



REPLY TO:  
CRIMINAL FELONY DIVISION  
930 Tacoma Avenue South, Room 946  
Tacoma, Washington 98402-2171  
Victim-Witness Assistance: (253) 798-7400  
(FAX) (253) 798-6636

Main Office: (253) 798-7400

March 18, 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. Domingo-Cornelio*, No. 20-831 (distributed for March 26, 2021 conference)**

Dear Mr. Harris,

On March 15, 2021, Domingo-Cornelio filed a supplemental letter, submitting the Washington State Supreme Court's recent opinion in *In re Pers. Restraint of Monschke*, \_\_\_ P.3d \_\_\_, 2021 WL 923319 (Wash. Mar. 11, 2021).

The *Monschke* decision has no bearing on the pending petition. Indeed, it addresses an entirely separate issue: Whether *Miller v. Alabama*, 567 U.S. 460 (2012) requires resentencing of 19- and 20-year old offenders who were sentenced to mandatory life without parole for homicide convictions. *In re Pers. Restraint of Monschke*, \_\_\_ P.3d \_\_\_, 2021 WL 923319 (Wash. Mar. 11, 2021). The Washington Supreme Court held that this Court's Eighth Amendment analysis in *Miller* requires resentencing of "youthful" adult offenders. Respondents refer to *Monschke* as a state constitutional decision. In reality, *Monschke* rests on this Court's precedents interpreting the Eighth Amendment and *State v. Houston-Sconiers*, 391 P.3d 409 (Wash. 2017). *Houston-Sconiers* explicitly "decline[d] to address" the state constitution. *Id.* at 420, n.6.

*Monschke* further illustrates the Washington Supreme Court's erroneous employment of the Eighth Amendment, and this Court's precedent, to usurp state legislative authority. *Monschke* holds that "youthful" offenders, aged 19 and 20, cannot face mandatory life sentences even though they are adults under state law. *See* 2019 WL 923319 at \*4. Citing *Miller*, the Washington court declared that it "will not necessarily defer to legislative bright-line drawing when determining what constitutes cruel punishment." *Id.* at \*7. The Washington court held that this holding "flows straightforwardly" from *Miller* and state precedent applying *Miller*. *Id.* at \*11, \*13.





Mr. Scott S. Harris  
March 18, 2021  
Page 2 of 2

The Petitioners also write to advise the Court that proposed Washington Senate Bill 5120—which Domingo-Cornelio relied on in the Brief in Opposition—died without passage on March 10, 2021. BIO at 17 (referencing S.B. 5120, 67<sup>th</sup> Leg., Reg. Sess. (Wash. 2021)). Domingo-Cornelio argued that the Washington Legislature was “codifying” the holding of *Houston-Sconiers*, BIO at 17. On the contrary, the Washington Legislature has not ceded its authority to enact structured sentencing requirements for juvenile offenders.

Sincerely,

Mary E. Robnett  
Pierce County Prosecuting Attorney

/s/ Anne E. Egeler  
Anne E. Egeler  
Deputy Prosecuting Attorney  
*Counsel of Record*

/s/ Teresa J. Chen  
Teresa J. Chen  
Deputy Prosecuting Attorney

930 Tacoma Avenue, Rm. 946  
(253) 732-2083  
anne.egeler@piercecountywa.gov

