No. 25-

IN THE
Supreme Court of the United States

KEVIN SALVADOR GOLPHIN,
Petitioner,

v.

STATE OF NORTH CAROLINA,
Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of North Carolina

PETITION FOR A WRIT OF CERTIORARI

EAMON P. JOYCE*
CHRISTINA PRUSAK CHIANESE
BRIANNA O. GALLO
BRIAN C. EARL
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, NY 10019
(212) 839-5300
ejoyce@sidley.com
Counsel for Petitioner
* Counsel of Record

August 15, 2025

QUESTION PRESENTED

Whether North Carolina, in conflict with this Court's precedents and those of other states, has violated the Eighth Amendment by creating a *de facto* mandatory life-without-parole sentencing regime for juvenile offenders by invariably considering the facts of the juvenile's crime to be dispositive.

PARTIES TO THE PROCEEDING

All parties to the proceeding are listed in the caption. The petitioner is not a corporation.

STATEMENT OF RELATED CASES

This case arises from the following proceedings in the North Carolina Superior Court, Cumberland County, the North Carolina Court of Appeals, and the North Carolina Supreme Court:

State v. *Golphin*,
No. 97CRS47312 (Super. Ct. Cumberland Cnty. Apr. 13, 2022);

State v. *Golphin*,
No. COA22-713 (N.C. Ct. App. Feb. 6, 2024),
petition for reh'g en banc denied (Mar. 12, 2024); and

State v. *Golphin*,
No. 441A98-5 (N.C. Mar. 19, 2025).

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Kevin Salvador Golphin respectfully seeks a writ of certiorari to review the judgment of the Supreme Court of North Carolina.

OPINIONS AND ORDERS BELOW

The order of the North Carolina Supreme Court denying the petition for discretionary review is published at *State* v. *Golphin*, 912 S.E.2d 838 (N.C. 2025) (Mem.) and appears in the Appendix of this Petition ("Pet. App.") at 40a. The North Carolina Court of Appeals' opinion is reported at *State* v. *Golphin*, 898 S.E.2d 37 (N.C. Ct. App. 2024) and appears at Pet. App. 1a. The North Carolina Court of Appeals' order denying rehearing en banc is unpublished and appears at Pet. App. 38a. The North Carolina Superior Court's decision resentencing petitioner to two sentences of life without the possibility of parole is unpublished and appears at Pet. App. 31a.

STATEMENT OF JURISDICTION

The North Carolina Supreme Court denied Mr. Golphin's petition for discretionary review on March 19, 2025. Chief Justice Roberts extended the time to file this Petition to August 16, 2025. This Court has jurisdiction to review the decision of the North Carolina Supreme Court under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Eighth Amendment to the U.S. Constitution states: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. amend. VIII.

INTRODUCTION

North Carolina has gone rogue in imposing sentences of life without parole on juvenile offenders and failing to heed this Court's Eighth Amendment holdings, thus putting it significantly out of step with state courts around the country.

Over the last two decades, scientific consensus and constitutional consensus have converged—children are different from adults, and especially so when it comes to their moral culpability for even the most heinous crimes. Crediting modern neuroscience, this Court has repeatedly recognized that adolescents lack the maturity and capacities of adults, are more impetuous and reckless, are more easily influenced by peers and environmental factors, and have an immense capacity for change and reform. *Miller* v. *Alabama*, 567 U.S. 460, 471, 476 (2012); *Roper* v. *Simmons*, 543 U.S. 551, 569–70 (2005). These insights led this Court to restrict the punishments available for juvenile offenders in a number of contexts, holding in *Miller* that mandatory sentences of life imprisonment without the possibility of parole ("LWOP") for juvenile offenders are unconstitutional under the Eighth Amendment's prohibition against cruel and unusual punishment. 567 U.S. at 489.

In the thirteen years since *Miller*, twenty-eight states and the District of Columbia have banned juvenile LWOP, while five additional states currently have no juveniles serving such a sentence.[1] Many more states have rigorously applied *Miller* and its progeny, ensuring that—consistent with this Court's decisions

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[1] The Campaign for the Fair Sentencing of Youth, *Juvenile Life Without Parole: Unusual & Unequal*, at 5 (Apr. 2024), https://cfsy.org/wp-content/uploads/JLWOP-Unusual-Unequal-April-2024.pdf.

affording juveniles significant protections under the Eighth Amendment—life without parole is imposed on only the rarest of juvenile offenders and only after "considering an offender's youth and attendant characteristics . . . as a mitigating factor." *Jones* v. *Mississippi*, 593 U.S. 98, 106, 108–09 (2021).

North Carolina now has done the opposite. The decision under review is one of a series of rulings that have allowed a *de facto* mandatory sentencing scheme to take hold. In North Carolina, appellate courts hold that the fact that a juvenile offender committed homicide—a fact, of course, inherent to even eligibility for a life-without-parole sentence—is conclusive and requires LWOP. As a justice on the North Carolina Supreme Court recently summarized, that court has "signal[ed] a shift in the *Miller* sentencing hearing inquiry away from the circumstances of the offender *and* his offense in *favor of his offense only*." *State* v. *Sims*, 912 S.E.2d 767, 786–87 (N.C. 2025) (Earls, J., concurring) (second emphasis added). Through these decisions, North Carolina has effectively reinstated the type of mandatory sentencing scheme that *Miller* held is unconstitutional, failed to heed *Miller* and *Jones*'s requirements that any sentencing scheme be discretionary such that juvenile LWOP is imposed "relatively rarely," and established itself as an extreme outlier among states with respect to Eighth Amendment jurisprudence involving minors.

Mr. Golphin's case is a prime example of the North Carolina courts' miscarriage of this Court's edicts in *Miller* and related cases. The court's decision resentencing Mr. Golphin to life without parole hinged on the court's determination that Mr. Golphin (like all juvenile homicide offenders) committed a heinous crime as a child. Viewing the crime alone as dispositive, the court gave no meaningful

consideration to the uncontroverted evidence that, at the time of the offense, Mr. Golphin was a traumatized and impulsive child suffering from significant, untreated mental and behavioral disorders linked to physical and mental abuse at the hands of his parents, or that, as the State and the resentencing court conceded, Mr. Golphin has developed into a "more stable," thoughtful, "matured" adult and a "bright young man" who has grown and rehabilitated himself during his nearly thirty years in prison.

