No. 26-6089 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
SEP - 8 2026
OFFICE OF THE CLERK

ZACHARY A. SMITH,
Petitioner,

vs.

KELLY MORRISS,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE MISSOURI SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI

ZACHARY A. SMITH,
Reg. No. 521163
Jefferson City Correctional Center
8200 No More Victims Road
Jefferson City, Missouri 65101

Petitioner

RECEIVED
SEP 15 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION PRESENTED

I

WHETHER THERE IS A NATIONAL CONSENSUS AGAINST MANDATORY LWOP SENTENCES FOR EMERGING ADULTS (18-20) CONVICTED OF FIRST DEGREE MURDER, IN VIOLATION OF THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

LIST OF PARTIES

Zachary A. Smith, Reg. No. #521163, Jefferson City Correctional Center, 8200 No More Victims Road, Jefferson City, Missouri 65101, is the properly named Petitioner in this cause.

Kelly Morriss, Warden of Jefferson City Correctional Center, 8200 No More Victims Road, Jefferson City, Missouri 65101, is the properly named Respondent, pursuant to Rule 12.6. The court whose judgment Petitioner seeks to have this Court review is not a party.

RELATED CASES

State v. Smith, WD52816, (judgment entered May 8, 1996), 966 S.W.2d 1 (Mo.App.WD 1997)
State v. Smith, WD58814, (judgment entered Sept. 24, 2002), 90 S.W.3d 132 (Mo.App.WD. 2002)
Smith v. State, WD65643, (judgment entered Sept. 19, 2006), 207 S.W.3d 135 (Mo.App.WD 2006)
Smith v. Missouri, (judgment entered Mar. 31, 2003), 549 U.S. 1325 (2007)
Smith v. Kemna, No. 07-06068-CV-SJ-ODS, (judgment entered Jan. 29, 2008), 2008 U.S. Dist. LEXIS 6513 (Mo.Dist. 2008)
Smith v. Kemna, No. 08-1901, (judgment entered Feb. 2, 2009), 309 Fed.Appx. 68 (8th Cir. 2009)
Smith v. Denny, No. 09-5086, (judgment entered Oct. 5, 2009), 2009 U.S. LEXIS 6135 (U.S. 2009); Smith v. Denny, 130 S.Ct. 662 (U.S. Nov. 16, 2009)
State ex rel. Smith v. Pash, SC95256, (judgment entered Oct. 27, 2015) 2015 Mo. LEXIS 405 (Mo. 2015)
Smith v. Jackson Cnty. Prosecutor's Off., WD86777, (judgment entered Sept. 10, 2024), 699 S.W.3d 765 (Mo.App.WD 2024)
State ex rel. Smith v. Morris, Cole County Circuit Court, Case No. 25AC-CC-6081 (judgment entered Mar. 3, 2026)
State ex rel. Smith v. Morriss, WD88856 (judgment entered April 15, 2026 (Mo.App.WD 2026)
State ex rel. Smith v. Morriss, SC101662, (judgment entered Jul. 7, 2026), 2026 Mo. LEXIS 223 (Mo. 2026)

TABLE OF CONTENTS

OPINION BELOW.....1

JURISDICTION.....1

CONSTITUTIONAL PROVISIONS INVOLVED.....2

STATEMENT OF THE CASE.....3

REASONS FOR GRANTING THE WRIT.....3

A. ZACHARY'S LWOP SENTENCE IS UNCONSTITUTIONAL BECAUSE THERE IS NOW A NATIONAL CONSENSUS AGAINST MANDATORY LWOP SENTENCE FOR EMERGING ADULTS.....3

B. THE EIGHTH AMENDMENT DICTATES THAT YOUTH MATTERS IN SENTENCING.....6

C. NO MEANINGFUL DEVELOPMENTAL DIFFERENCE BETWEEN THE BRAIN OF A 17-YEAR OLD AND THE BRAINS OF AN 18 AND 19 YEAR OLDS.....9

