No. 24-6387 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

RAYMOND BRADLEY— PETITIONER
(Your Name)

Vs.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

DISTRICT COURT OF APPEAL THIRD DISTRICT STATE OF FLORIDA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RAYMOND BRADLEY
(your Name)

DADE CORRECTIONAL INSTITUTION
19000 SW 377th STREET
(Address)

FLORIDA CITY, FLORIDA 33034-6409
(City, State, Zip Code)

QUESTION(S) PRESENTED

Whether the mandatory penalty scheme at issue here is flawed where it prevents the sentencer from taking account of the central considerations of Graham and Roper by removing youth from the balance, by subjecting a juvenile to the same life-with a minimum mandatory of 25 years before becoming eligible for parole sentence, applicable to an adult, which prohibit a sentencing authority from assessing whether the law's harshest term of imprisonment proportionately punishes a juvenile offender and contravenes Graham's (and also Roper's) foundational principle, that imposition of a State's most severe penalties on juvenile offenders cannot proceed as though they were not children.

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:

RELATED CASES

Atwell v. State,
197 So. 3d 1040, 1050 (Fla. 2016) .....

Dillbeck v. State,
357 So.2d 94 (Fla. 2023) .....

Franklin v. State,
258 So. 3d 1239, 1241 (Fla. 2018) .....

Graham v. Florida,
560 U.S. 48, 82, 130 S. Ct. 2011,
176 L. Ed. 2d 825 (2010) .....

Miller v. Alabama,
567 U.S. 460, 489, 132 S. Ct. 2455,
183 L. Ed. 2d 407 (2012) .....

State v. Michel,
257 So. 3d 3, 6 (Fla. 2018). .....

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CASES PAGE NUMBER

STATUTES AND RULES

OTHER

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[ ] is unpublished.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.

[ ] 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 to yet reported; to,
[√] is unpublished.

The opinion of the Eleventh Judicial Circuit Miami-Dade County court appears at Appendix __B__ to the petition and is

[ ] reported at _____ or,
[ ] has been designated for publication but is not yet reported; to,
[√] 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 for 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 filed the petition for writ of certioraris was granted to and including _____ (date) on _____ (date) in Application No. _____.

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 **May 29, 2024**. A copy of that decision appears at Appendix ___A___.
§

[ ] A timely petition for rehearing was thereafter denied on the following date: July 11, 2024 and a copy of the order denying rehearing appear at Appendix __C___.

[ ] An extension of time to filed the petition for writ of certioraris was granted to and including _____ (date) on _____ (date) in Application No. _____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

EIGHTH AMENDMENT OF THE U.S. CONSTITUTION

STATEMENT OF THE CASE

On February 24, 1972, the Petitioner was charged by way of indictment with the felony murder of Coral Gables Officer Robert De Korte which occurred on January 21, 1972.

The Petitioner was 17 years old at the time of the offense and was charged and indicted as an adult.

On June 21, 1972, the Petitioner plead guilty was sentenced to life in prison with the possibility of parole after serving 25 years.

There was no dispute that the Petitioner was 17 years old at the time of the offense nor that his sentence made him eligible for parole under the old statue that provided for such.

On December 13, 2016, Petitioner, through appointed counsel, filed a "Motion to Vacate Illegal Sentence" and asked for a re-sentencing hearing under Miller v. Alabama, 132 S.Ct. 2455 (2012) and Graham v. Florida, 560 U.S. 48)2010), under a different claim than the one presented on appeal and in this certiorari.

The then trial court granted the Petitioner's 2016 motion, but in the interim, the Florida Supreme Court decided State v. Michel, 257 So.3d 3 Fla. 2018) and Franklin v. State, 257 So.3d 1239 (Fla. 2018).

On June 8, 2019, the appellate court vacated the trial court's 2016 order.

On August 15, 2023, Petitioner then filed a request for a sentencing review based on Florida Rules of Criminal Procedure 3.802(b)(3) and Florida Statute 921.1402.

On October 13, 2023, the trial court denied Petitioner's application.

Petitioner filed a timely notice of appeal.

On May 29, 2024, the appellate court issued an order per curiam affirming the trial court's order citing Nugent v. State, 338 So.3d 459 (Fla. 2d DCA 2022), review denied, SC22-777, 2022 I 17076108 (Fla. Nov. 18, 2022).

Petitioner subsequently filed a Motion for Rehearing.

On July 11, 2024, the appellate court denied Petitioner's motion for rehearing.