This issue is important and recurring. In 2025 alone, the North Carolina Supreme Court approved juvenile life without parole, or allowed such sentences to stand by denying review, in all five cases involving such a sentence that came before it, including Mr. Golphin's. North Carolina's evisceration of the constitutional protections owed to juvenile offenders warrants this Court's intervention.

STATEMENT OF THE CASE

This Petition arises from the 2022 resentencing of Mr. Golphin to life without parole for a juvenile offense from 1997. By the time of his resentencing as a 42-year-old, Mr. Golphin had gone without a disciplinary offense in prison for eight years, emerged from a decade-plus stay in solitary confinement with a commitment to educate himself and serve society, had completed all the behavioral and anger management coursework offered by the North Carolina prisons, transformed himself from barely literate to an avid reader with a GED, and was deeply remorseful about the crimes he committed during a fast-moving, physical traffic stop decades earlier as an emotionally impaired teenager.

A. Factual Background

1. Kevin Golphin was born in 1979 into a vicious cycle of horrific abuse that had started *in utero*. His father "severely abused" Mr. Golphin's mother, Sylvia, during her pregnancy, T 211:9–19; E18–E20; E68; E104.[2] After Kevin's birth, his father abused him as a baby and young toddler using belts and burning cigarettes to discipline ordinary child behavior like bed-wetting. E1; E18–E19. Sylvia and her children eventually fled from Mr. Golphin's father, but the cycle of abuse continued. E1; E19–E20; E105. Sylvia became Mr. Golphin's tormentor, forcing him and his brother, Tilmon, to strip their clothes as she used her fists, shoes, belts, switches, and extension cords to beat their naked bodies. E3; E436–E441; E466; T 213:21–214:2. When Mr. Golphin was just nine years old, he reported that Sylvia "was tying [him] to [a] bed [and] beating [him]," E536, and that he "experienced beatings 'with clothes off . . . in private parts,'" E466. Sylvia also became involved in abusive relationships with men who beat her in front of her children, encouraged her to beat her sons, and abused her children themselves. E4–E5; E20; E471; T 212:9–213:16.

When Kevin was eleven years old, Sylvia was convicted of child abuse. E441–E442; T 214:16–215:8. Child Protective Services found that Sylvia had whipped then-eleven-year-old Tilmon with an

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[2] The record citations here follow the conventions of the North Carolina appellate courts and the filings below. Evidence admitted in the resentencing court was included in the Record on Appeal in the North Carolina Supreme Court and cited as "E__." The Record on Appeal in the North Carolina Supreme Court also includes the transcript from Mr. Golphin's 1998 trial, which is cited as "TT ___," and the transcript from the 2022 resentencing hearing, which is cited as "T __."

electrical cord while naked to punish him for biking too far from home. E438–E439. The beating broke skin and caused multiple inches-long welts. E437–E438; T 215:16–216:10. Child Protective Services also noted that Sylvia had "almost choked [Tilmon] to death" during a prior incident. E438.

Child Protective Services documented that Kevin suffered similar, or potentially more extreme, abuse and was "beaten more frequently" than Tilmon. E437; E106; E68. However, the state authorities allowed both children to remain under their mother's care. E441–E442; T 214:16–215:8.

Mr. Golphin's childhood was also marred by emotional abuse and neglect, instability, and a lack of basic necessities such as shelter, electricity, and food. E3–E6; E19; T 214:2–7, 231:6–18. By age eight, Mr. Golphin had been identified as "learning disabled" and "seriously emotionally disturbed," and at age nine, he was diagnosed with Oppositional Defiant Disorder, Attention Deficit Hyperactivity Disorder, depression, and "low self-esteem." E677–E678; E464–E468.

Although Mr. Golphin's schools prescribed interventions and offered support to address his learning and behavioral challenges, Sylvia stonewalled the schools' efforts. She denied Kevin the resources he desperately needed by refusing to sign forms, return phone calls or attend meetings necessary to implement a support program for him. In one instance, after Sylvia repeatedly missed scheduled meetings, a social worker summarized to a special education coordinator, "We are dealing with an abnormal situation in Mrs. Golphin. I suggest we stop **WASTING TIME** and take this case to mediation so that Kevin can get services." E743. When school systems and social workers took steps to override her refusals to consent to the necessary supports for her

son, she moved him to a new location and school district. E3–E4; E20–E21; E105; T 229:21–231:5; E536; E743–E748; E752.

2. This abuse and neglect gravely impacted Mr. Golphin's mental and emotional health. At just *nine years old*, he had suicidal ideations and homicidal ideations directed at his mother, which resulted in his hospitalization and months of in-patient psychological treatment. E461.

Due to his consistent behavioral and emotional issues, Mr. Golphin was admitted to a residential care facility for troubled youth where he lived weekdays from ages 10 to 12. E664. During that time, Kevin thrived in the structured environment free from his mother's abuse, receiving positive reports for behavior and academics. E114; E602; E607; E462; E739; T 251:22–252:12, 306:10–307:24. He did so well that he was discharged to return home, with directions for his mother to obtain significant outpatient care for him. E601; E608; E463; E469.

Again, however, Sylvia refused to allow her son to get that care. Following his discharge, Kevin received no outpatient treatment, despite his doctors' clear, detailed orders as to the extensive supports that would be essential for his continued wellbeing. E463; E469; E960; T 235:13–25, 255:18–256:7, 308:5–11; see also E112–E114; T 161:24–163:3, 254:5–256:7, 260:3–261:22, 307:25–308:11. Instead, Mr. Golphin returned to the same chaotic, abusive, and horrific homelife. Kevin instantly went from the extensive supports in a warm and nurturing environment that his residential care facility provided to nothing. Unsurprisingly, without any outpatient care or emotional supports, Mr. Golphin's struggles and behavioral difficulties at home and at school resumed and then intensified. See,

e.g., E68; T 154:14–24, 223:1–9. Mr. Golphin dropped out of school at age 15. E69; E427.

