

No. 25-1115

In the Supreme Court of the United States

STATE OF UTAH,
Petitioner,

v.

MORRIS THOMAS MULLINS,
Respondent.

On Petition for a Writ of Certiorari
to the Supreme Court of the State of Utah

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Argument

The Court Should Grant Utah’s Petition to Resolve Continuing Lower Court Conflicts Over How to Reconcile the Court’s Precedent on Juvenile Life Without Parole Sentencing.

This Court decided *Jones v. Mississippi* specifically to resolve “disagreement in state and federal courts about how to interpret” the Court’s prior decisions on the constitutionality of sentencing juvenile murderers to life without parole (JLWOP). 593 U.S. 98, 104 (2021); see *Montgomery v. Louisiana*, 577 U.S. 190 (2016); *Miller v. Alabama*, 567 U.S. 460 (2012).

Jones did not solve the problem. It instead fanned the fire of existing disagreements. A deep split persists among lower courts on how to reconcile these conflicting cases. See, e.g., *Walker v. Cromwell*, 140 F.4th 878, 888, 892 (7th Cir. 2025) (“[T]he shifting rationales of *Miller*, *Montgomery*, and *Jones* have left unsettled whether the Eighth Amendment categorically forbids life without parole for corrigible juvenile homicide offenders”; the law “simply is not clear.”); see also Pet.8–20 (discussing split in lower courts).

The Utah Supreme Court’s divided opinion that reversed Morris Mullins’s 23-year-old JLWOP sentence highlights this split and presents an ideal vehicle to resolve the lasting confusion on this important Eighth Amendment issue. See Pet.20–22.

Mullins challenges Utah’s petition in five ways. He claims: (1) the Court lacks jurisdiction; (2) there is no split of authority; (3) this case is not an appropriate vehicle to resolve the question presented; (4) the issue is unimportant; and (5) the Utah Supreme Court’s

majority decision is correct. Mullins is wrong on all fronts. The Court should grant the petition.

A. The impossibility of later review of the federal question makes the Utah Supreme Court’s judgment final for jurisdictional purposes.

Mullins contends the Court lacks jurisdiction to review this case. He argues that there is no final judgment because his sentence was vacated and his case was remanded, and that no exception to the final-judgment rule applies. Opp.6–8. That is wrong. Despite the pending state court proceedings, the Utah Supreme Court’s decision is final for jurisdictional purposes because later review of the Eighth Amendment issue is impossible.

In appeals from state courts, the Court has jurisdiction over “[f]inal judgments or decrees rendered by the highest court of a State[.]” 28 U.S.C. § 1257(a). The final-judgment rule generally prevents review “where anything further remains to be determined by a State court,” even if unrelated to “the only federal issue” that was resolved. *Flynt v. Ohio*, 451 U.S. 619, 620 (1981) (per curiam) (citation omitted).

In criminal cases, “finality is normally defined by the imposition of the sentence.” *Id.*; *Florida v. Thomas*, 532 U.S. 774, 777 (2001). So when a sentence is pending—like it is here given the Utah Supreme Court’s order vacating Mullins’s JLWOP sentence and remanding the case for resentencing—there is no final judgment in the ordinary sense. *See Flynt*, 451 U.S. at 621.

But the Court has “not, in practice, interpreted the finality rule so strictly.” *Thomas*, 532 U.S. at 777. In

certain circumstances, the Court has “treated state-court judgments as final for jurisdictional purposes although there were further proceedings to take place in the state court.” *Flynt*, 451 U.S. at 620–21; see *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 477–83 (1975) (identifying “four categories of such cases in which the Court has treated the decision on the federal issue as a final judgment for the purposes of 28 U.S.C. § 1257”).

Finality exits, for example, where further state court proceedings are pending but “the federal claim has been finally decided,” and “later review of the federal issue cannot be had, whatever the ultimate outcome of the case[.]” *Cox*, 420 U.S. at 481. In these cases, “if the party seeking interim review ultimately prevails on the merits, the federal issue will be mooted; if he were to lose on the merits, however, the governing state law would not permit him again to present his federal claim for review.” *Id.*; see, e.g., *Kansas v. Marsh*, 548 U.S. 163, 168–69 (2006) (holding lower court’s determination that death penalty statute is facially unconstitutional was final for jurisdictional purposes because state lacked ability to “obtain further review of its death penalty law later in the case”); *New York v. Quarles*, 467 U.S. 649, 651 n.1 (1984) (holding interlocutory suppression ruling final; with conviction “a claim that certain evidence was wrongfully suppressed will be moot” and with acquittal “the State will be precluded from pressing its federal claim again on appeal”).