This Certiorari Petition follows

REASONS FOR GRANTING THE PETITION

Children are constitutionally different from adults for purposes for sentencing. *Miller v. Alabama,* 132 S.Ct. 2455, 2464 (2012). Because juveniles have lessened culpability, they are less deserving of the most severe punishments. *Graham v. Florida*, 560 U.S. 48, 68 (2010) (citing *Roper v. Simmons*, 543 U.S. 551, 569 (2005)). This reduced culpability stems from the fact that juveniles as compared to adults, have a lack of maturity and an underdeveloped sense of responsibility; they are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure; and their characters are not as well formed. *Id.* (quoting *Roper*, 543 U.S. at 569-70).

In light of the above, *Miller* held that imposing a mandatory sentence of life without parole on a juvenile convicted of homicide violates the Eighth Amendment. *Miller*, 132 S.Ct. at 2460. The court emphasized that the "foundational principle" of *Roper* and *Graham* is that the "imposition of a State's most severe penalties on juvenile offenders cannot proceed as though they were to children.: *Id.* at 2466. Although *Miller* did not "foreclose a sentencer's ability to [sentence a juvenile to life in prison] in homicide cases, we *require* it to take into account how children are different..." *Id* at 2469 (emphasis added). It is therefore mandatory for trial

courts to consider the mitigatory effect of a juvenile's "youth and attendant characteristic" before imposing a particular penalty." *Id.* at 2471.

In light of *Atwell v. State*, 197 So.3d 1040 (Fla. 2016), the Florida Supreme Court held that imposing an automatic sentence of life with parole on a juvenile violates *Miller*. This holding stemmed from the fact that Florida's parole process "fails to take into account the offender's juvenile status at the time of the offense, and effectively forces juvenile offenders to serve disproportionate sentences of the kind forbidden by *Miller*." *Id.* at " Because the "Eighth Amendment categorically prohibits certain punishments without considering a juvenile's lessened culpability and greater capacity for change," *Id.* at " (quotations omitted), the Petitioner's mandatory life sentence must be vacated and this matter set for resentencing.

The constitutional deficiencies with the Petitioner's sentence began with the initial sentencing hearing itself. As noted, *miller* established the "requirement of individualized sentencing considerations for juvenile offenders. Atwell, at ? The pre-1994 first-degree murder statute, however required a mandatory sentence of death or life in prison following a conviction for first degree murder. §775.084.02(2), Fla. Stat. (1992). Consequently, it "treated juveniles exactly like adults and precluded any individualized sentencing consideration." *Id.* at ?

Florida's parole system likewise fails to "provide for individualized consideration of [s defendant's] juvenile status at the time of the murder," as

required by *miller*. *Id*. at ? The parole criteria applied by the commission instead "give primary weight to the seriousness of the offender's present criminal offense and the offender's pat criminal record." §947.002, Fla. Stat. (2015). The parole commission had no obligation to consider mitigating circumstances, and no one of the enumerated mitigators recognized by it "provide for the level of consideration of the diminished culpability of youth at the time of the offense as sentencing judges now consider post *Miller*." *Atwell*, at " (citing §947.172(3)), Fla. Stat. (2915)). In the same vein, none of the enumerated mitigators in Florida Administrative Code Rule 23-21.010 "have specific factors tailored to juveniles. In other words, they completely failed to account for *Miller*." *Id*. at ?

"Even a cursory examination of the statutes and administrative rules governing Florida's parole system demonstrates that a juvenile who committed a capital offense could be subject to one of the law's harshest penalties without the sentencer, or the Commission, ever considering mitigating circumstances." *Id*. Unlike the individualized sentencing contemplated by *Miller* and now required by section 921.1401, the parole process treats juveniles like "miniature adults>"*See Miller*, 132 S.Ct. at 2470. As a result, in Florida a sentence of life with the possibility of parole for first-degree murder "actually resembles a mandatory imposed life sentence without parole that is not 'proportionate to the offense and the offender'" *Atwell Id*. at (quoting *Horsley,* 160 So.3d a 406).