3. On September 23, 1997, Mr. Golphin was a 17-year-old traumatized and impulsive child suffering from significant mental and behavioral disorders that left him unable to "reason or think straight" under stress due to his untreated conditions. T 210:8–20, 154:14–24, 156:19. A pediatric psychologist subsequently opined that Mr. Golphin had the emotional and behavioral maturity of a much younger boy at the time of the offense. T 167:3–7. While in that already-fragile condition, Mr. Golphin was involved in a traffic stop related to a failure to wear a seatbelt that quickly escalated and led to Mr. Golphin committing the crimes from which this Petition arises.

Earlier that day, Mr. Golphin and Tilmon entered a South Carolina financial lending facility armed with a rifle stolen from their grandfather with a loosely-formed, absurd idea to steal a car, return to their hometown of Richmond, Virginia, rob a grocery store, travel to Florida, and then try to leave the country. T 30:7–32:1, 345:8–19. They never intended to harm anyone. T 326:22–327:3. After obtaining the keys for a car from one of the lending facility employees at gunpoint, the brothers proceeded north on Interstate-95 in the stolen vehicle. T 30:7–32:1. Near Fayetteville, North Carolina, State Trooper Edward Lowry pulled over Mr. Golphin and Tilmon for a routine seatbelt violation. TT 2356:1–21.

Mr. Golphin was removed from the car, patted down, and placed unrestrained in the front seat of the patrol car while Trooper Lowry wrote a ticket. TT 2356:22–2358:7; T 337:25–338:2. In short order, however, the ordinary traffic stop escalated dramatically. After learning by radio that the car was stolen, Lowry requested back-up, T 32:18–20, ordered Kevin from

the car at gunpoint, T 328:16–17, and slammed his head against the hood of the car, T 328:24–329:3. Lowry holstered his pistol and ordered Mr. Golphin to place his hands behind his back. T 329:6–8. Kevin did not move. T 329:21–23. As Mr. Golphin later testified, at this point, he "had already shut down." T 329:16–23. In response, Lowry placed him in an armlock with his hands on the back of Mr. Golphin's neck and told Mr. Golphin he "was going to break [his] neck." TT 2361:14–17; T 329:21–330:8. When Mr. Golphin began struggling to protect himself, Lowry "picked [Mr. Golphin] up and then slammed him to the ground head first." TT 2362:9–12. Lowry then mounted Mr. Golphin's back while putting pressure on his neck. TT 2362:6–2363:21, 2554:2–12. Mr. Golphin told Lowry "he could not breathe." TT 2554:13–20.

At that point, Cumberland County Sheriff's Deputy David Hathcock arrived. T 32:25, 44:20–45:2, 47:18–22. He intercepted Tilmon, who was exiting the stolen car, brought him towards Lowry and Mr. Golphin, and pepper-sprayed Mr. Golphin in the eyes and face. TT 2359:4–9; T 33:9–15. Tilmon broke free from Hathcock, retrieved his grandfather's rifle from the stolen car, and opened fire, fatally striking both officers while also hitting Mr. Golphin in the buttocks. T 33:16–24, 50:3–15; TT 1932:19–1933:16. All of these events—from Lowry ordering Mr. Golphin out of the car at gunpoint and slamming his head against the hood of the car to Tilmon firing the rifle—happened within the span of just three or four minutes. T 49:22–50:1.

Dazed, partially blinded, and wounded, Mr. Golphin grabbed Trooper Lowry's pistol and fired downward at Lowry and, as he was backing away to the stolen car, fired downward toward Hathcock, later testifying that he was not thinking as he acted. T 330:18–331:25.

Expert psychologists explained during resentencing proceedings that Mr. Golphin's behavior was consistent with the mental and emotional conditions that afflicted him as a child: impaired impulse control, disassociation, and a profound inability to regulate responses under stress, and in particular, the stress of a physical confrontation. T 175:15–24, 234:12–20, 273:5–274:2. Mr. Golphin's mental conditions caused "struggles related to the thinking and decision making involved with weighing the consequences of actions in the moment" and he was in constant "fight or flight . . . mode" as a result of the trauma he endured. T 154:14–24, 156:17–19, 175:15–24. The experts further testified that, especially in fast-moving and adrenaline-inducing situations such as this, Mr. Golphin's mental issues *prevented* rational thought. T 154:14–24,156:19, 175:15–24. Moreover, the experts explained that, due to the bond that Kevin and Tilmon formed during their hellish childhood, Mr. Golphin's mistaken belief that the initial shots were being fired at, not by, Tilmon caused him to become "very agitated" and further "exacerbated" his "fight or flight instincts." E117; T 275:20–277:2.

4. Still a teenager at the time of conviction, Mr. Golphin was sentenced to death by a jury that had not been instructed on the brain science regarding juveniles' capacity and the "distinctive attributes of youth," *Miller*, 567 U.S. at 472, or their relevance to sentencing. That jury also did not hear any of the extensive evidence of Mr. Golphin's cognitive deficits, mental illness, or significant developmental limitations at the time of his offense that resulted from his years of neglect and abuse.

5. Mr. Golphin initially struggled in prison. E117–E118; E208; E425–E426; T 263:10–264:12, 309:22–25. He attempted suicide within his first week there, and

consistent with his untreated mental health and behavioral problems, he was defiant, disrespectful, and angry. E117–E118; E425–E426; E208; T 263:16–264:12, 309:22–25. In his first three years of incarceration, Mr. Golphin was found guilty of 10 nonviolent disciplinary infractions. E208. In 2001, he was placed in solitary confinement, where he remained for the next decade. E377–E379. Solitary confinement initially seemed to break Mr. Golphin: from May 2001 through 2006, he was guilty of 17 disciplinary infractions. E208.

But even while still in solitary, things changed dramatically. Mr. Golphin learned "a new way of thinking" that "changed [his] life," and decided to "take accountability for [his] actions," "own up" to his past, and improve his life. T 311:2–7. Mr. Golphin became a voracious reader, overcoming his childhood illiteracy, and engaged in "a lot of self-introspection," including a regimen of writing, meditation, and prayer. T 310:11–312:10; E119.

