

No. 17-912

IN THE
Supreme Court of the United States

◆
Bobby Bostic,
Petitioner,

v.
Ronda Pash, Warden,
Respondent.

◆
On Petition For Writ Of Certiorari
To The Supreme Court Of Missouri

◆
**BRIEF OF AMICI CURIAE JUVENILE LAW
CENTER, CHILDREN AND FAMILY JUSTICE
CENTER, AND THE SENTENCING PROJECT
IN SUPPORT OF PETITIONER**

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INTEREST OF AMICI¹

Juvenile Law Center, founded in 1975, is the oldest public interest law firm for children in the United States. Juvenile Law Center advocates on behalf of youth in the child welfare and criminal and juvenile justice systems to promote fairness, prevent harm, and ensure access to appropriate services. Among other things, Juvenile Law Center works to ensure that children's rights to due process are protected at all stages of juvenile court proceedings, from arrest through disposition, from post-disposition through appeal, and; that the juvenile and adult criminal justice systems consider the unique developmental differences between youth and adults in enforcing these rights.

The Sentencing Project, founded in 1986, is a national nonprofit organization engaged in research and advocacy on criminal justice and juvenile justice reform. The organization is recognized for its policy research documenting trends and racial disparities within the justice system, and for developing recommendations for policy and practice to ameliorate those problems. The Sentencing Project has produced policy analyses that document the increasing use of sentences of life without parole for both juveniles and adults, and has assessed the impact of such policies on

¹ Pursuant to Rule 37.2 counsel of record received timely notice of the intent to file this brief and the consent of counsel for all parties is on file with this Court. Pursuant to Rule 37.6, no counsel for a party authored this brief in whole or in part. No person or entity, other than *Amici*, their members, or their counsel made a monetary contribution for the preparation or submission of this brief.

public safety, fiscal priorities, and prospects for rehabilitation. Staff of the organization are frequently called upon to testify in Congress and before a broad range of policymaking bodies and practitioner audiences.

The **Children and Family Justice Center (CFJC)**, part of Northwestern University Law School's Bluhm Legal Clinic, was established in 1992 as a legal service provider for children, youth, and families, as well as a research and policy center. Currently, clinical staff at the CFJC provide advocacy on policy issues affecting children in the legal system, and legal representation for children, including in the areas of delinquency and crime, immigration/asylum, and fair sentencing practices. In its 25-year history, the CFJC has filed numerous briefs as an amicus curiae in this Court and in state supreme courts based on its expertise in the representation of children in the legal system. *See, e.g.*, Amicus Br., *Montgomery v. Louisiana*, 135 S. Ct. 1546 (2015) (No. 14-280), 2015 WL 4624620; Amicus Br., *Watson v. Illinois*, 136 S. Ct. 399 (2015) (No. 14-9504), 2015 WL 3452842.

SUMMARY OF ARGUMENT

This Court held in *Graham v. Florida*, 560 U.S. 48 (2010) that sentencing juvenile offenders who commit non-homicide offenses to life without parole violates the Eighth Amendment’s ban on cruel and unusual punishments. The Court explained: “The juvenile should not be deprived of the opportunity to achieve maturity of judgment and self-recognition of human worth and potential. . . . Life in prison without the possibility of parole gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope.” *Id.* at 79. *See also Miller v. Alabama*, 567 U.S. 460, 479 (2012); *Montgomery v. Louisiana*, 136 S. Ct. 718, 736-37 (2016). Thus, a sentence that provides no “meaningful opportunity to obtain release” is unconstitutional. *Graham*, 560 U.S. at 75.

Petitioner, Mr. Bobbie Bostic, was convicted of eighteen nonhomicide offenses when he was 16 years old. (App. I to Pet. Cert. 38a.) Mr. Bostic was sentenced to 241 years in prison comprised of consecutive terms ranging from one to thirty year sentences. (*Id.* at 41a-45a). The sentencing court sentenced Mr. Bostic to die in prison, stating that he would not be eligible for parole until 2201. (*Id.* at 39a, 41a). The Missouri Board of Probation and Parole later issued Mr. Bostic’s date of parole eligibility in the year 2091. (*Id.* at 13a-14a). At that time, Mr. Bostic will be 112 years old.