D. THERE IS A NATIONAL CONSENSUS AGAINST MANDATORY LOWP SENTENCES FOR EMERGING ADULTS.....12

E. IMPORTANCE OF THE QUESTION PRESENTED.....17

CONCLUSION.....18

INDEX TO APPENDICES

A. Decision of the Missouri Supreme Court, Case No. SC101662.

B. Decision, Judgment, and Order of the Cole County Circuit Court, Case No. 25AC-CC06081.

C. Decision of the Missouri Court of Appeals, Case No. WD88856.

TABLE OF AUTHORITIES

Atkins v. Virginia, 536 U.S. 304 (2002).....3, 8, 9
Commonwealth v. Mattis, 493 Mass. 216 (Mass. 2024).....10, 11, 14
Cruz v. United States, 2021 U.S. Dist. LEXIS 68857 (2021).....10
Furman v. Georgia, 92 S.Ct. 2727 (1972).....5
Graham v. Florida, 130 S.Ct. 2011 (2010).....7, 16
In re. Per Restraint of Monschke, 197 Wn.2d 305 (2021).....10, 12,
Miller v. Alabama, 132 S.Ct. 2455 (2012).....6, 8
Penry v. Lynaugh, 492 U.S. 302 (1989).....8, 9
People v. Parks, 510 Mich. 225 (Mich. 2022).....10, 12, 14
People v. Taylor, 2025 Mich. LEXIS 603 (Mich. 2025).....10, 12, 15
R. v. Bissonnette, 2022 SCC 23.....16
Roper v. Simmons, 543 U.S. 569 (2005).....6, 8, 8, 9, 12, 13
Stanford v. Kentucky, 492 U.S. 361 (1986).....8, 9
State v. Barnett, 598 S.W.3d 127 (Mo. 2020).....12
Thompson v. Oklahoma, 487 U.S. 815 (1988).....3, 4, 5, 6
Trop v. Dulles, 78 S.Ct. 590 (1958).....4, 9
United States v. Diaz, 2024 U.S. Dist. LEXIS 2455737 (2024).....16
United States v. Lara, 658 F.Supp.3d 72 (2023).....16
United States v. Sepulveda, 762 F.Supp.3d 153 (2025).....16
United States v. Viera-Rivera, 2025 U.S. Dist. LEXIS 79378 (2025)....16

STATUTES, RULES, AND CONSTITUTIONAL AMENDMENTS

U.S. CONST., AMEND. VIII.....2, 17, 18
U.S. CONST., AMEND. XIV.....2

PETITION FOR WRIT OF CERTIORARI TO

THE UNITED STATES SUPREME COURT

The Petitioner, Zachary A. Smith, respectfully requests that a Writ of Certiorari issue to review the decision of the Missouri Supreme Court rendered on July 7, 2026.

OPINION BELOW

The Missouri Supreme Court denied Zachary A. Smith's Petition for a Writ of Habeas Corpus on July 7, 2026. The decision is unpublished, and appears at Appendix A to this petition. The Cole County Circuit Court denied Zachary's Petition for a Writ of Habeas Corpus on March 3, 2026. The Decision, Judgment, and Order is unpublished, and appears at Apendix B. The Missouri Court of Appeals denied Zachary's Petition for a Writ of Habea Corpus on April 15, 2026. The decision is unpublished, and appears at Appendix C to this petition.

JURISDICTION

The Missouri Supreme Court's decision was entered and mandate issued on July 7, 2026, in **State ex rel. Smith v. Morriss,** 2026 Mo. LEXIS 223 (Mo. July 7, 2026).

The jurisdiction of this Court is involved under 28 U.S.C. §1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The following Constitutional provisions are involved in this case.

U.S. CONST., AMEND. VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S. CONST., AMEND. XIV

Sectiona. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

Thirty-one years has passed since Zachary A. Smith, a nineteen-year-old emerging adult, was charged with 1st degree murder and armed criminal action, in the death of victim, a twenty-four-year old man. The State of Missouri presented testimonial evidence from K.G. who testified that Zachary accused victim of breaking into his residence and two weeks later, on June 24, 1995, Zachary shot victim to death. After three jury trials, Zachary was convicted and sentenced to serve a mandatory life without the possibility of probation or parole and ninety-nine years in prison (Appx. A-C).