By the time he left solitary confinement in 2010, he was a different person, and, by the time of his resentencing proceeding in April 2022, Mr. Golphin had undergone significant transformation and rehabilitation. T 311:4–312:5. The State's records evidence that Mr. Golphin obtained a GED and sought out and completed anger management and cognitive behavioral therapy courses focused on conflict resolution and coping skills. E434–35; T 312:11–314:22. The State's records further show that in the eight years prior to his resentencing—from 2014 onward—Mr. Golphin was not found guilty of a disciplinary infraction, despite being housed throughout that period in a highly chaotic and violence-prone general population dorm with 80 other inmates. T 269:3–21; see also E208 (just five primarily

defiance-related infractions between 2006–2014). As a result, Mr. Golphin had been in medium custody and steadily employed for years before resentencing. T 268:2–22, 315:10–16; E270–E297. And in that environment, he had put the lessons from his behavioral coursework provided by the North Carolina Division of Prisons into action, focusing on maintaining a "positive mental attitude," a cornerstone of the North Carolina Prisons' Napoleon Hill program, which helped him to resolve any conflict "on a positive note." T 313:24–314:10.

B. Proceedings Below

1. On April 11–13, 2022, the North Carolina Superior Court held a three-day resentencing proceeding.[3] Mr. Golphin and three expert witnesses testified. Pet. App. 31a. The experts included Dr. Peter Duquette, then of UNC Health (currently of Duke Health), whose professional experience includes diagnosing mental and/or psychiatric disorders from which children may suffer and evaluating how childhood trauma may manifest in patients later in life, and Dr. James Hilkey, the former Chief of Psychology Services at Butner Federal Correctional Institution. T 134:24–136:12, 137:1–7. Dr. Duquette subjected Mr. Golphin to extensive psychological testing. T 138:6–8.

Drs. Duquette and Hilkey testified that Mr. Golphin had been substantially rehabilitated since his crimes

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[3] Following this Court's decision in *Roper*, Mr. Golphin's death sentence was vacated and replaced with a mandatory life-without-parole sentence. Then, after this Court's rulings in *Miller* and in *Montgomery* v. *Louisiana*, 577 U.S. 190, 206–08 (2016) (holding that *Miller* applies retroactively), Mr. Golphin was granted a new sentencing proceeding. That 2022 sentencing proceeding and its subsequent appeals give rise to this Petition.

in 1997. For example, based on his evaluation and psychological testing, Dr. Duquette testified that Mr. Golphin showed "significant" and "marked difference[s]" from the evaluations at the time of his offense. T 170:2–171:9. Dr. Duquette found that Mr. Golphin was "able to self-regulate his behavior and emotions," and showed no signs of "emotional mood swings or any types of behavioral impulse control" issues. T 167:21–170:9; E70; E75.

Dr. Duquette also found no evidence that Mr. Golphin still suffers from the mental and emotional disorders he had as a juvenile and at the time of the offense. Therefore, Dr. Duquette testified that, as compared to when Mr. Golphin was 17, he is "more able to control his impulses," "more mature," and "more able to appreciate[] the consequences of his actions." T 167:21–170:1, 171:10–16, 176:19–177:6.

Similarly, based on his in-person evaluations of Mr. Golphin and review of his records, Dr. Hilkey testified that Mr. Golphin has "made a deliberate effort to change [his behaviors]" and in fact has experienced "substantial change" post-incarceration. T 279:7–19; see also T 264:13–18, 266:11–267:8, 294:20–23. Dr. Hilkey testified that he is "impressed" by the degree to which Mr. Golphin has altered his behaviors and mindset in prison and has "hope for [Mr. Golphin's] future adjustment." T 267:6–8, 269:23–270:21. Dr. Hilkey also explained that he "hold[s] out little hope for substantial change" for "[m]any people that [he] ha[s] seen [throughout his career] . . . . [T]here are people that are probably incorrigible and hopeless. Mr. Golphin is not one of these people in my opinion." T 280:3–11. Dr. Hilkey concluded that "Mr. Golphin is unlikely to engage in violence in the future even if placed in a similarly triggering scenario [to the traffic stop at which he committed his crime.]" E122.

Dr. Hilkey did so based on many factors, including: Mr. Golphin's "maturation" with "self-directed efforts of personal growth" and his "remorse and capacity to appreciate the pain caused by his actions"; that Mr. Golphin has "spent much of his time in prison working through the underlying anger . . . that likely contributed to his inability to avoid violent escalation"; a prison disciplinary record showing Mr. Golphin "has become skilled in avoiding conflict and escalation"; and Mr. Golphin's "self-motivated discipline and self-awareness," including a desire to reintegrate into society. See *id.*

Mr. Golphin testified that his resolve toward personal development has resulted in "a lot of growth." T 309:8–10. In contrast to the 17-year-old who thought he knew everything, Mr. Golphin testified that he "know[s] enough to know that [he] do[esn't] know [any]thing at all." T 309:8–310:2. He also testified that he wants to take college courses in psychology and sociology; his goal is to "pay it forward" by counseling troubled youth. T 314:11–315:6, 317:16–318:2.

The State did not present any witness testimony or other evidence at resentencing to rebut Mr. Golphin's growth in prison. Nor did the State present any evidence regarding Mr. Golphin's capacity for change in the future, let alone any lack of such potential. To the contrary, the State conceded that "it sure seems like" Golphin "has matured," T 358:3–5, "seems to be more stable," T 358:20–23, and that the "takeaway" from Dr. Duquette's testimony was that "Golphin was more mature when he got older," T 366:20–22. The prosecutor praised Mr. Golphin's testimony as "refreshingly candid," T 354:19–20, and characterized Mr. Golphin as "more articulate than some lawyers" and "a bright young man," T 356:10–12. The court made no adverse credibility findings.

2. The resentencing court nonetheless imposed two consecutive life-without-parole sentences. Pet. App. 37a. It concluded "that [d]efendant's *crimes* demonstrate his permanent incorrigibility." *Id.* (emphasis added). The North Carolina Court of Appeals rejected Mr. Golphin's Eighth Amendment challenge and instead affirmed the life-without-parole sentences based on the resentencing court's view of what Mr. Golphin's "crimes [as a juvenile] demonstrate[d]." *Id.* at 9a, 29a.[4] Although the appellate court stated that Mr. Golphin "may be commended on the improvements he has made while incarcerated," *id.* at 26a, it found no Eighth Amendment problem in disregarding the unique circumstances of Mr. Golphin's mental and emotional state as a juvenile, the undisputed evidence of his reformation while incarcerated, and his continued capacity for growth and change. The North Carolina Supreme Court denied discretionary review. *Id.* at 40a.