Regardless of what the sentence has been labeled, Mr. Bostic has been sentenced to life without parole. Mr. Bostic was convicted of nonhomicide crimes and, as sentenced, has unquestionably been deprived of a “meaningful opportunity to obtain release.” This Court should make clear that its

mandate in *Graham* extends to all sentences that ensure a youth will die in prison prior to their parole eligibility.

ARGUMENT

I. THIS COURT SHOULD GRANT CERTIORARI TO CLARIFY THAT *GRAHAM* PROHIBITS NOT ONLY FORMAL LIFE WITHOUT PAROLE SENTENCES BUT ALSO TERM-OF-YEARS SENTENCES THAT ARE THE FUNCTIONAL EQUIVALENT OF LIFE WITHOUT PAROLE

A. A Sentence That Precludes A “Meaningful Opportunity To Obtain Release” Is Unconstitutional Regardless Of Whether It Is Formally Labeled “Life Without Parole”

Eighth Amendment jurisprudence has clarified that the constitutionality of a sentence depends on the actual impact of the sentence upon the individual, not how a sentence is labeled. This Court took this commonsense and equitable approach in *Sumner v. Shuman*: “there is no basis for distinguishing, for purposes of deterrence, between an inmate serving a life sentence without possibility of parole and a person serving several sentences of a number of years, the total of which exceeds his normal life expectancy.” 483 U.S. 66, 83 (1987). A sentence to die in prison is life without the possibility of parole, regardless of the label.

The first time Mr. Bostic will be eligible to go before a parole board is when he is 112 years old. Asserting he will not serve a life sentence prior to parole eligibility defies logic and is stunningly cruel. Labeling a 241-year sentence a term of year sentence cannot obscure the fact that such a sentence amounts to a *de facto* life without parole sentence.² Courts cannot circumvent the categorical ban on mandatory life without parole for juveniles simply by choosing to impose consecutive term-of-years sentences that, while avoiding the label of “life without parole,” ensure the individuals will die in prison.

The sentencing court viewed Petitioner’s sentences individually and ignored the fact that they run consecutively, foreclosing his eventual release and frustrating *Graham*’s constitutional requirements. This Court should grant review to establish that lengthy term-of-years sentences are constitutionally equivalent to life without parole sentences under *Graham*, and likewise barred.

B. A Juvenile Life Without Parole Sentence Is Disproportionate

Although the Eighth Amendment does not bar the possibility that individuals convicted of nonhomicide crimes committed before adulthood will remain behind bars for life, “[i]t does prohibit States from making the judgment at the *outset* that [juvenile nonhomicide] offenders never will be fit to reenter

² “The exaltation of form over substance is to be avoided. . . . [I]t is the substance of the action that is controlling, and not the label given that action.” *United States v. DiFrancesco*, 449 U.S. 117, 142 (1980).

society.” *Graham v. Florida*, 560 U.S. 48, 75 (2010) (emphasis added). The sentencing court effectively made that judgment when it ordered Mr. Bostic to serve 241 years—longer by more than a century of the life expectancy of any human—in prison.

Because almost all youth are capable of rehabilitation as they mature developmentally and neurologically, in the context of life without parole sentences for non-homicides, the U.S. Supreme Court found that “[a] State need not guarantee the offender eventual release, but if it imposes a sentence of life it must provide him or her with some realistic opportunity to obtain release before the end of that term.” *Graham*, 560 U.S. at 82. *Graham* further clarified that this “meaningful opportunity to obtain release” should be based on “demonstrated maturity and rehabilitation.” *Id.* at 75.

As “[a] life without parole sentence improperly denies the juvenile offender a chance to demonstrate growth and maturity,” *Graham*, 560 U.S. at 73, the sentence here should be ruled invalid. A constitutional sentence must provide some opportunity for the offender to show growth and rehabilitation with time and maturity despite the severity of their youthful misconduct.

Like Mr. Graham, Mr. Bostic’s lengthy sentence of incarceration is wholly disproportionate to his offenses. The lower court failed to ensure that the punishment fit both the offense and the offender, and as such, Mr. Bostic’s sentence is unconstitutional and should be vacated.

C. Lengthy Term-of-Years Sentences That Do Not Afford Juvenile Offenders A Meaningful Opportunity To Obtain Release Are Unconstitutional

Mr. Bostic will not be eligible for parole until he is 112 years old. While this Court has not squarely addressed whether lengthy term-of-years or aggregate sentences should also be considered repugnant to the Eighth Amendment's ban on cruel and unusual punishments, several state supreme courts and federal circuit courts have, holding that when imposed on juveniles, such sentences are the equivalent of life without parole, even if the product of consecutive sentencing. (*See* Pet. Cert. 17-23.) As such, these courts have found such sentences violative of both *Graham* and *Miller*.