Zachary has exhausted all available options to challenge his convictions and sentences in state and federal court until now. Zachary filed petitions for a writ of habeas corpus with the Cole County Circuit, the Missouri Court of Appeals, and the Missouri Supreme Court, arguing, among other things, that there is now a national consensus against mandatory LWOP sentences for emerging adults (18-20) (Appx. A-C).

REASONS FOR GRANTING THE WRIT

A. Zachary's LWOP Sentence is Unconstitutional Because There is Now a National Consensus Against Mandatory LWOP Sentences for Emerging Adults

In **Thompson v. Oklahoma**, 487 U.S. 815 (1988), this Court determined that the Eighth Amendment categorically prohibits the execution of those who were 15 years old or younger at the time of their crimes. Using an approach similar to that which he would utilize in **Atkins v. Virginia**, 536 U.S. 304 (2002) some fourteen years later, Justice Stevens, in the principle

opinion, said that in determining what constitutes cruel and unusual punishment, judges should be "guided by the 'evolving standards of decency that mark the progress of maturing society.'" **Id.** 821, quoting **Trop v. Dulles,** 78 S.Ct. 590 (1958). Such standards cannot remain static, but must "acquire meaning as public opinion becomes enlightened by human justice," for "a principle to be vital must be capable of wider application that the mischief which gives it birth." **Id.** at 821 n. 4.

To determine current standards of decency, **Thompson** examined: (a) relevant legislative enactments, and (b) evidence of how juries viewed the propriety of execution of the mentally retarded. It also considered (c) the views of respected national and international organizations. Finally, in light of the above and other factors, (d) this Court made its own judgment as to the propriety of such executions and explained "why these indicators of contemporary standards of decency confirm our judgment that such a young person is not capable of acting with the degree of culpability that can justify the ultimate penalty." **Thompson,** 487 U.S. at 822-23.

In reviewing legislative enactments for statutes governing punishment of children, **Thompson** found that "the line between childhood and adulthood is drawn in different ways by various States." **Id.** at 824. Fourteen state legislatures then barred capital punishment altogether. **Id.** at 826. In nineteen other states, the legislature permitted capital punishment, but state statutes failed to expressly state a minimum age for its imposition. **Id.** at 826-27. Eighteen remaining states set a minimum age, varying from 16 to 18. **Id.** at 829. No legislature had adopted a statue explicitly permitting the execution of those under age 16. **Id.**

Thompson also found that juries rarely imposed the death penalty on those under 16, that only eighteen to twenty such persons had been executed

in the 20th century, and only one since 1948. **Id.** at 832. Between 1982 and 1986, only five persons age 15 or younger were sentenced to death in the United States, leading the Court to conclude that "these five young offenders have received sentences that are 'cruel and unusual in the same way that being struck by lightning is cruel and unusual.'" **Id.** at 833, quoting **Furman v. Georgia,** 92 S.Ct. 2726 (1972).

As a part of its discussion of legislation, this Court considered the views of respected national religious, social, and professional organizations, including the American Bar Association ("ABA") and the American Law Institute, both of which it said "have formally expressed their opposition to the death penalty for juveniles." **Id.** at 830. And, stating that it had "previously recognized the relevance of the views of the international community in determining whether a punishment is cruel and unusual, "**Id.** at 830 n. 31, this Court also considered the sentencing practices of European and other countries, stating:

> Although the death penalty had not been entirely abolished in the United Kingdom or New Zealand (it had been abolished in Australia, except in the State of New South Wales, where it is available for treason and piracy), in neither of those countries may a juvenile be executed. The death penalty had been abolished in West Germany, France, Portugal, the Netherlands, and all of the Scandinavian countries, and is available only for exceptional crimes such as treason in Canada, Italy, Spain, and Switzerland. Juvenile executions are also prohibited in the Soviet Union.

Id. at 830-31.