Contemporaneous with the denial of Mr. Golphin's petition, the North Carolina Supreme Court issued a series of decisions upholding life-without-parole sentences by treating the crimes of conviction as dispositive. See *State* v. *Tirado*, 911 S.E.2d 51, 71 (N.C. 2025); *Sims*, 912 S.E.2d at 786; *State* v. *Borlase*, 912 S.E.2d 795, 805 (N.C. 2025). As a concurring

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[4] The North Carolina Court of Appeals also rejected Mr. Golphin's argument that, irrespective of *Miller*, the resentencing court's decision violated the North Carolina Constitution's protections. Pet. App. 13a–14a. The North Carolina Supreme Court had held the state constitution "offers protections distinct from, and . . . broader than, those provided under the Eighth Amendment." *State* v. *Kelliher*, 873 S.E.2d 366, 382 (N.C. 2022). As discussed below, the North Carolina Supreme Court has subsequently jettisoned *Kelliher*'s interpretation of the state constitution.

justice summarized in *Sims*, "the majority signals a shift in the *Miller* sentencing hearing inquiry away from the circumstances of the offender *and* his offense in favor of his offense only. . . . [T]he majority distills the *Miller* sentencing inquiry to a singular focus on the facts of the crime." 912 S.E.2d at 786–87 (Earls, J., concurring).

Mr. Golphin now seeks certiorari.

REASONS FOR GRANTING THE PETITION

I. NORTH CAROLINA'S *DE FACTO* MANDATORY SENTENCING REGIME CONFLICTS WITH THIS COURT'S EIGHTH AMENDMENT JURISPRUDENCE AND ITS APPLICATION BY LOWER COURTS.

In a series of recent decisions, North Carolina has declared that juvenile offenders may be sentenced to die in prison based solely on the crime committed and, moreover, that cursory nods to the offender's youth are sufficient to satisfy the Eighth Amendment. North Carolina's offense-centric approach to juvenile sentencing conflicts with this Court's Eighth Amendment jurisprudence and with other courts' applications of those rules.

This Court has repeatedly held that, under the Eighth Amendment, children are "constitutionally different from adults for purposes of sentencing" and, thus, may not be sentenced to the harshest punishments based solely on the facts of their crimes. See *Miller*, 567 U.S. at 471; *Roper*, 543 U.S. at 570. In *Roper*, for example, the Court concluded that a categorical ban on the death penalty for juvenile offenders was necessary under the Eighth Amendment because there is an "unacceptable likelihood" that a sentencer would allow "the brutality or cold-blooded

nature of any particular crime" to "overpower mitigating arguments based on youth as a matter of course, even where the juvenile offender's objective immaturity, vulnerability, and lack of true depravity should require a sentence less severe than death." 543 U.S. at 573. And in *Graham* v. *Florida*, the Court banned sentencing juvenile offenders to LWOP for non-homicide offenses, explaining that, while "[a] juvenile is not absolved of responsibility for his actions, . . . his transgression 'is not as morally reprehensible as that of an adult.'" 560 U.S. 48, 68 (2010).

In *Miller*, the Court held that mandatory LWOP sentences for juvenile offenders violate the Eighth Amendment. 567 U.S. at 479–80. The Court recognized that "'youth is more than a chronological fact,'" and is instead "a time of immaturity, irresponsibility, 'impetuousness[,] and recklessness.'" *Id.* at 476. But youth's "'signature qualities' are all 'transient,'" which means that sentencing must be different than it is for adults. *Id.*

Most pertinent here, *Miller* emphasized that none of the distinctive attributes of youth are "crime-specific." *Id.* at 473. Thus, even when a juvenile commits a heinous crime, sentencers are "*require[d]* . . . to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." *Id.* at 480 (emphasis added). And, while this Court stopped short of categorically banning LWOP sentences for juvenile homicide offenders, it stated that given "children's diminished culpability and heightened capacity for change, we think appropriate occasions for sentencing juveniles to this harshest possible penalty [of LWOP] will be uncommon." *Id.* at 479.

In *Montgomery* v. *Louisiana*, the Court explained that "*Miller* . . . established that the penological justifications for life without parole collapse in light of 'the distinctive attributes of youth,'" and that such sentences must be reserved for only the "rare" juvenile homicide offender. 577 U.S. 190, 208 (2016) (quoting *Miller*, 567 U.S. at 472). The Court reiterated "*Miller*'s central intuition—that children who commit even heinous crimes are capable of change." *Id.* at 212.

Most recently, in *Jones*, this Court reaffirmed *Miller* and *Montgomery*. 593 U.S. at 118. The Court reiterated that "*Miller* mandated . . . 'that a sentencer . . . consider[] an offender's youth and attendant characteristics . . . before imposing' a life-without-parole sentence." *Id.* at 106 (quoting *Miller,* 567 U.S. at 483). It explained that a discretionary sentencing regime is necessary to ensure that sentencers afford "individualized 'consideration' to, among other things, the defendant's 'chronological age and its hallmark features.'" *Id.* at 109, 115 (quoting *Miller,* 567 U.S. at 477).

While many courts across the country have properly applied this Court's Eighth Amendment holdings, North Carolina has recently made itself an extreme outlier, essentially reverting to a pre-*Miller* regime.

A. North Carolina Now Allows The Circumstances of A Juvenile's Crime to Dictate LWOP Sentencing.

The North Carolina Supreme Court, while nominally reciting the considerations set forth in a facially discretionary scheme that the state's legislature enacted post-*Miller*,[5] has in practice been implementing an overly-punitive appraisal that

[5] N.C. Gen. Stat. § 15A-1340.19B(c).

"shift[s] . . . the *Miller* sentencing hearing inquiry away from the circumstances of the offender . . . . to a singular focus on the facts of the crime." *Sims,* 912 S.E.2d at 786–87 (Earls, J., concurring). This sentencing scheme "revives the mandatory sentencing approach that *Miller* rejected." *Id.* at 787; see also *Borlase*, 912 S.E.2d at 814 (Earls, J., dissenting) (stating that the majority's treatment of this Court's decisions in *Miller* and *Jones* "leaves defendants with less protection than . . . the Constitution guarantees"); *id.* at 818 (majority endorsed the sentencing court's "crabbed view of what *Miller* commands us to do").