This exception applies here. The Utah Supreme Court rendered a final decision on Mullins’s JLWOP claim, vacating Mullins’s sentence because it was inconsistent with the court’s interpretation of the rule

established in *Miller*, *Montgomery*, and *Jones*. Pet. App. 43a–51a. And “later review of” that ruling “cannot be had” after resentencing. *Cox*, 420 U.S. at 481.

At resentencing, the district court will have discretion to choose between a sentence of life with or without parole. Utah Code § 76-3-207(6) (2026). If the court reimposes JLWOP, the State will have “prevailed” and would “have no basis to seek review” of a lawful sentence and the question presented “will be moot.” *See Pennsylvania v. Ritchie*, 480 U.S. 39, 48 (1987). And even if an appeal were allowed, it would be limited by the governing law from *Mullins*, which “would not permit [the State] again to present [the] federal claim for review.” *Cox*, 420 U.S. at 481; *see Marsh*, 548 U.S. at 168–69. Thus, “later review of the federal issue”—the Utah Supreme Court’s interpretation of this Court’s JLWOP precedent as applied to the former sentencing proceeding—“cannot be had, whatever the ultimate outcome of” resentencing. *Cox*, 420 U.S. at 481.¹

Mullins contends this exception does not apply because the sentencing court could find Mullins capable of change and impose a life-with-parole sentence, which the State could appeal. Opp.8. But life-with-parole is a legal sentence for Mullins’s crime, Utah Code § 76-3-207(4)(c) (2001), which the State could not

¹ In 2016, Utah prohibited JLWOP prospectively. Utah Code § 76-3-209 (2016). It is an open question whether JLWOP will be an option at resentencing regardless of Mullins’s corrigibility status. If JLWOP is foreclosed, then the finality of the federal question is even stronger. *See Marsh*, 548 U.S. at 168 (finality due to state law prohibiting death penalty that foreclosed further review of that prohibition).

appeal, *id.* § 77-18a-1(3)(l) (2026) (prosecution may appeal “an *illegal* sentence”) (emphasis added). Even if the State could appeal the *new* sentence, doing so would not allow the State to challenge the Utah Supreme Court’s ruling on the *former* sentence and the federal question it raises. It’s now or never.

The Utah Supreme Court’s decision is “final for jurisdictional purposes” and the Court has jurisdiction to review it. *Flynt*, 451 U.S. at 620.²

B. Many federal and state courts have failed to reconcile the *Miller* trilogy, creating a split of authority.

Mullins contends that there is no split of authority on the correct interpretation of *Miller*, *Montgomery*, and *Jones*. Opp.9–14. But he reads both the question presented and the lower court decisions too narrowly.

As explained in the petition, at least two dozen lower courts have tried to reconcile inconsistencies in the *Miller* trilogy, resulting in a split over how to interpret the legal standard for imposing JLWOP. Pet.11–20. To be sure, they do not all involve applying the *Miller* trilogy to the exact factual scenario presented in the case below. But they do all interpret the

² This exception applies more strongly here because there is “not only . . . a final judgment on the federal issue[],” but also “no other federal issues to be resolved” and “thus no probability of piecemeal review with respect to federal issues.” *Flynt*, 451 U.S. at 621; see *Cox*, 420 U.S. at 477–78. The Utah Supreme Court resolved all of Mullins’s other federal claims. Pet. App. 21a–34a.

legal standard and diverged into two groups—mirroring the Utah Supreme Court’s divided opinion.³

So, contrary to Mullins’s argument, the split is not about whether courts found corrigibility on the facts before them—explicitly or implicitly. It is about the legal rule that governs a sentencing court when such a finding is made. That legal question remains unresolved even after *Jones* and will remain so until this Court finally answers it. This case presents an ideal vehicle to resolve the split.