Lastly, **Thompson** analyzed the culpability of juveniles as compared to adults and considered whether application of the death penalty to juveniles measurably contributed to the social purposes it was intended to serve. After noting "board agreement on the proposition that adolescents as a class are less mature and responsible than adults" and "the special mitigating force of youth," this Court concluded that "less culpability should attach to a crime committed by a juvenile." **Id.** at 834-35. As to the social rationales

of the death penalty--retribution and deterrence--it found them unacceptable for 15-year-old offenders because of the "lesser culpability of the juvenile offender" and because deterrence would not be jeopardized if the execution of those under 16 were prohibited. **Id.** at 836-37.

In light of all of these factors, **Thompson** concluded that a national consensus existed that execution of persons under 16 at the time of their crimes constituted cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. **Id.**

B. The Eighth Amendment Dictates That Youth Matters in Sentencing

This Court has long recognized that children are constitutionally different from adults for sentencing purposes. See **Miller v. Alabama,** 567 U.S. 460 (2012). Overall, juveniles have diminished culpability and greater prospects for reform, thereby making them "less deserving of the most severe punishments." **Id.** Youth is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage." **Roper v. Simmons,** 543 U.S. 569.

This Court has succinctly summarized the three significant differences between juveniles and adults. "First, children have 'lack of maturity and an underdeveloped sense of responsibility,' leading to recklessness, impulsivity, and heedless risk-taking." **Miller,** 567 U.S. at 471. "Second, children 'are more vulnerable ... to negative influences and outside pressures,' including from their family and peers; they have limited 'control over their own environment' and lack the ability to extricate themselves from horrific, crime-producing settings." **Id.** "And third, a child's character is not as 'well formed' as an adults; his traits are 'less fixed' and his

actions less likely to be 'evidence of irretrievable depravity.'" **Id.** "Deciding that a 'juvenile offender forever will be a danger to society' would require making a judgment that he is incorrigible'--but 'incorrigibility is inconsistent with youth.'" **Id.** at 472-473. This basic overall principle--that youthful characteristics render defendant less culpable-has shaped Eighth Amendment jurisprudence for the last two decades.

In 2005, this Court first recognized that children are different from adults for sentencing purposes when it abolished the death penalty for minors in **Roper v. Simmons,** 543 U.S. at 578-579. In doing so, it determined that the differences between juveniles and adults "are too marked and well understood to risk allowing a youthful person to receive the death penalty despite insufficient culpability." **Id.** at 572-73. As the death penalty is reserved for only the worst offenders, this group could not include juveniles. See **Id.** at 569. In making a bright-line prohibition of the death penalty for those under 18 years old, this Court said:

> "drawing the line at 18 years of age is subject, of course, to the objections always raised against categorical rules. The qualities that distinguish juveniles from adults do not disappear when an individual turns 18. By the same token, some under 18 have already attained a level of maturity some adults will never reach. For the reasons we have discussed, however, a line must be drawn.... The age of 18 is the point where society draws the line for many purposes between childhood and adulthood. It is, we conclude, the age at which the line for death eligibility ought to rest." [**Id.** at 574.]

Five years later in **Graham v. Florida,** 560 U.S. at 76, this Court noted that an "offender's age is relevant to the Eighth Amendment, and criminal procedural law that fail to take defendants' youthfulness into account at all would be flawed." This Court concluded that it was unconstitutional to sentence juveniles who did not commit homicide to life without parole because they lack the maturity to be classified among the worst offenders deserving of the harshest punishments. This Court further noted that although "maturity

can lead to that considered reflection which is the foundation for remorse, renewal, and rehabilitation ... a young person who knows that he or she had no change to leave prison before life's end has little incentive to become a responsible individual." **Id.** at 79.

More recently in **Miller v. Alabama**, 567 U.S. 476 (2012), in which this Court held that a judge must be able to consider "mitigating qualities of youth" in formulating a sentence, this Court reiterated that youth is not simply a "chronological fact." Rather, "it is a time of immaturity, irresponsibility, impetuousness, and recklessness. It is a moment and condition of life when a person may be most susceptible to influence and to psychological damage. And its signature qualities are all transient." **Id.** As a result, this court reasoned, the Eighth Amendment forbids a sentencing scheme that mandates life without parole for juvenile offenders because such a scheme precludes a consideration of youth and the circumstances and characteristics attendant to it. **Id.** at 479.

