26-6196

ORIGINAL

No. _____

FILED
OCT 05 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Kenneth Wayne Lancaster - PETITIONER

vs.

State of Oregon - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

OREGON SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

Kenneth Lancaster
Two Rivers Correctional Institution
82911 Beach Access Road
Umatilla, OR 97882

Form 42.010

QUESTION(S) PRESENTED

Petitioner Kenneth Wayne Lancaster was convicted, following a guilty plea, of first-degree rape, first-degree sodomy, first-degree unlawful sexual penetration, and first-degree sexual abuse. At sentencing, the trial court imposed mandatory minimum sentences under Oregon's Ballot Measure 11 sentencing scheme, ORS 137.700, totaling an aggregate 600 months (50 years) of imprisonment. Petitioner presented undisputed evidence that he suffers from post-traumatic stress disorder and borderline personality disorder, diagnosed conditions resulting from documented severe childhood physical and sexual abuse, and that those conditions directly affected his capacity to control his conduct. The trial court imposed the mandatory sentences without according that evidence any weight in assessing petitioner's culpability. The Oregon Court of Appeals affirmed, holding that Article 1, section 16, of the Oregon Constitution requires no different result, and disposed of petitioner's parallel Eighth Amendment claim on the same reasoning. The Oregon Supreme Court denied review.

The question presented is:

Whether the Eighth Amendment's prohibition on cruel and unusual punishment requires a sentencing court, before imposing a mandatory minimum term under a statutory sentencing scheme that permits no downward departure, to consider undisputed evidence that a defendant's capacity to control his conduct was diminished by diagnosed mental health conditions resulting from documented childhood trauma – or whether, as the courts below held, such evidence may be categorically disregarded absent proof that the defendant's condition rendered him the functional equivalent of a child.

PARTIES TO THE PROCEEDING

Petitioner Kenneth Wayne Lancaster was the defendant-appellant below. Respondent State of Oregon was the plaintiff-respondent below. There are no other parties.

RELATED PROCEEDINGS

State v. Lancaster, Lane County Circuit Court No. 21CR26583 (judgment entered April 1, 2022).

State v. Lancaster, No. A178488 (Or. Ct. App.) (opinion filed November 26, 2025), reported at 345 Or App 155, __P3d__ (2025).

State v. Lancaster, No. S072550 (Or.) (petition for review denied May 7, 2026).

TABLE OF CONTENTS

QUESTIONS PRESENTED i

PARTIES TO THE PROCEEDING ii

TABLE OF AUTHORITIES iii

OPINIONS BELOW v

JURISDICTION v

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED v

STATEMENT OF THE CASE 1

REASONS FOR GRANTING THE WRIT 4

I. The decision below conflicts with this Court's requirement that sentencers meaningfully consider evidence of diminished culpability before imposing severe, inflexible mandatory sentences 4

II. Lower courts are divided over whether, and how, mental-health evidence bears on Eighth Amendment gross-disproportionality analysis outside the intellectual-disability context 6

III. The Question Is Recurring and Important and This Case Is an Ideal Vehicle for Resolving It 7

CONCLUSION 9

INDEX TO APPENDICES

APPENDIX A: Opinion of the Oregon Court of Appeals (Nov. 26, 2025 ..... 1a

APPENDIX B: Order of the Oregon Supreme Court Denying Review (May 7, 2026) 2a

APPENDIX C: Judgment of the Lane County Circuit Court (Apr. 1, 2022) 3a

TABLE OF AUTHORITIES CITED

CASES PAGE NUMBER

Atkins v. Virginia, 536 U.S. 304 (2002.....3,5

Kennedy v. Louisiana, 554 U.S. 407 (2008) 5

Miller v. Alabama, 567 U.S. 460 (2012) 5

Robinson v. California, 370 U.S. 660 (1962) v

Solem v. Helm, 463 U.S. 277 (1983) 4

State v. Gonzalez, 373 Or 248, 564 P.3d 109 (2025) 2

State v. Lancaster, 345 Or App 155, __P.3d __ (2025) v

State v. Rodriguez/Buck, 347 Or 46, 217 P.3d (2009) 2

State v. Ryan 361 Or 602, 396 P.3d 867 (2017) 2

Weems v. United States, 217 U.S. 349 (1910) 4

State v. Wiese, 238 Or App 426, 429-30, 241 P.3d 1210 (2010) 3

Constitutional and Statutory Provisions

U.S. Const. amend. VIII..... v,2

28 U.S.C. section 1257(a).....v

Or. Const. art. I. section 16.....2

ORS 137.700.....5

OAR 213-008-0002.....3,7

PETITION FOR A WRIT OF CERTIORARI

Petitioner Kenneth Wayne Lancaster respectfully petitions for a writ of certiorari to review the judgment of the Supreme Court of the State of Oregon denying review of the decision of the Oregon Court of Appeals in this case.

