.3d 309, 310, 2020-Ohio-6803, 172 N.E.3d 952; *State v. Kinney*, 163 Ohio St.3d 537, 538, 2020-Ohio-6822, 171 N.E.3d 318. This means that people in Ohio are sentenced to die in prison by a single human being with no review as to whether that sentence was warranted by the aggravating and mitigating factors. Because an unwarranted sentence, by itself, does not rise to the level of an unconstitutional one, there is no possible legal recourse. That lack of a legal recourse is a grave constitutional concern.

The fact that life without the possibility of parole is more palatable than a death sentence cannot mean these sentences may go unreviewed by an appellate court. Ohio is an outlier, as other jurisdictions use different approaches, ones that recognize human limitations and fallibility in decision making, while simultaneously honoring the shared humanity of all human beings.

By way of example, Rhode Island explicitly provides a statutory mechanism for challenging the imposition of a life sentence. Under R.I. Gen. Laws § 12-19.2-5, a criminal defendant has the right to appeal a life imprisonment without parole sentence to the Rhode Island Supreme Court. The court is to engage in a thorough review of the trial transcript and may affirm the imposition of the sentence or reduce the sentence to life imprisonment with the possibility of parole. R.I. Gen. Laws § 12-19.2-5. In practice, this mechanism has not frequently resulted in reductions of life-without-parole sentences. However, it importantly recognizes the inherent limitations in a system that gives individual appointed officials nearly unlimited discretion to condemn a person to die in prison.

Although not as explicit as Rhode Island's procedure for challenging a life-without-parole sentence, other states permit direct appeal challenges to the sentence itself. For example, Rule 3(b)(2) of the Vermont Rules of Appellate Procedure governs appeals for defendants sentenced to life imprisonment. Pursuant to this rule, a defendant sentenced to life without parole is guaranteed an appeal as of right in the Vermont Supreme Court, where he may challenge the imposition of a life sentence under an abuse of discretion standard of review. *See, e.g. State v. Ray*, 2019 VT 51, 210 Vt. 496, 216 A.3d 1274 (affirming the trial court's

factual findings related to a specific sentencing factor after reviewing for an abuse of discretion). New York state, too, permits appellate review of the appropriateness of a life or virtual life sentence. For example, in *People v. Sledge*, 636 N.Y.S.2d 930 (N.Y. App. Div. 1996), a defendant sentenced to twenty-five-years-to-life on each of two murder charges challenged his sentence on the ground that it was harsh and excessive. Although the court of appeals ultimately affirmed the sentence, it did so only after engaging in an abuse of discretion review and concluding that the sentence was appropriate based on the circumstances surrounding the offense. *See also People v. Stevens*, 528 N.Y.S.2d 173, 174 (N.Y. App. Div. 1988) (affirming defendant's fifteen years to life sentence based on the "serious nature of the crime"). In Florida and Wisconsin, offenders sentenced to virtual life sentences are also permitted an opportunity to challenge the appropriateness of their sentences. *See, e.g.*, *Jamerson v. State*, 888 So.2d 49 (Fla. Dist. Ct. App. 2004) (addressing a vindictive sentencing challenge to a life sentence for second-degree murder with a firearm); *State v. Kunke*, 218 Wis.2d 165, 578 N.W.2d 209 (Wis. Ct. App. 1998) (reviewing statutory factors and the weight given to each, ultimately concluding that the trial court did not abuse its discretion in imposing life-without parole for a first-degree intentional homicide offense).

Ohio defendants convicted of aggravated murder should similarly be entitled to this minimal level of protection from the arbitrary exercise of judicial discretion.

CONCLUSION

Pope Francis aptly called life without the possibility of parole "a death penalty in disguise." Katie Rose Quandt, *Life without parole is no moral alternative to the death penalty*, America: The Jesuit Review (Apr. 10, 2018), https://www.americamagazine.org/politics-society/2018/04/10/life-without-parole-no-moral-alternative-death-penalty. And this Court, too, has recognized the similarities between these two sentences, especially their shared irrevocability and denial of any possibility of hope. *Graham* at 79 ("In *Roper*, that deprivation resulted from an execution that brought life to its end. Here, though by a different dynamic, the same concerns apply. Life in prison without the possibility of parole gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope.").

The State of Ohio, its constitution, and the U.S. Constitution provide significant protections for offenders sentenced to die by the death penalty, including numerous ways to challenge both the underlying conviction and sentence. In contrast, Ohio offenders sentenced to die in prison are left without even so much as a single opportunity to challenge the imposition of life without parole as compared to three other sentencing possibilities. *See* R.C. § 2953.08(D)(3). Mr. Stumph's case would allow this Court to "question[] whether it is permissible that [a defendant] must now spend the rest of his days in prison without ever having had the opportunity to challenge why his trial judge chose the irrevocability of life without parole over the hope of freedom after 20, 25, or 30 years." *Campbell v. Ohio*, __ U.S. __, 138 S.Ct. 1059, 1060 (2018) (Sotomayor, J., concurring) (*cert.* den.).

Criminal defendants in Ohio and elsewhere deserve an answer to that question.

Respectfully submitted,

PETER GALYARDT
Counsel of Record
CARLY M. EDELSTEIN
Office of the Ohio Public Defender
250 East Broad Street, Suite 1400
Columbus, Ohio 43215
(614) 466-5394
peter.galyardt@opd.ohio.gov
carly.edelstein@opd.ohio.gov

Counsel for Amici Curiae

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