As the Eighth Amendment jurisprudence forbidding the execution of adolescent offenders developed, the law regarding intellectually disabled defendants followed a parallel track. This Court had allowed execution of the intellectually disabled in 1989, **Penry v. Lynaugh**, 492 U.S. 302, 340 (1989), abrogated by **Atkins v. Virginia**, 536 U.S. 304 (2002). As in **Stanford v. Kentucky**, 492 U.S. 361 (1986), the majority recognized that "a national consensus against execution of the mentally retarded may someday emerge reflecting the 'evolving standards of decency that mark the progress of a maturing society'" but did not believe such a consensus existed in 1989. **Id.**

That consensus had arrived by 2002. As **Roper** signaled a change from **Stanford**, so **Atkins** signaled a change from **Penry**, 536 U.S. at 321 (holding

that execution of the intellectually disabled violates the 8th Amendment). Indeed, **Roper** relied in part on **Atkins** as an example of "society's evolving standards of decency." 543 U.S. 563. **Atkins** provided an example of changing standards, even though the "rate of change in reducing the incidence of the juvenile death penalty" had been much slower than the pace at which states abolished capital punishment for the intellectually disabled. **Id.** 565.

The changes from **Stanford** and **Penry** to **Atkins** and **Roper** resulted from a perceived change in direction across the country. Recognizing the shift, this Court observed that "it is not so much the number of these States [that forbade execution of the intellectually disabled] that is significant, but the consistency of the direction of change." **Atkins,** 536 U.S. at 315.

Clearly, bright constitutional lines in the cruel punishment context shift over time in order to accord with the "evolving standards of decency that mark the progress of a maturing society." **Trop v. Dulles,** 356 U.S. 86, 100-01 (1958).

C. No Meaningful Developmental Difference Exists Between the Brain of a 17-Year Old and the Brains of 18 and 19-Year-Olds

Roper considered juvenile' lack of maturity and responsibility, their vulnerability to negative influences, and their transitory and developing character when it increased the minimum age for death eligibility from 16 to 18. 543 U.S. at 569-70. All three of these factors weigh in favor of offering similar constitutional protections to older offender, also, because neurological science recognizes no meaningful distinction between 17- and 18-20 year olds as a class.

Advancements in scientific research has confirmed what many know well through experience: the brains of emerging adults (18-20) are not fully mature. Specifically, the scientific records made in **In re. Per. Restraint of Monschke,** 197 Wn.2d 305 (Wash. 2021), **People v. Parks,** 510 Mich. 225 (Mich. 2022), **Commonwealth v. Mattis,** 493 Mass. 216 (Mass. 2024), and **People v. Taylor,** 2025 Mich. LEXIS 603 (Mich. 2025) strongly supports the contention that emerging adults have the same core neurological characteristics as juveniles have. This is the result of years of targeted research and greater access to relatively new and sophisticated brain imaging techniques such as structural magnetic resonance imaging (SMRI) and functional magnetic resonance imaging (FMRI). From the detailed evidence produced in the court record of **Commonwealth v. Mattis,** 493 Mass. 216, 224 N.E.3d 410, 417-25 (Mass. 2024), the superior court judge made four core findings of fact regarding the science of emerging adults brains: emerging adults (1) have a lack of impulse control similar to sixteen and seventeen-year-olds in emotionally arousing situations, (2) are more susceptible to peer influence that individuals who are over twenty-one-years old, and (4) have a greater capacity for change than older individuals due to the plasticity of their brains. The driving forces behind these behavioral differences are the anatomical and physiological differences between the brains of emerging and older adults. (See Steinberg, A Social Neuroscience Perspective on Adolescent Risk-Taking, 28 Developmental Rev. 78, 82-84, 85-89 (2009)). These structural and functional differences make emerging adults (18-20), like juveniles, particularly vulnerable to risk-taking that can lead to poor outcomes. (See also Dr. Laurence Steinberg's testimony in **Cruz v. United States,** 2021 U.S. Dist. LEXIS 68857 (U.S. Dist. 2021)(court granted motion for compassionate release under First Step Act, reducing LWOP sentences for emerging adult).