³ Mullins challenges the accuracy of two of the State’s parenthetical summaries of lower court cases. Opp.10–11. First, he argues that it was misleading to state that the sentencing court in *State v. Walker* “expressed hope for change” because the court “did not express hope that the *defendant* would change” but that “*society* would change.” Opp.10 (quotation simplified); see Pet.18 (citing *State v. Walker*, 2022 WL 1574255, *2 (Wis. Ct. App. Jan. 25, 2022) (unpublished)). But Mullins misses the point. The court’s hope was that changes in society would prevail in finding ways to help people like defendant change and “become productive citizens” because “available methods [for rehabilitation] had not worked on Walker.” *Walker*, 2022 WL 1574255, *2 (quotation simplified). The court thus implied that Walker may have been redeemable—offering a comment similar to the one made at Mullins’s sentencing, see Pet. App. 115a—but still believed the sentence was “not contrary to *Miller* or *Montgomery*.” *Walker*, 2022 WL 1574255, *2.

Second, Mullins contests the State’s assertion that a sentencing court regretted imposing JLWOP. Opp.11; see Pet.18–19 (citing *Holmes v. State*, 859 S.E.2d 475, 479–80 (Ga. 2021)). The court’s statement speaks for itself: “I feel that a sentence in this case is appropriate for life without parole . . . I regret it, but I feel I have to do it.” *Holmes*, 859 S.E.2d at 479 (quotation simplified).

C. There are no independent grounds for vacating Mullins’s sentence or record problems that make this case a poor vehicle.

Mullins next asserts that there are two reasons this case is a poor vehicle to resolve the question presented: (1) the State has not challenged a purported “second holding,” and (2) there is ambiguity in the sentencing court’s statement about Mullins’s chance to change. Opp.14–17. Both contentions are wrong and do not undermine the reasons to grant the State’s petition.

First, the Utah Supreme Court did not rely on “two separate and independently sufficient grounds” for vacating Mullins’s sentence. Opp.15. The majority’s decision rested solely on its interpretation of the *Miller* trilogy and how that interpretation applied to Mullins’s sentencing. The majority concluded that “under *Miller* and its progeny, if a child is capable of change and reform—that is, is not incorrigible—a JLOWOP sentence *is* disproportionate and unconstitutional.” Pet. App. 43a. And the majority believed the sentencing court’s comment made Mullins’s JLOWOP sentence inconsistent with the majority’s interpretation of *Miller*. Pet. App. 44a–51a. That is the holding that the State asks this Court to review.

Mullins argues the majority opinion also based its decision on an independent ground that the sentencing court misunderstood its “constitutional obligation to consider youth in the proper manner.” Opp.15 (internal quotation marks omitted). But that misconstrues the majority’s comments. In applying the *Miller* trilogy, the majority merely identified reasons why they believed the sentencing court’s comment mattered. This included their belief that the comment

“raise[d] significant concerns” that Mullins could not be sentenced to JLWOP and that the court did not “consider youth in the proper manner” under *Miller*. *Id.* at 46a. But these are merely rationales for the majority’s holding that the sentence was “imposed in an illegal manner.” *Id.* at 47a. Both comments relate to how the majority viewed Mullins’s sentencing through the lens of its interpretation of *Miller*, *Montgomery*, and *Jones*. Neither rationale would have mattered but for the majority’s interpretation of this Court’s precedent, which is what the State petitions the Court to review.

If the Court grants review and reverses the majority’s interpretation, both rationales vanish. There will be no grounds to uphold the majority’s judgment. The comments are therefore not independent grounds for vacating Mullins’s sentence.⁴

Second, there is no “lack of clarity in the record” that would “impede this Court’s review.” Opp.16–17. The question presented focuses on the interpretation of the legal standard from *Miller*, *Montgomery*, and *Jones* about whether JLWOP is unconstitutional when there is an explicit or implicit finding of corrigibility. The sentencing court’s comment does not inhibit the Court’s ability to correct the majority’s interpretation of the JLWOP standard—a purely legal

⁴ Mullins seeks to support his argument by taking out of context the State’s words from its petition for rehearing. Opp.16. The State’s reference to a “new basis for reversing Mullins’s sentence” did not identify a *second* basis, but a *changed* basis—from deciding Mullins’s sentence was “illegal” to deciding it was “imposed in an illegal manner.” Reh’g Pet. at 5 (Nov. 21, 2025). This basis was *new* because “it was not raised by Mullins on appeal” and “the State has never been able to address” it. *Id.*

question. At worst, depending on how the Court resolves the question, remand may be necessary for the Utah Supreme Court to apply the new decision to the specific facts of this case. But that is not unusual and it is not a vehicle problem.

D. The issue is important and recurring.

Mullins claims the question presented is not “consequential enough” because it will not “really matter either for Utah or for the rest of the country.” Opp.17. But that ignores the important real-world interests at stake and continuing lower court splits.