OPINIONS BELOW

The opinion of the Oregon Court of Appeals (App., infra, 1a) is reported at 345 Or App 155, __P.3d __ (2025). The order of the Supreme Court of the State of Oregon denying review (App., infra, 2a) is unreported. The judgment of the Circuit Court for Lane County (App., infra, 3a) is unreported.

JURISDICTION

The Oregon Court of Appeals entered its judgment on November 26, 2025. A timely petition for review was filed in the Supreme Court of the State of Oregon, which denied review on May 7, 2026. This petition was not filed within 90 days of that order but a petition of 60-day extension was timely filed and granted. The jurisdiction of this Court is invoked under 28 U.S.C. section 1257(a)

CONSTITUTIONAL PROVISION INVOLVED

The Eighth Amendment to the United States Constitution provides: "Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted" U.S. Const. amend. VIII made applicable to the States through the Fourteenth Amendment. Robinson v.

California, 370 U.S. 660 (1962)

STATEMENT OF THE CASE

1.Petitioner was charged in Lane County Circuit Court with first-degree rape, first-degree sodomy, first-degree unlawful sexual penetration, and first-degree sexual abuse. He waived a jury and pleaded guilty to all four counts. The plea agreement contemplated that the State would recommend an aggregate sentence of 600 months, while petitioner would be free to ask the court to impose a lesser sentence.

At sentencing, petitioner presented the report and testimony of Dr. Breann Martin, a certified forensic evaluator, who had conducted a psychosexual evaluation of petitioner including personal-history interviews, personality testing, and sexual-offending risk assessments. Dr. Martin diagnosed petitioner with post-traumatic stress disorder, borderline personality disorder, severe alcohol use disorder (in remission) and methamphetamine use disorder (in remission). She documented that petitioner was raised in a series of unstable and abusive placements after being abandoned as a young child, that he suffered repeated physical and sexual abuse by his adoptive father beginning around age nine – and that his first sexual experiences occurred at approximately age four. This evidence was undisputed.

Dr. Martin opined that petitioner's borderline personality disorder produces a distorted attachment pattern in which he associates sexual intimacy with familial closeness, and that the combined effects of his diagnosed conditions and substance use rendered him unable to control the conduct underlying his convictions. She further opined that petitioner scored as below-average risk for sexual re-offense and would be better served by outpatient treatment than incarceration.

The trial court did not weigh this evidence in assessing petitioner's culpability. It sentenced

petitioner to 300 months on each of Counts 1 through 3 and 75 months on Count 4, running the Count 1 and Count 2 sentences consecutively, for an aggregate sentence of 600 months (50 years), followed by lifetime post -prison supervision.

2.Petitioner appealed, arguing that his 300-month sentences and his 600-month aggregate sentence were unconstitutionally disproportionate under Article I, section 16, of the Oregon Constitution and under the Eighth Amendment. Applying the three-factor test of State v. Rodriguez/Buck, 347 Or 46, 217 P.3d 659 (2009) – (1) the severity of the penalty compared to the gravity of the offense; (2) the penalties for other, related crimes; and (3) the defendant's criminal history – petitioner argued that the trial court was to weigh his diagnosed mental health conditions and their documented traumatic origin as personal characteristics bearing on his culpability, as this Court's decision in State v. Ryan, 361 Or 602, 396 P.3d 867 (2017), required for the intellectually disabled defendant in that case.

While the appeal was pending, the Oregon Court of Appeals decided State v. Gonzalez, 326 Or App 587 534 P.3d 289 (2023), aff'd, 373 Or 248, 564 P.3d 109 (2025), which reversed a trial court's downward departure for a defendant who had committed arson during a mental health crisis, holding that Ryan's solicitude for personal characteristics was confined to conditions that render a defendant the functional intellectual equivalent of a child, absent "objective evidence of a societal standard" treating the defendant's specific condition as reducing culpability. The Oregon Supreme Court affirmed Gonzalez while petitioner's case was pending, reasoning that the record in that case did not identify such a societal standard for the defendant's diagnosis of depression, anxiety, adjustment disorder, and substance use.