Emerging adults are still experiencing the effects of the sharp increase during puberty of certain hormones, lack a fully developed prefrontal cortex, which is the part of the brain that most clearly regulates impulses, and lack fully developed connections between the prefrontal cortex and other parts of the brain that most clearly respond to rewards and reward-related decision making. All four experts that testified before the superior court in **Commonwealth v. Mattis** agreed that compared to older adults, emerging adults are more impulsive, more concerned with their immediate circumstances, and less able to envision future consequences. Dr. Calvan explained that at least part of this distinction between emerging and older adults can be traced to differences in brain structure between the groups. The prefrontal cortex is the home for these abilities that we might say are what makes us adults ... the ability to reason, the ability to think about how our actions today will have implications for the future. As the brain matures, it undergoes a process called pruning and eliminates synapses and neurons that are not needed. Advancements in SMRI data have allowed researchers to measure this cortical thickness and thinning and the process continues through eighteen, nineteen, and twenty years old. **Id.**

All the other experts, including the Commonwealth's expert, agreed that the prefrontal cortex, an area of the brain associated with controlling impulses, is among the last brain region to develop, and continues developing until the early to mid-twenties.

Emerging adults are more likely than children or older adults to engage in risky behavior and that risky behaviors tend to peak in late adolescence to early adulthood and then decline, with some experts asserting that this behavior plateaus around twenty-two years of age. Dr. Galvan explained that FMRI studies evaluating the brain have shown that in individuals at least

seventeen years of age, and up to twenty-one years of age, there is greater activity in the nucleus accumbens, a part of the brain associated with sensation seeking, then in older adults. Additionally, FMRI studies have shown that the neutral striatum, a part of the brain that correlates with risk-taking behaviors, also is more active among late adolescents and early adults then it is in older adults. The research tracks numerous real world behaviors. Emerging adults are overrepresented in multiple types of risky behavior, such as risky sexual behavior and risky driving behavior, in addition to risky criminal behavior. See **Roper v. Simmons**, 543 U.S. at 569, (2005), quoting Arnett, Reckless Behavior in Adolescence: A Developmental Perspective, 12 Developmental Rev. 339 (1992).

Objective, undisputed scientific evidence now shows that as a class, 18-20 year old emerging adults are more similar to juveniles in neurological terms then they are to older adults. See **In re Pers. Restraint of Monschke,** 197 Wn.2d 305 (Wash. 2021), **Commonwealth v. Mattis,** 493 Mass. 216 (Mass. 2024), **People v. Parks,** 510 Mich. 225 (Mich. 2022), and **People v. Taylor,** 2025 Mich. LEXIS 603 (April 10, 2025).

As a result, there is now an objective indicia of national consensus against mandatory sentences of life without the possibility of parole for offenders younger than 21.

D. There is Now an Objective Indicia of National Consensus Against Mandatory Sentences of LWOP for Emerging Adults

Six years earlier, the Missouri Supreme Court, in **State v. Barnett,** 598 S.W.3d 127 (Mo. April 14, 2020), concluded that the cases **Barnett** cited from Kentucky, Illinois, Connecticut, and Washington as example of cases

in which appellate courts have expanded **Roper** and it progeny to apply to offender beyond 18 years of age were not "persuasive given two of them were not final for purposes of appeal, one is from the federal district court, which is not binding on this Court, and the final case found the sentencing scheme imposed by the legislature did not take **Roper** into account," and failed to show a national consensus against sentencing a 19-year-old to a mandatory LWOP. The court further stated, "This Court is guided by Supreme Court precedent, which clearly defines a juvenile as an individual younger than 18 years of age for purposes of the considerations Barnett seeks. Barnett's policy considerations are better addressed to the legislature, which has the authority to amend section 565.020, if it determines Missouri should adopt the prevailing developments in psychology and brain science to expand the definition of juvenile to include offenders older than 18 years of age." **Id.**