The Wyoming State Supreme Court recently held that a life sentence plus up to 30 additional years, leading to parole eligibility when the defendant was 70 years old, was a life without parole sentence and therefore violative of *Miller*. *Sam v. Wyoming*, 401 P.3d 834, 860 (Wyo. 2017), *petition for cert. docketed*, No. 17-952, (Jan. 4, 2018). The court relied on its previous decision in *Bear Cloud v. State*, holding that “[t]he prospect of geriatric release . . . does not provide a ‘meaningful opportunity’ to demonstrate the ‘maturity and rehabilitation’ required to obtain release and reenter society as required by *Graham*.” 334 P.3d 132, 142 (Wyo. 2014) (quoting *Null*, 836 N.W.2d 41, 71 (Iowa 2013)). The court reasoned that because the defendant was not “one of the juvenile offenders whose crime reflects irreparable corruption,” an aggregated sentence that does not

permit parole eligibility for 52 years is unconstitutional under *Miller. Sam*, 401 P.3d at 860. *See also Bear Cloud*, 334 P.3d at 141-42 (“[t]o do otherwise [not conduct a full Miller sentence, which accounts for the distinct characteristics of youth] would be to ignore the reality that lengthy aggregate sentences have the effect of mandating that a juvenile ‘die in prison even if a judge or jury would have thought that his youth and its attendant characteristics, along with the nature of the crime, made a lesser sentence . . . more appropriate.’” (quoting *Miller v. Alabama*, 567 U.S. 460, 465 (2012)))

Additionally, the Ohio Supreme Court recently struck down a young man’s sentence of 112 years as a functional life without parole sentence:

It is consistent with *Graham* to conclude that a term-of-years prison sentence extending beyond a juvenile defendant’s life expectancy does not provide a realistic opportunity to obtain release before the end of the term. *Graham* decried the fact that the defendant in that case would have no opportunity to obtain release ‘even if he spends the next half century attempting to atone for his crimes and learn from his mistakes.’ Certainly, the court envisioned that any non-homicide juvenile offender would gain an opportunity to obtain release sooner than after three quarters of a century in prison. *Graham* is less concerned about how many years an offender serves in the long term than it is about the

offender having an opportunity to seek release while it is still meaningful.

We determine that pursuant to *Graham*, a sentence that results in a juvenile defendant serving 77 years before a court could for the first time consider based on demonstrated maturity and rehabilitation whether that defendant could obtain release does not provide the defendant a meaningful opportunity to reenter society and is therefore unconstitutional under the Eighth Amendment.

State v. Moore, 76 N.E.3d 1127, 1140-1141 (Ohio 2016) (citation omitted). The state supreme courts of California, Connecticut, Florida, Illinois, Nevada, New Jersey, and Washington have all similarly found that lengthy term-of-years sentences are de facto life without parole sentences. *See People v. Caballero*, 282 P.3d 291, 295 (Cal. 2012) (three attempted murder counts constituting a 110-years-to life sentence are *de facto* life without parole); *State v. Riley*, 110 A.3d 1205, 1213-14 (Conn. 2015) (aggregate 100 year sentence for a total of four offenses, including murder, is a *de facto* life sentence); *Henry v. State*, 175 So. 3d 675, 676 (Fla. 2015) (a consecutive 90 year sentence imposed on a juvenile for eight separate felony offenses constituted a *de facto* life without parole sentence); *see also Gridine v. State*, 175 So. 3d 672, 674-75 (Fla. 2015) (a 70 year sentence for a non-homicide crime is unconstitutional because it fails to provide a meaningful opportunity for early release based on the demonstration of maturity and