3.The Court of Appeals affirmed petitioner's sentence, holding that Gonzalez controlled and that petitioner, like the defendant in Gonzalez, had not identified a societal standard comparable to the

standard this Court and Oregon Supreme Court have recognized for intellectual disability, see Atkins v. Virginia, 536 U.S. 304 (2002) – recognizing reduced moral culpability for persons with post-traumatic stress disorder and borderline personality disorder. The court rejected petitioner's effort to distinguish Gonzalez on the ground that his diagnoses arose from documented childhood abuse rather than circumstantial hardship, concluding that the distinction was not "meaningful." As to petitioner's Eighth Amendment claim, the court did not conduct an independent federal analysis. Relying on State v. Wiese, 238 Or App 426, 429-30, 241 P.3d 1210 (2010), it held that its three-factor Rodriguez/Buck analysis "provides a sufficient basis to decide whether a defendant's sentence is disproportionate under the Eighth Amendment," and on that basis held the federal claim foreclosed by the same reasoning. The court likewise rejected petitioner's separate challenge to the 600-month aggregate sentence, holding that Oregon's proportionality analysis does not apply to aggregate sentences at all.

4. Petitioner sought review in the Supreme Court of the State of Oregon, presenting the question whether post-traumatic stress disorder and borderline personality disorder resulting from documented childhood trauma are personal characteristics that must be considered in evaluating the constitutionality of a sentence. Petitioner argued that Oregon's own sentencing guidelines – which directs courts to weigh a defendant's diminished mental capacity and amenability to treatment as mitigating factors, OAR 213-008-0002(1)(a)(C), (I) – supply the very type of "objective evidence of a societal standard" that Gonzalez requires, and that the courts below erred by confining that standard to intellectual disability alone. The Oregon Supreme Court denied review.

REASONS FOR GRANTING THE PETITION

This case presents a clean, outcome-determinative federal question left open by this Court's precedents; whether the Eighth Amendment permits a sentencing court to categorially disregard undisputed evidence that a defendant's capacity to conform his conduct to the law was impaired by diagnosed mental illness rooted in documented childhood trauma, simply because that impairment falls short of intellectual disability. The decision below answers that question "yes," in square tension with the individualized-culpability principle this Court has applied with increasing force from Atkins through Miller, and in a manner that has split courts confronting materially identical claims. Review is warranted.

I. The Decision Below Conflicts With This Court's Requirement That Sentencers Meaningfully Consider Evidence of Diminished Culpability Before Imposing Severe Inflexible Mandatory Sentences

This Court's Eighth Amendment jurisprudence rests on the principle that the gravity of an offense, for purposes of gross-disproportionality review, cannot be assessed in the abstract; it must be assessed in light of the offender's own capacity for judgment and self-control. See Solem v. Helm, 463 U.S. 277 292 (1983) (proportionality review examines "the gravity of the offense and the harshness of the penalty" in light of the individual case); Weems v. United States, 217 U.S. 349 367 (1910) (the Eighth Amendment "is progressive" and draws its meaning from "the evolving standards" applied to the individual before the court). This principle finds its clearest expression in this Court's decision holding that mandatory sentencing schemes offend the Eighth Amendment

precisely because they foreclose consideration of the individual characteristics that bear on culpability. In Miller v. Alabama 567 U.S. 460 (2012), this Court held that a sentencer must have the opportunity to consider a juvenile offender's "diminished culpability and heightened capacity for change" before imposing a mandatory sentence of life without parole – even though youth, like the mental illness at issue here, does not excuse the underlying conduct, and even though the offender in Miller, like petitioner, faced other similarly situated offenders subject to the same mandatory term. Id. at 465, 479-80. The vice in Miller was not the severity of the sentence standing alone; it was the mandatory scheme's refusal to let the sentencer weigh a documented, non-culpable source of diminished capacity.

