

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



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March 19, 2021

Mr. Scott S. Harris
Clerk of the Court
United States Supreme Court
1 First Street, N.E.
Washington, D.C. 20543

Re: *Washington v. Ali*, No. 20-830 (distributed for March 26, 2021 conference)

Dear Mr. Harris,

On March 15, 2021, Respondents filed a letter of additional authority and attached a recent opinion of the Washington State Supreme Court, *In re Pers. Restraint of Monschke*, ___ P.3d ___, 2021 WL 923319 (Wash. Mar. 11, 2021), for this Court's consideration. This letter serves as the State of Washington's response to that additional authority.

In *Monschke*, the Washington court held that 18-, 19-, and 20-year-old adults who were mandatorily sentenced to life without parole can demand resentencing based on *Miller v. Alabama*, 567 U.S. 460 (2012). *Monschke*, 2021 WL 923319 at *1. That decision is distinct from the issue presented in these petitions. And, although the narrow holding in *Monschke* appears based on the Washington state constitution, *Ali* and *Domingo-Cornelio* were unequivocally rooted only in the Eighth Amendment.¹

Regardless, *Monschke* makes this Court's review in these companion cases all the more necessary and urgent. The Washington Supreme Court has further extended its flawed interpretation of the Eighth Amendment, in the name of this Court's precedents, to usurp the state legislature's half-century-old determination of the age of majority. *Monschke* characterized *Miller* as declaring that "youthful" offenders cannot face mandatory life sentences—as opposed to *juvenile* offenders, as *Miller* plainly held. 2021 WL 923319 at *4 (citing *Miller*, 567 U.S. at 479-80. Moreover, in concluding that *Miller* extends to adults, *Monschke* declared that this Court "will not necessarily defer to legislative bright-line drawing when determining what constitutes cruel punishment." 2021 WL 923319 at *7. In other words, the Washington Supreme Court held that *this Court's* Eighth Amendment precedents override a state legislature's determination as to the appropriate age of majority.

¹ And contrary to the assertions in Respondents' March 15, 2021, letter, *State v. Houston-Sconiers* explicitly disavowed a state constitutional holding. 391 P.3d 409, 420, n.6 (Wash. 2017).

These further misinterpretations of the Eighth Amendment will certainly deepen existing confusion as to the scope of the Amendment as to juvenile offenders, and also threaten to lead courts and legislatures nationwide to wonder what role they have in the sentencing of serious offenders who are young adults. For these reasons, certiorari or summary reversal is needed to bring greater clarity to these Eighth Amendment issues.

Sincerely,

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