Certiorari may be granted when a state court of last resort “has decided an important federal question in a way that conflicts with” other state and federal courts. Sup. Ct. R. 10(b). As explained, state and federal courts are hopelessly divided on how to reconcile this Court’s precedent. *See* Pet.11–20; Part B, *supra*.

So Mullins’s suggestion that the question doesn’t matter nationally defies legal reality. The dwindling numbers of JLWOP jurisdictions and sentences do not prove otherwise. Fewer is not none.⁵ And *Miller* anticipated that such sentences would be “uncommon” anyway, 567 U.S. at 479, but still granted cert-review in *Montgomery* and *Jones* to address lingering conflicts and confusion. The split remains, as do the same reasons to grant review that justified those prior successful petitions.

⁵ The Court granted certiorari in *Kian v. Florida* to decide whether the Sixth Amendment requires the use of 12-person juries in serious criminal cases even though only six states use juries with less than 12 jurors. *Kian v. Florida*, No. 25-6623, 2026 WL 1718018, *1 (U.S. June 15, 2026).

The Court’s prior assumption that “most offenders who could seek collateral review as a result of *Montgomery* have done so,” *Jones*, 593 U.S. at 110 n.4, is also of little concern. More recent data suggests that is “simply not true” everywhere. *See Bassett v. Arizona*, 144 S. Ct. 2494, 2498–99 (2024) (Sotomayor, J., joined by Kagan and Jackson, JJ., dissenting from denial of certiorari); *see also* Campaign for the Fair Sentencing of Youth, *Unusual & Unequal: Juvenile Life Without Parole at 4* (April 2024) (last visited Aug. 24, 2026), <https://perma.cc/5ZRS-ZY5U> (reporting 353 juvenile murderers were still awaiting resentencing). Plus, enduring confusion on the legal standard invites juvenile murderers resentenced to JLWOP since *Miller*, *Montgomery*, or *Jones* to challenge their new sentences if there were any implicit or explicit findings of corrigibility—or even offhand comments or expressions of “hope” like the one made here. *See* Pet. App. 115a.

Mullins’s contentions that this Court’s review will not matter for him or for the State also ignores the depravity of his crime in Utah and its effect on others. While the question presented is purely legal, it’s not some abstract hypothetical law school exam question. Mullins committed a gruesome crime against an elderly Utah woman with loved ones of her own. So the answer matters a great deal to Utah and the victim’s relatives regardless of whether Mullins ends up serving jail time in Arizona for a separate crime in that state. *See* Opp.17. Both the State and the family of Amy Davis have profound interests in whether a valid sentence was erased for a Utah crime—and may be unavailable at resentencing—based on a misunderstanding of *Miller* and its progeny, regardless of the

availability of JLWOP in future Utah cases. *See supra* note 1.

Unless and until this Court answers the question presented, there will be a gap in the Court’s JLWOP precedent that needs closing.

E. The majority’s interpretation of the *Miller* trilogy is incorrect and should be reversed.

Finally, Mullins argues that the Utah Supreme Court majority opinion got it right. Opp.20–21. Even if it did, that is not a reason to deny cert. Affirming would still be significant because it would resolve the continuing confusion surrounding this important constitutional limitation.

But the majority got it wrong. While *Jones* carefully avoided overruling either *Miller* or *Montgomery*, its preeminent holding—and the last word on the matter from this Court—is crystal clear: “a State’s discretionary sentencing system is both constitutionally necessary and *constitutionally sufficient*.” *Jones*, 593 U.S. at 105 (emphasis added). If that holding has any meaning at all, then the majority’s decision must be reversed. Mullins’s JLWOP sentence was imposed under Utah’s discretionary sentencing scheme, which required the court to consider his “youth and its attendant characteristics[.]” *Miller*, 567 U.S. at 483. That was “constitutionally sufficient.” *Jones*, 593 U.S. at 105.

Mullins ignores this key holding from *Jones* entirely. Opp.20–21. He has no way to explain it without conceding that his JLWOP sentence satisfies the Eighth Amendment.

The majority decision of the Utah Supreme Court wrongly interpreted this Court's JLWOP precedent. Review should be granted and the decision reversed.

Conclusion

The Court should grant the petition for writ of certiorari to resolve the split of authority concerning the Eighth Amendment standard for imposing JLWOP on juvenile murderers.

Respectfully submitted,

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