The North Carolina Supreme Court's approach to the Eighth Amendment now allows the crime to invariably eclipse developmental science, undisputed facts of rehabilitation (as here), and the rule against reflexively condemning children to die in prison. Contrary to this Court's directives, North Carolina has made life-without-parole sentences on juvenile offenders presumptive, not rare. This leaves North Carolina standing virtually alone among its fellow states post-*Miller* and warrants review.

The North Carolina Supreme Court's departure from the fundamental precept of *Miller* and its progeny—that juveniles are entitled to individualized sentencing based upon the circumstances of their youth and not merely their crime—has emerged as a backlash to the North Carolina Supreme Court's 2022 decision in *State* v. *Kelliher*, 873 S.E.2d 366 (N.C. 2022). Over a vigorous dissent, the *Kelliher* majority had held that the North Carolina Constitution "offers protections distinct from, and . . . broader than, those provided under the Eighth Amendment," *id.* at 382, and, as a result of those broader protections, "unless the trial court expressly finds that a juvenile homicide offender is one of those 'exceedingly rare' juveniles who cannot

be rehabilitated, he or she cannot be sentenced to life without parole," *id.* at 387; see also *id.* at 394–96 (Newby, C.J., dissenting) (accusing the majority of "judicial activism" and decrying its interpretation of the North Carolina constitution).

After two of the justices from *Kelliher's* majority were replaced on the court, the North Carolina Supreme Court has issued decisions not only effectively overruling *Kelliher*'s state constitutional holdings, but also gutting the Eighth Amendment protections for juvenile offenders recognized by this Court.

In January 2025, the North Carolina Supreme Court disavowed *Kelliher*, instead "lockstep[ping] [the court's] application of [the North Carolina State Constitution] with that of the Eighth Amendment." *Tirado,* 911 S.E.2d at 54.[6] Post-*Tirado*, the North Carolina Supreme Court proceeded to undo the protections of the Eighth Amendment for juvenile offenders, drawing itself into conflict with this Court's *Miller* line of cases and decisions of other state courts.

Specifically, in March 2025, the North Carolina Supreme Court rejected Eighth Amendment-based challenges to crime-based LWOP sentences in *Sims*, 912 S.E.2d at 786, and *Borlase*, 912 S.E.2d at 809. In *Sims*, the North Carolina Supreme Court concluded that the sentencing court's discussion of the details of

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[6] See *id.* at 59–60, 70–71 (holding State Constitution, at most, offered protections equal to those under the Eighth Amendment); see also *id.* at 76–77 (Earls, J., concurring in the result only) (criticizing the majority for declaring that North Carolina Constitution provides less protection for juvenile criminal defendants than the Eighth Amendment when defendant conceded that the sentencing did not violate the state constitutional rule of *Kelliher*).

the crime were a sufficient basis for turning aside an Eighth Amendment challenge. 912 S.E.2d at 779. As Justice Earls summarized, the majority devoted "over ten paragraphs" to the crime while providing only "two sentences" of analysis on mitigation factors the legislature enacted to implement *Miller*, rendering the individualized sentencing inquiry effectively illusory. *Id*. at 787 (Earls, J., concurring).

Justice Earls, as noted, warned that allowing LWOP sentences to hinge on the offense in this way, the majority's approach "revives the mandatory sentencing approach that *Miller* rejected." *Id*. She explained that for a juvenile to be eligible for LWOP in North Carolina, "the juvenile must have been convicted of killing another person intentionally and in the first degree." *Id*. "Every juvenile convicted of intentionally killing another person has by definition committed a heinous crime. It eliminates the exercise of discretion, then, to make the sentencing decision entirely dependent on whether the crime was heinous." *Id*. In sum, this approach "signals a shift in the *Miller* sentencing hearing inquiry away from the circumstances of the offender *and* his offense in favor of his offense only. . . . [T]he majority distills the *Miller* sentencing inquiry to a singular focus on the facts of the crime." *Id*. at 786–87.

Similarly, the same day, in *Borlase*, the North Carolina Supreme Court upheld a juvenile offender's LWOP sentence "in light of the crimes committed by defendant." 912 S.E.2d at 809. The court brushed by evidence that the defendant had intellectual disabilities, suffered a history of abuse, and had documented mental health challenges. See *id*. at 808–09. Again, Justice Earls, joined by Justice Riggs, in dissent criticized the North Carolina Supreme Court's new crime-focused approach to the constitutionality of

juvenile LWOP sentences as endorsing a "crabbed view of what *Miller* commands us to do." *Id.* at 818 (Earls, J., dissenting). The dissenters stated that the majority's approach to *Miller* and *Jones* "leaves defendants with less protection than . . . the Constitution guarantees," and expects the appellate courts to simply "trust . . . the sentencing court considered characteristics of the juvenile because they had [facial statutory] discretion to so consider those characteristics." *Id.* at 814; see also *id.* at 813 (criticizing the majority's "exceedingly deferential standard" as having "no support in federal constitutional law").

Consistent with and within days of these decisions,[7] the North Carolina Supreme Court denied review of the resentencing decision in Mr. Golphin's case, which if nothing else presaged where the North Carolina Supreme Court ultimately landed with respect to its treatment of the crime itself. The resentencing court imposed, and the Court of Appeals affirmed, two life-without-parole sentences on the basis that Mr. Golphin's "*crimes* demonstrate his permanent incorrigibility." Pet. App. 37a (emphasis added) (cataloging the facts of the offense, without mentioning the physical confrontation initiated by Trooper Lowry or its rapid escalation, including threats of severe physical violence against Mr. Golphin, that left the then-emotionally and behaviorally compromised Mr. Golphin vulnerable to his acute fight or flight instinct); see *id.* at 27a–29a (similar from Court of Appeals). The courts treated the crimes as dispositive, notwithstanding that the resentencing record contained unrefuted, extensive evidence of

[7] The Court's order denying review was dated March 19—two days before *Sims* and *Borlase*—but was not issued to the parties by the clerk's office under March 24.