In 2021, Washington became the first state to extend the constitutional protection against mandatory LWOP sentences for offenders 18, 19, and 20 years old. The Supreme Court of Washington in **In re Pers. Restraint of Monschke**, 197 Wn.2d 305 (Wash. March 11, 2021), concluded, "a scientific consensus has developed that demonstrates that young people continue to develop neurologically until age 26. The legislature finds that until then, young people are less able to make decisions for themselves, are more impulsive, and most susceptible to peer pressure," and held that the state's murder statute, which carried a mandatory LWOP sentence, was unconstitutional as applied to individuals between the ages of 18 and 21 year old, citing a range of neuroscientific findings that there is no meaningful difference in maturity between 17 and 18-year-olds, and that mental development continues into a person's 20s. **Id.**

The trend of evolving standards of decency continued. The Michigan Supreme Court held in **People v. Parks,** 510 Mich. 225 (Mich. July 28, 2022), that the mandatory LWOP sentence imposed on the defendant for 1st degree murder conviction violated the ban on cruel and unusual punishment in Const. 1963, art. I, §16, because the sentencing court gave no consideration to any of the attributes of youth that defendant, who was 18 when he aided and abetted in the murder, shared with juvenile defendants; and that the sentence lacked proportionality because it failed to take into account the mitigating characteristics of youth, specifically late-adolescent brain development.

In 2022, Connecticut's Board of Pardons and Parole commuted the sentences of 11 offenders who had been under 25 at the time of their crime and served lengthy terms already. The Board's decision was in direct response to the growing consensus that emerging adults should be afforded a second look.

In late 2023, California passed legislation identifying individuals under 26 as "youth offenders," making them eligible for a youth offender parole hearing for crimes including those that result in life with parole. However, the state does not currently allow mitigation for or delineation of "youth offender status" for offenders sentenced to LWOP for crimes committed when over 18-years-old even though legislation was proposed.

In less than a year later, in a landmark split ruling, the Massachusetts Supreme court held in **Commonwealth v. Mattis,** 493 Mass. 216 (Mass. Jan. 11, 2024), that it is unconstitutional for judges to sentence anyone under the age of 21 to LWOP, concluding, "Advancements in scientific research have confirmed what many know all through experience: the brains of emerging adults are not fully mature. Specifically, the scientific record strongly supports the contention that emerging adults have the same core neurological characteristics as juveniles have." The court further concluded, "Where

punishment is involved, we must look to society and the Legislature to determine where the appropriate line is and where is should be... We should not defer to the Legislature when it recognizes the distinctive characteristics of the eighteen through twenty year old defendants at issue and treats them differently from those twenty-one and over in many ways, but then disregards those differences for our most severe criminal punishments." Id.

Taking up the issue again, the Michigan Supreme Court in **People v. Taylor,** 2025 Mich. LEXIS 603 (April 10, 2025), concluded that mandatorily subjecting 19- and 20-year old defendants convicted of 1st degree murder to LWOP violates the principle of proportionality under Michigan's Constitution and constitutes unconstitutionally cruel punishment.

Then, on June 2, 2025, the Hawaii Legislature prohibited sentencing defendants who were under the age of 21 at the time of the offense to LWOP, enacting H.R.S. §706-656, finding that: "through a court decision, Massachusetts became the first state to ban life without parole sentences for individuals eighteen years old through twenty years old, considering those in this age group to be 'emerging adults.' The court in extended the bright line age cut-off from eighteen years of age to twenty years of age, in part due to neuroscience research that supports that brain maturation continues through an individuals mid-twenties." Hawii 33rd Legislature Act 152 House Bill No. 103.

Currently, there are twenty-two states and the District of Columbia (D.C. Code §22-2104), that imposes the highest penalties on discretionary bases. Alaska (Stat. §12.55.125); Georgia (G.A. Code Ann. §16-5-1); Idaho (Code Ann. §18-4004, 19-2515); Illinois (Ill. Comp. Stat. 5/9-1); Kentucky (KRS §532.030); Maine (Stat. tit. 17-A, 1603); Maryland (Md. Code Ann. crim.