rehabilitation); *People v. Reyes*, 63 N.E.3d 884, 888 (Ill. 2016) (mandatory aggregate sentences for multiple homicide and nonhomicide crimes under which the juvenile defendant would not be eligible for parole until he had served 89 years created a *de facto* life sentence in violation of *Miller* because “[a] mandatory term-of-years sentence that cannot be served in one lifetime has the same practical effect on a juvenile defendant’s life as would an actual mandatory sentence of life without parole—in either situation, the juvenile will die in prison.”); *State v. Boston*, 363 P.3d 453, 458 (Nev. 2015) (*Graham* applies to juvenile non-homicide offenders with aggregate sentences that are the functional equivalent of life without parole, and 14 parole-eligible life sentences plus a consecutive 92 years in prison, which created a minimum of 100 years, was unconstitutional under *Graham*); *State v. Zuber*, 152 A.3d 197, 201, 212-213 (N.J. 2017) (though the term-of-years sentences in the appeals were not officially “life without parole,” the juvenile defendants’ potential release after five or six decades of incarceration when they would be in their seventies and eighties implicated the principles of *Graham* and *Miller*, as the “proper focus belongs on the amount of real time a juvenile will spend in jail and not on the formal label attached to his sentence.”); *State v. Ramos*, 387 P.3d 650, 659-660 (Wash. 2017) (*Miller* applies to juvenile homicide offenders facing *de facto* life without parole sentences, whether the sentence was invoked for a single crime or is an aggregate sentence resulting from the commission of multiple crimes), *cert. denied*, 138 S. Ct. 467 (Nov. 27, 2017) (mem.).

The Iowa Supreme Court held that even sentences significantly shorter than those addressed by other state courts could be considered equivalent to life without parole. In *State v. Null*, the court held that

while a minimum of 52.5 years imprisonment is not technically a life-without-parole sentence, such a lengthy sentence imposed on a juvenile is sufficient to trigger *Miller*-type protections. Even if lesser sentences than life without parole might be less problematic, we do not regard the juvenile's potential future release in his or her late sixties after a half century of incarceration sufficient to escape the rationales of *Graham* or *Miller*. The prospect of geriatric release, if one is to be afforded the opportunity for release at all, does not provide a “meaningful opportunity” to demonstrate the “maturity and rehabilitation” required to obtain release and reenter society as required by *Graham*.

836 N.W.2d 41, 71 (Iowa 2013) (quoting *Graham*, 560 U.S. at 75). The court recognized that though the evidence did not clearly establish that Null's prison term is beyond his life expectancy, they did “not believe the determination of whether the principles of *Miller* or *Graham* apply in a given case should turn on the niceties of epidemiology, genetic analysis, or actuarial sciences in determining precise mortality dates.” *Id.* at 71-72.

Here, where Mr. Bostic will not be eligible for parole until he has served over 100 years in prison, debating whether he will have a “meaningful opportunity” to obtain release “based on demonstrated maturity and rehabilitation” is an exercise in futility. This Court should grant certiorari to resolve that sentences such as Mr. Bostic’s violate the Eighth Amendment.

II. THIS COURT SHOULD GRANT CERTIORARI TO ESTABLISH THAT EVEN DISCRETIONARY SENTENCES THAT AMOUNT TO LIFE WITHOUT PAROLE FOR JUVENILES VIOLATE THE EIGHTH AMENDMENT

A. Research Confirms That Juveniles Must Not Be Sentenced To Life Without Parole Or Its Functional Equivalent

This Court has repeatedly held that children are fundamentally and categorically different from adults, and that as such, “children are constitutionally different from adults for purposes of sentencing.” *Miller v. Alabama*, 567 U.S. 460, 471 (2012); *see also Roper v. Simmons*, 543 U.S. 551, 569-70 (2005); *Graham*, 560 U.S. at 68-69. As explained in *Miller*, “[b]ecause juveniles have diminished culpability and greater prospects for reform . . . they are [categorically] less deserving of the most severe punishments.” 567 U.S. at 471 (quoting *Graham*, 560 U.S. at 68.)

Roper and *Graham* noted three significant differences that distinguish youth from adults for culpability purposes:

First, children have a “lack of maturity and an underdeveloped sense of responsibility,” leading to recklessness, impulsivity, and heedless risk-taking. Second, children “are more vulnerable . . . to negative influences and outside pressures,” including from their family and peers; they have limited “contro[l] over their own environment” and lack the ability to extricate themselves from horrific, crime-producing settings. And third, a child's character is not as “well formed” as an adult's; his traits are “less fixed” and his actions less likely to be “evidence of irretrievabl[e] deprav[ity].”

Miller, 567 U.S. at 471 (alterations in original) (citations omitted). In reaching these conclusions about a juvenile's reduced culpability, this Court has relied upon an increasingly settled body of research confirming the distinct emotional, psychological, and neurological attributes of youth. *Graham*, 560 U.S. at 68 (confirming that since *Roper*, “developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds”).