Mr. Golphin's childhood trauma, his fragile emotional state at the time of his offense particularly where he was subjected to physical confrontation and being pinned down as he had during his abusive childhood, and the undisputed record of his growth, rehabilitation, and remorse in the many years since his crime. See *supra* pp. 5–12. Indeed, the State conceded that Mr. Golphin had, in fact, "matured," T 358:4–5, and the resentencing court acknowledged that Mr. Golphin's "conduct in prison has improved since 2014." Pet. App. 36a; see also *id.* at 26a (Court of Appeals: "commend[ing Mr. Golphin] on the improvements he has made while incarcerated").

The crime-centric juvenile sentencing regime that the North Carolina Supreme Court has endorsed, which the lower courts had applied in Mr. Golphin's case, conflicts with this Court's Eighth Amendment holdings. By allowing life-without-parole sentences for juvenile offenders to hinge on no more than the crime itself, North Carolina has converted *Miller*'s protections into a box-checking exercise. While this Court recognized in *Jones* the significance of sentencing courts' discretion in issuing juvenile LWOP, 593 U.S. at 114–16, North Carolina's current juvenile sentencing scheme cannot be considered truly discretionary if the underlying crime is all that the sentencer really needs to consider to impose life without parole. Rather, it reverts to the mandatory sentencing scheme that *Miller* rejected as unconstitutional. *Sims*, 912 S.E.2d at 787 (Earls, J., concurring); *supra* pp. 19, 21.

North Carolina's new sentencing regime conflicts with this Court's holdings and upends this Court's recognition that life without parole must be reserved for the "rare" juvenile homicide offender. *E.g.*, *Montgomery*, 577 U.S. at 208. Indeed, the North

Carolina Supreme Court explicitly stated that sentencing courts are "not required . . . to ensure rarity of [juvenile LWOP] sentence[s]." *Sims*, 912 S.E.2d at 779; *Borlase*, 912 S.E.2d at 805. Consistent with this, the North Carolina Supreme Court has upheld life-without-parole sentences in every single case for every single offender that it has considered post-*Kelliher*. See *Sims*, 912 S.E.2d at 786; *Borlase*, 911 S.E.2d at 809; *Tirado*, 911 S.E.2d at 71; Pet. App. 9a, 29a, 40a; *State* v. *McCord*, 912 S.E.2d 828 (N.C. 2025).[8]

B. Other Courts Have Properly Applied this Court's Eighth Amendment Jurisprudence to Hold That Juveniles May Not Be Sentenced Solely Based On Their Crime.

In stark contrast to North Carolina, courts across the country have given effect to this Court's requirement that sentencers afford individualized consideration of an offender's youth and attendant circumstances before sentencing a juvenile to LWOP. Appellate courts in Pennsylvania, Oregon, Connecticut, Michigan, and Utah have squarely rejected that the Eighth Amendment permits courts to do what North Carolina did here: hinge a sentence on the crime the juvenile committed.

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[8] Pre-*Kelliher*, the North Carolina Supreme Court had upheld juvenile life-without-parole sentences in just one of the eleven such cases that came before it post-*Miller*. *State* v. *Lovette*, 763 S.E.2d 392 (N.C. 2014) (Mem.), *aff'g* 758 S.E.2d 399, 410 (N.C. Ct. App. 2014); see also Ben Finholt et al., *Juvenile Life Without Parole in North Carolina*, 110 J. Crim. L. & Criminology 141, 157 (2020) (noting that juvenile LWOP sentencing in North Carolina declined significantly post-*Miller*, with just twelve juvenile offenders sentenced to LWOP between 2010 and 2018, versus 52 juvenile offenders sentenced to LWOP between 2000 and 2009).

Post-*Jones*, Pennsylvania appellate courts have explicitly overturned juvenile LWOP sentences as violative of the Eighth Amendment's protections and this Court's precedent where courts rest sentences on the crimes committed without adequately accounting for the mitigating qualities of youth. Last year, for example, the Pennsylvania Superior Court vacated an LWOP sentence because the sentencing court's "rationale for the LWOP resentence [wa]s predominately based upon the level of violence the court attributed to [the juvenile's] actions toward the victim." *Commonwealth* v. *Stewart*, No. 139 MDA 2023, 2024 WL 3673509, at *8 (Pa. Super. Ct. Aug. 6, 2024). The appellate court concluded that the sentencing court had not "adequately take[n] into account the mitigating qualities of [the offender's] youth at the time he committed the crime . . . [or] properly consider[ed] the significant rehabilitative steps [the offender] has made over the past 13½ years in prison." *Id.* at *9. The appellate court noted that "[a]lthough the [sentencing] court stated that it had to consider the fact that [the offender] 'seems to be doing well in prison[,]'" and the sentencing court listed multiple indicia of that, "the court immediately followed those statements with the conclusion that 'the level of violence justifies a sentence of life in prison.'" *Id.* at *10.

The appellate court concluded that this "directly contradicts the Supreme Court's edict that 'children who commit even heinous crimes are capable of change,'" *id.* (quoting *Montgomery*, 577 U.S. at 212), and held that the sentencing court had violated *Jones* by not "apply[ing] a discretionary 'procedure [that] ensures the sentencer affords individualized consideration to, among other things, the defendant's chronological age and its hallmark features," *id.*

(quoting 593 U.S. at 109); see also *Commonwealth* v. *Schroat*, 272 A.3d 523, 530 (Pa. Super. Ct. 2022) (overturning a juvenile LWOP sentence after finding that the sentencing court's "opinion reflects a lack of consideration for Appellant's youth, history, and rehabilitative needs in favor of an inordinate focus on the heinous act he committed as a minor").