Petitioner's case presents the same structural defect. ORS 137.700 permitted no departure from the 300 -month terms regardless of the undisputed psychiatric evidence that petitioner's capacity for self-control was impaired by conditions traceable to abuse suffered as a young child – abuse that began, on the unchallenged record, at approximately age four. The Court of Appeals did not dispute that evidence; it held that such evidence is categorically irrelevant unless it rises to the level of intellectual disability. That is precisely the kind of categorial foreclosure of individualized assessment this Court's cases condemn. The decision below also cannot be squared with this Court's recognition, in the close context of the death penalty, that impaired mental capacity bears on an offender's culpability independent of any showing that the impairment renders him childlike. See Atkins v. Virginia, 536 U.S. 304, 318 (2002) (intellectual disability diminishes culpability because of impaired reasoning, judgment, and impulse control – the same functional impairments Dr. Martin documented in petitioner); Kennedy v. Louisiana, 554 U.S. 407, 435 (2008) (proportionality review must attend to "the culpability of the offender" in light of his "mental state and capacity"). Nothing in Atkins confines its diminished capacity rationale to intellectual

disability as opposed to other clinically diagnosed conditions that produce the same functional deficits in judgment and self-control; the Oregon courts' contrary holding – that only intellectual-disability-like conditions count – conflicts with the functional capacity-based inquiry this Court has directed.

II.Lower Courts Are Divided Over Whether, and How, Mental-Health Evidence Bears on Eighth Amendment Gross-Disproportionality Analysis Outside the Intellectual-Disability Context

The decision below deepens an existing division among the lower courts over how – or whether – non-intellectual-disability mental illness factors into Eighth Amendment gross-disproportionality analysis for adult, non-capital sentences.

Some courts have treated diagnosed mental illness resulting from documented trauma as directly relevant to the gravity-of-the-offense inquiry, reasoning – consistent with Atkins and Miller – that any condition producing a demonstrated deficit in volitional control bears on culpability regardless of its diagnostic label. Other courts, including the Oregon courts here, have confined that solicitude to intellectual disability and closely analogous conditions, treating other psychiatric diagnoses as legally irrelevant to proportionality absent proof of a specific, pre-existing "societal standard" equating the diagnosis with childlike incapacity – a standard that, as the panel here effectively acknowledged, will rarely exist for any condition besides intellectual disability, since Atkins itself is the only source of such a standard. This near-tautological standard means the exception this Court's cases were meant to create can never be satisfied by any defendant who is not intellectually disabled, no matter how severe or well-documented the mental illnesss or its traumatic cause. That result cannot be reconciled with the individualized capacity-based inquiry

Miller and Atkins require, and this Court's review is needed to resolve the resulting conflict and provide lower courts with workable guidance.

III. The Question Is Recurring and Important and This Case Is an Ideal Vehicle for Resolving It

The question presented recurs constantly and will continue to recur. A substantial and growing share of criminal defendants – particularly those convicted of offenses carrying mandatory minimum sentences – present documented histories of childhood trauma and resulting psychiatric diagnoses such as post-traumatic stress disorder and borderline personality disorder. Oregon's own sentencing guidelines recognize "diminished" mental capacity and amenability to treatment as relevant mitigating considerations in the ordinary sentencing context, OAR 213-008-0002(1)(a)(C), (I) – underscoring that the categorical exclusion of that same evidence from constitutional proportionality review, applied below, is an anomaly, not the norm, even within Oregon's own sentencing law. At least seventeen States, including Oregon, employ analogous mandatory-minimum schemes for serious sex offenses that foreclose individualized downward departure at the trial court level, making constitutional proportionality review the only remaining check on the categorical exclusion of this evidence.

This case is an ideal vehicle to resolve the question. The relevant facts are undisputed; the State did not contest Dr. Martin's diagnoses, the documented history of abuse underlying them, or her opinion that petitioner's disorders impaired his volitional control. The Court of Appeals holding rested squarely and exclusively on the categorial legal rule that non-intellectual-disability mental illness cannot be considered absent proof of a specific societal standard – not on any fact-bound assessment that petitioner's particular diagnoses were less severe or less well-documented than the intellectual disability at issue in Ryan. The case therefore presents the legal question cleanly,

without vehicle problems that might otherwise complicate this Court's review.

Finally, although the Court of Appeals' disposition of petitioner's Eighth Amendment claim was brief, it was not a mere reflexive incorporation of state law: the court expressly held that its Rodriguez/Buck analysis "provides a sufficient basis" to resolve the federal claim, squarely presenting and deciding the federal question this petitioner raises. The federal question is therefore properly before this Court and was not resolved on an independent and adequate state ground.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Kenneth Lancaster

October 5, 2026