Law §§2-201, 2-203); Montana (Mont. Ann. Stat. Code 46-18-219, 45-5-102(2); Nebraska does not authorize LWOP (Ne. Rev. Stat. §28-303, §28-105); Nevada (Stat. Ann. §200.03); New Mexico (N.M. Stat. Ann. §31-18-13); New York (§§60.06, 70.00(5); North Carolina N.C. Gen. Stat. §15A-1340. 19C); North Dakota (§12.1-32-01); Ohio (§§2929.02, 2929.04); Oklahoma (Stat. tit. 21, §701.9); Oregon (Stat. §163.107); Rhode Island (§11-23-2, 12-19. 2-1 to 12-19.2-5); South Carolina (§16-3-20); Tennessee (§39-13-204); Utah (§76-5-203); and Wisconsin (Stat. §973.014(19)(c)-(2).

Only nine states mandate LWOP sentences for emerging adults (18-20) convicted of 1st degree murder: Colo. Rev. Stat. §18-1-3-401, Iowa Code §902.1; Minn. Stat. §609.106; Mo. §565.020; N.H. Rev. Stat. Ann. §630:1-a (III); 18 Pa. Cons. Stat. §1102; Va. Code Ann. §18.2-10(a); Del. Code Ann. tit. 11, §4209; and W. Va. Code §61-2-2.

The federal district courts have been reducing LWOP sentences for emerging adults under 18 U.S.C. §3553. See **United States v. Lara,** 658 F.Supp.3d 22 (Mar. 1, 2023); **United States v. Diaz,** 2024 U.S. Dist. LEXIS 2455737 (2nd Cir. N.Y. 2024); **United States v. Sepulveda,** 762 F.Supp.3d 153 (R.I. Jan. 10, 2025); and **United States v. Viera-Rivera,** 2025 U.S. Dist. LEXIS 79378 (1st Cir. April 23, 2025).

This Court said in **Graham** that it has looked beyond our Nation's borders for support for its independent conclusion that a particular punishment is cruel and unusual. The United Kingdom had banned LWOP for any offender under 21 years of age at the time of the offense. Sentencing act 2020, c. 17, §322, sch. 21, par. 2 (U.K.). The Supreme Court of Canada unanimously ruled that LWOP sentences were unconstitutional for all offenders, regardless of age. **R. v. Bissonnette,** 2022 SCC 23. In Germany, individuals between ages 18 and 20, courts may impose a fixed term of 10 to 15 years instead of the maximum

life sentence. Also in Germany, the Juvenile Justice Act has allowed, since 1953, for 18- to 21 year-olds to receive the same youthful consideration as those under age 18, if they determine that the individual is still developing morally and psychologically. In Austria, individuals who are 18 to 21 years old cannot serve over 15 years on prison; offenders 21 and older can serve up to 20 years. In Hungary and Bilgaria, offenders must have been at least 20 years of age at the time of the offense to receive a life sentence. And in Serbia, a country that does not allow life imprisonment but permits sentences as long as 40 years, sentences this long are restricted to those who are 21 years of age or older.

Mandatorily condemning Smith to die in prison (as well as other emerging adults), without first considering the attributes of his youth that as an emerging adult shares with juveniles, no longer comports with the "evolving standards of decency that mark the progress of a maturing society." Smith's sentences violate the Eighth and Fourteenth Amendments to the United States Constitution.

E. Importance of the Question Presented

This case presents a fundamental question of whether there is a national consensus against sentencing emerging adults (18-20) to a mandatory LWOP sentence. This Court has repeatedly held that a defendant's age is relevant to the Eighth Amendment and a criminal procedural law that fails to take a defendant's youthfulness into account at all is flawed. This Court had repeatedly held that punishment for crime should be graduated and proportioned to both the offender and the offense.

The importance of the question presented is enhanced because a mandatory LWOP sentence does not permit consideration of the characteristics of a

defendant and the details of his offense before sentencing him to a civil death sentence when his crime fails to reflect permanent incorrigibility, in violation of the Eighth Amendment.

CONCLUSION

For the question presented and the reasons stated, Zachary prays this Court grant a Writ of Certiorari in this case. He further prays for any other and further relief which the Court may deem just and proper under the circumstances.

Respectfully submitted,

Z.A. Smith 9-8-20

Zachary A. Smith, #521163
Jefferson City Corr. Center
8200 No More Victims Road
Jefferson City, MO 65101

Petitioner