For example, as this Court has observed, adolescents “often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them.” *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011) (quoting *Bellotti v.*

Baird, 443 U.S. 622, 635 (1979). *See also* Elizabeth S. Scott & Laurence Steinberg, *Adolescent Development and the Regulation of Youth Crime*, 18 THE FUTURE OF CHILDREN 15, 20 (2008) (“Considerable evidence supports the conclusion that children and adolescents are less capable decision makers than adults in ways that are relevant to their criminal choices.”). Although adolescents have the capacity to reason logically, they “are likely less capable than adults are in *using* these capacities in making real-world choices, partly because of lack of experience and partly because teens are less efficient than adults in processing information.” Scott & Steinberg, *supra*, at 20. Because adolescents are less likely to perceive potential risks, they are less risk-averse than adults. *Id.* at 21. *See also* Laurence Steinberg, *The Science of Adolescent Brain Development and Its Implications for Adolescent Rights and Responsibilities*, in HUMAN RIGHTS AND ADOLESCENCE 59, 64-65 (Jacqueline Bhabha ed., 2014) (“[A]dolescents’ reward centers are activated more than children’s or adult’s when they expect something pleasurable to happen. Heightened sensitivity to anticipated rewards motivates adolescents to engage in acts, even risky acts, when the potential for pleasure is high” (internal citations omitted)).

This diminished ability to perceive potential risks and make appropriate decisions is exacerbated by adolescents’ difficulty in thinking realistically about events that may occur in the future. *See* Brief for the American Psychological Association *et al.* as *Amici Curiae* Supporting Petitioners at 11-12, *Graham v. Florida*, 560 U.S. 48 (2010) (Nos. 08-7412, 08-7621). This lack of future orientation means that adolescents are both less likely to think about

potential long-term consequences, and more likely to assign less weight to those that they *have* identified, especially when faced with the prospect of short-term rewards. Scott & Steinberg, *supra*, at 20; *Graham*, 560 U.S. at 78. Because adolescents attach different values to rewards than adults do, they often exhibit sensation-seeking characteristics that reflect their need to seek “varied, novel, [and] complex . . . experiences [as well as a] willingness to take physical, social, legal and financial risks for the sake of such experience.” MARVIN ZUCKERMAN, BEHAVIORAL EXPRESSIONS AND BIOSOCIAL BASES OF SENSATION SEEKING 27 (1994). The need for this type of stimulation frequently leads adolescents to engage in risky behaviors, and as they are less able to suppress action toward emotional stimulus, adolescents often have difficulty exhibiting self-control. Scott & Steinberg, *supra*, at 21-22. All of these attributes cause adolescents to make different calculations than adults when they participate in criminal conduct.

B. De Facto Life Without Parole Sentences Are Constitutionally Disproportionate When Applied To Juveniles

Graham bars the imposition of life without parole sentences on juveniles “who do not kill, intend to kill, or foresee that life will be taken” because they “are categorically less deserving of the most serious forms of punishment than are murderers.” 560 U.S. at 69. This Court’s holding rested largely on the incongruity of imposing a final and irrevocable penalty that afforded no opportunity for release on adolescents who have the capacity to change and

grow. *See Graham*, 560 U.S. at 75. This Court explained that:

Juveniles are more capable of change than are adults, and their actions are less likely to be evidence of “irretrievably depraved character” than are the actions of adults. *Roper*, 543 U.S. at 570. It remains true that “[f]rom a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor’s character deficiencies will be reformed.”

Id. at 68 (alteration in original). *Graham* recognized that due to the salient characteristics of youth—the lack of maturity, evolving character, vulnerability and susceptibility to negative influences and external pressure—“juvenile offenders cannot with reliability be classified among the worst offenders.” *Id.* (quoting *Roper*, 543 U.S. at 569.) As such, *Graham* requires that juveniles who commit nonhomicide crimes be given “some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.” *Id.* at 75.

This Court later amplified its *Graham* rationale in *Montgomery*, recognizing that “*Miller* drew a line between children whose crimes reflect transient immaturity and *those rare children whose crimes reflect irreparable corruption*,” *Montgomery v. Alabama*, 136 S. Ct. 718, 734 (2016) (emphasis added), and that a life without parole sentence “could [only] be a proportionate sentence for the latter kind of juvenile offender.” *Id.* Thus, life without parole is

barred “for all but the rarest of juvenile offenders, *those whose crimes reflect permanent incorrigibility.*” *Id.* (emphasis added). Any life sentence that fails to consider whether the sentenced individual demonstrates “irreparable corruption,” “permanent incorrigibility,” or “irretrievable depravity,” and does not afford a “meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation” is unconstitutional. *See id.*; *See also Graham*, 560 U.S. at 75.