Appellate courts in Oregon and Connecticut have issued similar decisions. In *State* v. *Davilla*, the Oregon Court of Appeals found that the sentencing court had violated the Eighth Amendment because it "focused almost exclusively on the nature of the crimes to justify the imposition of a" *de facto* life sentence. 462 P.3d 748, 752 (Or. Ct. App. 2020). Similarly, in *State* v. *Riley*, the Supreme Court of Connecticut found a sentencing court had violated *Miller* because its LWOP sentence turned on the "innocence of the victims and the choice made by the defendant to commit these senseless crimes." 110 A.3d 1205, 1217 (Conn. 2015); see also, *e.g.*, *Kitchen* v. *Whitmer*, 486 F. Supp. 3d 1114, 1120 (E.D. Mich. 2020) (finding the sentencing court "did not account for [the offender]'s youth in the way *Miller* contemplates" where the judge "focused primarily on the seriousness of the offense, stating that this was 'one of the most heinous crimes' he had tried"); *Sparks* v. *United States*, No. W-11-CV-123, 2018 WL 1415775, at *5 (W.D. Tex. Mar. 19, 2018) ("*no matter how heinous their crime*" juveniles should receive a lesser sentence unless "*the record as a whole*" indicates otherwise) (emphasis added)), *aff'd*, 941 F.3d 748 (5th Cir. 2019).

Moreover, appellate courts in Michigan have recognized that a sentencer's cursory reference to youth and its attendant circumstances is insufficient to satisfy the Eighth Amendment's requirements under *Miller*. In *People* v. *Hyatt*, the Michigan Court

of Appeals held the individualized sentencing the Eighth Amendment requires is not satisfied by simply running through the checklist of factors of "youth" identified by this Court: "[s]entencing courts are to do more than pay mere lip service to the demands of *Miller*. . . . [T]he fact that a vile offense occurred is not enough, *by itself*, to warrant imposition of a life-without-parole sentence. 891 N.W.2d 549, 574–75 (Mich. Ct. App. 2016), *aff'd in part, rev'd in part on other grounds sub nom. People* v. *Skinner*, 917 N.W.2d 292 (Mich. 2018).[9]

Further, the Supreme Court of Utah has recognized that, even when a court purports to apply a facially discretionary sentencing scheme, the court fails to sufficiently consider youth under the Eighth Amendment if it sentences a juvenile to LWOP despite finding that the juvenile offender "can change or that their crime was the result of mere transient immaturity." *State* v. *Mullins*, No. 20200149, 2025 WL 796220, at *16 (Utah Mar. 13, 2025).

Allowing the Eighth Amendment to be satisfied by merely referencing youth or claiming to apply a discretionary sentencing scheme wrongly reduces the constitutional protections to form over substance. Cf*., e.g.*, *Bd. of Cnty. Comm'rs* v. *Umbehr*, 518 U.S. 668, 679 (1996) ("Determining constitutional claims on the basis of . . . formal distinctions, which can be manipulated largely at the will of the government . . . , is an enterprise that we have consistently eschewed."); *Batson* v. *Kentucky*, 476 U.S. 79, 98 (1986) (holding

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[9] *Skinner* was among the cases that held, pre-*Jones*, that trial courts need not make a finding of fact regarding a juvenile offender's incorrigibility. 917 N.W.2d at 309. Thus, *Skinner* and the Michigan Court of Appeals' decision in *Hyatt* remain good law post-*Jones*.

that if general assertions were sufficient, "the Equal Protection Clause 'would be but a vain and illusory requirement'"). What the Constitution demands is not performative compliance, but real application.

II. THE IMPORTANCE OF JUVENILE SENTENCING HEIGHTENS THE NEED FOR REVIEW.

The conflict between the North Carolina Supreme Court's Eighth Amendment jurisprudence and the holdings of this Court and other state lower courts would be enough to merit review in any number of contexts, but the gravity of the question strengthens the need for the Court to grant this Petition.

This Court has been clear that the protections afforded to all citizens by the Eighth Amendment "flow[] from the basic 'precept of justice that punishment for crime should be graduated and proportioned to [the] offense.'" *Roper*, 543 U.S. at 560. Accordingly, the failure of courts to adhere to the basic requirements of the Eighth Amendment, "even [with respect to those] convicted of heinous crimes," amounts to a violation of the fundamental "duty of the government to respect the dignity of all persons." *Id.* The societal interest in ensuring that children, who "are constitutionally different from adults for purposes of sentencing," are not treated as if they were adults when they committed their crimes is more imperative. *Miller*, 567 U.S. at 471.

Mr. Golphin is emblematic of the grave risk of doing otherwise. He is serving two life-without-parole sentences for crimes that caused his victims' families and communities great pain, and for which he has expressed deep remorse. But Mr. Golphin committed those crimes without premeditation as a severely traumatized, emotionally stunted 17-year-old in the

final rash moments of what had been a fast-moving, high stress traffic stop that escalated through the use of significant physical force, triggering Mr. Golphin's intensely ingrained flight or fight response and lack of impulse control resulting from his childhood marked by severe abuse. There is now clear and unequivocal evidence that his shockingly impulsive crime was the product of youth—deeply-impaired youth whom the State had failed to protect—and that he has changed, matured, and rehabilitated in his decades of incarceration. Yet, because the North Carolina Supreme Court has now repeatedly endorsed an approach where a juvenile's crime itself predetermines the imposition of life without parole, Mr. Golphin will continue to be defined and punished for a horrible mistake marked by "immaturity, irresponsibility, 'impetuousness[,] and recklessness,'" the cardinal "transient" properties of youth, and despite a roughly 30-year record that demonstrates that he has the "capacity for change" and indeed has changed. *Miller*, 567 U.S. at 476, 479; see T 358:4–5; Pet. App. 26a (Court of Appeals: "commend[ing Mr. Golphin] on the improvements he has made while incarcerated"); *id.* at 36a (resentencing court: "Defendant's conduct in prison has improved since 2014").

Without this Court's intervention, the North Carolina courts will continue to erode the constitutional protections that are owed to juvenile offenders. This Court need not disturb any State's ability to impose juvenile life without parole in narrow, constitutionally compliant circumstances. But it should not allow a state to disregard the manner in which youth offenders are different from adults simply by pointing to the fact that the juvenile offenders standing before them necessarily committed a heinous crime.

CONCLUSION

The Court should grant the petition.

Respectfully submitted,

EAMON P. JOYCE*
CHRISTINA PRUSAK CHIANESE
BRIANNA O. GALLO
BRIAN C. EARL
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, NY 10019
(212) 839-5300
ejoyce@sidley.com

Counsel for Petitioner

* Counsel of Record

August 15, 2025