From the initial sentencing hearing to the parole criteria employed by the parle commission the Petition has been afforded "no special protections" and "no consideration of [his] diminished culpability [as a] youth at the time of the offense." *Id.* at . Parole is, simply put, 'patently inconsistent with the legislative intent' as to how to comply with *Graham* and *Miller*". Id. (quoting *Horsley*, 160 So.3d at 395)

This case is a prime example of the farse the parole commission is . this juvenile's journey began in 1972, when he was 17 years old. During the now 52 years that he has been incarcerated, he has shown that he is not the same person that he was back in 1972. For instance, he has been DR free for the last 28 years, and in 1999 at Belle Blade correctional Institution, Petitioner was transferred to Glade Work camp. His custody level was lowered to minimum, which allowed him outside the institution on a work squad. For five (5) years Petitioner worked outside the institution on a work squad . Then in 2005, he was transferred from the work camp to Pompano Florida Work Release Center, in which Petitioner earned a little more freedom, where he was allowed to go home every weekend to be with his family. Petitioner never got into any trouble and was a productive citizen in the community. Petitioner (considering his offense of killing a police officer) even worked for the Davie Highway Patrol Station with no problems. Then on June 24, 1990, an inmate by the name of Donald David Dillbeck committed a homicide while on a catering detail in Quincy, Florida. After he was arrested, the

Florida Department of Corrections issued an order requiring all Inmates that had a life sentence be returned to the institutions in the Florida Department of Corrections. This is a clear example of how the Florida Parole Commission does not make individualize decisions in determining the parole eligibility for each individual Inmate.

This Court decided Virginia v. LaBlanc, 528 U.S. ____, 137 S.Ct. 1726, 198 L.Ed.2d 186 (2017), in which the Florida Supreme Court relied on in deciding State v. Michel, 257 So.3d 3 Fla. 2018) and Franklin v. State, 257 So.3d 1239 (Fla. 2018). Both of these decisions held, in part that juvenile offenders' sentences of life with the possibility of parole after 25 years did not violate the Eighth Amendment of the U.S. Constitution, thus such juvenile offenders, including Petitioner here, was not entitled to resentencing under 921.1402, Fla. Stat.

However, Petitioner's claim of entitlement to sentencing is because of Petitioner's reliance on this Court's holding in Miller v. Alabama, 132 S.Ct. 2455 (2012) wherein this Court held:

> "Graham, Roper, and our individualized sentencing decisions make clear that a judge or jury must have the opportunity to consider mitigating circumstances before imposing the harshest possible penalty for juveniles. By requiring that all children convicted of homicide receive lifetime incarceration without possibility of parole,[1] regardless of their age and age-related characteristics and the nature of their crimes, the mandatory sentencing schemes before us violate this principle of

[1] In this case, the mandatory sentencing scheme is life with a mandatory 25 years before becoming eligible for parole.

proportionality, and so the Eighth Amendment's ban on cruel and unusual punishment", id. at 430,

and "[a]n 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.' Id., at 10-11, -- S.W.3d, at -- (quoting Graham, 560 U.S., at --, 130 S. Ct. 2011, 176 L. Ed. 2d 825).2 Miller, at 416.

This court further stated:

Most fundamentally, Graham insists that youth matters in determining the appropriateness of a lifetime of incarceration without the possibility of parole. In the circumstances there, juvenile status precluded a life-without-parole sentence, even though an adult could receive it for a similar crime. And in other contexts as well, the characteristics of youth, and the way they weaken rationales for punishment, can render a life-without-parole sentence disproportionate. Cf. id., at -- - --, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (generally doubting the penological justifications for imposing life without parole on juveniles).. Id., at --, 130 S. Ct. 2011, 176 L. Ed. 2d 825. The Chief Justice, concurring in the judgment, made a similar point. Although rejecting a categorical bar on life-without-parole sentences for juveniles, he acknowledged ``Roper's conclusion that juveniles are typically less culpable than adults, and accordingly wrote that ``an offender's juvenile status can play a central role in considering a sentence's proportionality. Id., at -- - --, 130 S. Ct. 2011, 176 L. Ed. 2d 825; see id., at --, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (Graham's ``youth is one factor, among others, that should be considered in deciding whether his punishment was unconstitutionally excessive). But the mandatory penalty schemes at issue here prevent the sentencer from taking account of these central considerations. By removing youth from the balance-by subjecting a juvenile to the same life-without-parole sentence applicable to an adult-these laws prohibit a sentencing authority from assessing whether the law's harshest term of imprisonment proportionately punishes a juvenile offender. That contravenes Graham's (and also Roper's) foundational principle: that imposition of a State's most severe penalties on juvenile offenders cannot proceed as though they were not children.

Miller at 420-421

To make more sense of what I am trying to convey to this Court, Florida's mandatory sentencing scheme fails to

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

Raymond Bradley

Raymond Bradley
Dade Correctional Institution
19000 SW 377th Street
Florida City, Florida 33034-6409