C. Scientific Research On Juvenile Offending Supports Early And Regular Review Of Sentences

For an opportunity for release to be “meaningful” under *Graham*, review must begin long before a juvenile reaches old age. *See, e.g., State v. Pearson*, 836 N.W.2d 88, 96 (Iowa 2013) (striking down a 35-year sentence that would render the juvenile eligible for parole at age 52 because in violation of *Miller*, it “effectively deprived [him] of any chance of an earlier release and the possibility of leading a more normal adult life”). The Florida Supreme Court recently noted that their jurisprudence made it

clear that we intended for juvenile offenders, who are otherwise treated like adults for purposes of sentencing, to retain their status as juveniles in some sense. In other words, we have determined . . . that juveniles who are serving lengthy sentences are entitled to periodic judicial review to determine

whether they can demonstrate maturation and rehabilitation.

Kelsey v. State, 206 So. 3d 5, 10 (Fla. 2016). The court discussed its earlier decision in *Henry v. State*, where it held that “*Graham* was not limited to certain sentences but rather was intended to ensure that ‘juvenile nonhomicide offenders will not be sentenced to terms of imprisonment without affording them a meaningful opportunity for early release based on a demonstration of maturity and rehabilitation.’” *Id.* at 9 (quoting *Henry v. State*, 175 So. 3d 675, 680 (Fla. 2015)).

This Court has recognized that “[f]or most teens, [risky or antisocial] behaviors are fleeting; they cease with maturity as individual identity becomes settled. Only a relatively small proportion of adolescents who experiment in risky or illegal activities develop entrenched patterns of problem behavior that persist into adulthood.” *Roper*, 543 U.S. at 570 (second alteration in original) (quoting Steinberg & Scott, *Less Guilty by Reason of Adolescence: Development Immaturity, Diminished Responsibility, and the Juveniles Death Penalty*, 58 Am. Psychologist 1009, 1014 (2003)). In a study of over thirteen hundred juvenile offenders, “even among those individuals who were high-frequency offenders at the beginning of the study, the majority had stopped these behaviors by the time they were 25.” Laurence Steinberg, *Give Adolescents the Time and Skills to Mature, and Most Offenders Will Stop*. (2014) Chicago, IL: MacArthur Foundation, p. 3, available at <http://www.pathwaysstudy.pitt.edu/documents/MacArthur%20Brief%20Give%20Adolescents%20Time.pdf>. Most juvenile offenders would no longer be a public

safety risk once they reached their mid-twenties, let alone their thirties, forties, fifties, or later. Because most juveniles are likely to outgrow their antisocial and criminal behavior as they mature into adults, review of the juvenile's maturation and rehabilitation should begin relatively early in the juvenile's sentence, and their progress should be assessed regularly. See, e.g., *Research on Pathways to Desistance: December 2012 Update*, Models for Change, p. 4, available at <http://www.modelsforchange.net/publications/357> (finding that, of the more than 1,300 serious offenders studied for a period of seven years, only approximately 10% report continued high levels of antisocial acts. The study also found that "it is hard to determine who will continue or escalate their antisocial acts and who will desist," as "the original offense . . . has little relation to the path the youth follows over the next seven years").

Early and regular assessments of juveniles would enable timely evaluation of the juvenile's maturation, progress and performance, as well as provide an opportunity to confirm that the juvenile is receiving vocational training, programming, and treatment opportunities that foster growth and rehabilitation. See, e.g., *Graham*, 560 U.S. at 74 (noting the importance of "rehabilitative opportunities or treatment" to "juvenile offenders, who are most in need of and receptive to rehabilitation"). A meaningful opportunity for release must mean more than release on a gurney to possibly imminent death outside the prison walls. It should provide an opportunity to live a meaningful life in the community and to make meaningful contributions.

CONCLUSION

For the foregoing reasons, *Amici Curiae*, Juvenile Law Center, Children and Family Justice Center, and The Sentencing Project, respectfully request that this Court grant the petition for *writ of certiorari*.

Respectfully submitted,

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