No. 17-236

IN THE
Supreme Court of the United States

Sarah Marie Johnson,
Petitioner,
v.
State of Idaho,
Respondent.

On Petition For Writ Of Certiorari
To The Idaho Supreme Court

BRIEF OF JUVENILE LAW CENTER AND THE CHILDREN AND FAMILY JUSTICE CENTER AS AMICI CURIAE IN SUPPORT OF PETITIONER

MARSHA L. LEVICK*
*Counsel of Record for *Amici*
Riya Saha Shah
Danielle Whiteman
JUVENILE LAW CENTER
1315 Walnut Street, 4th Floor
Philadelphia, PA 19107
Telephone: (215) 625-0551
Facsimile: (215) 625-2808
Email: mlevick@jlc.org

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Juvenile Law Center, founded in 1975, is the oldest public interest law firm for children in the United States. Juvenile Law Center advocates on behalf of youth in the child welfare and criminal and juvenile justice systems to promote fairness, prevent harm, and ensure access to appropriate services. Among other things, Juvenile Law Center works to ensure that children's rights to due process are protected at all stages of juvenile court proceedings, from arrest through disposition, from post-disposition through appeal, and; that the juvenile and adult criminal justice systems consider the unique developmental differences between youth and adults in enforcing these rights.

The **Children and Family Justice Center (CFJC)**, part of Northwestern University Law School's Bluhm Legal Clinic, was established in 1992 as a legal service provider for children, youth, and families, as well as a research and policy center. Currently, clinical staff at the CFJC provide advocacy on policy issues affecting children in the legal system, and legal representation for children, including in the areas of delinquency and crime, immigration/asylum, and fair sentencing practices. In its 25-year history, the CFJC has filed numerous briefs as an amicus curiae in this Court and in state supreme courts based

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[1] Pursuant to Rule 37.2 counsel of record received timely notice of the intent to file this brief and the consent of counsel for all parties is on file with this Court. Pursuant to Rule 37.6, no counsel for a party authored this brief in whole or in part. No person or entity, other than *Amici,* their members, or their counsel made a monetary contribution for the preparation or submission of this brief.

on its expertise in the representation of children in the legal system. See, e.g., Amicus Br., Montgomery v. Louisiana, 135 S. Ct. 1546 (2015) (No. 14-280), 2015 WL 4624620; Amicus Br., Watson v. Illinois, 136 S. Ct. 399 (2015) (No. 14-9504), 2015 WL 3452842.

SUMMARY OF ARGUMENT

In *Miller v. Alabama*, 567 U.S. 460 (2012), this Court held that the mandatory imposition of life without parole sentences on juvenile offenders convicted of murder is cruel and unusual punishment. Four years later in *Montgomery v. Alabama*, 136 S. Ct. 718, 732 (2016), this Court held that *Miller* created a new substantive rule of constitutional law that must apply retroactively to cases on collateral review.

Miller's mandate—that a sentencing court must consider youth and the hallmark characteristics attendant to youth prior to imposing a life without parole sentence—is being implemented in courts across the country. Courts are faced with the task of reexamining hundreds, and possibly thousands of unconstitutional mandatory life without parole sentences using the specific factors set forth in *Miller* to ensure that only the rarest of juvenile offenders whose crimes reflect permanent incorrigibility may be sentenced to life without the possibility of parole. Courts are likewise using the *Miller* factors to ensure the rarity of life without parole sentences for individuals who are not subject to mandatory sentencing schemes.

States across the country have also responded to this Court's mandate in *Miller* by establishing new sentencing schemes that create alternative sentences with parole eligibility, and by eliminating life without

parole sentences for subsets of juvenile offenders or simply for all juveniles.

Yet in the instant case, *Miller*'s mandate has been ignored. Rather than resentencing Sarah Johnson using the guidelines and considerations set forth in *Miller*, the sentencing court relied on her previous sentencing hearing, deeming it sufficient because it acknowledged her youth. This pre-*Miller* hearing cannot and does not take the place of a resentencing hearing as contemplated by *Miller* because it failed to appropriately consider youth and its attendant characteristics and because it established a presumption in favor of life without parole rather than a presumption against life without parole. This Court should grant *certiorari* to protect the integrity of its decisions in *Miller* and *Montgomery*.

ARGUMENT

I. THIS CASE PRESENTS AN IMPORTANT QUESTION OF LAW THAT CONFLICTS WITH THIS COURT'S PRECEDENT

A. *Miller v. Alabama* And *Montgomery v. Louisiana* Require Consideration Of Youth Prior To Imposing A Life Without Parole Sentence

This Court's decision in *Montgomery v. Louisiana* held that *Miller v. Alabama* articulated a new substantive rule of constitutional law that must be applied retroactively: mandatory life without parole sentences are unconstitutional and void. The Court wrote:

> A conviction or sentence imposed in violation of a substantive rule is not just erroneous but contrary to law and, as a result, void. It follows, as a general principle, that a court has no authority to leave in place a conviction or sentence that violates a substantive rule, regardless of whether the conviction or sentence became final before the rule was announced.

Montgomery v. Alabama, 136 S. Ct. 718, 731 (2016) (citation omitted).

To remedy such violations, this Court provided states with two options: either permit juvenile homicide offenders to be immediately considered for parole, or resentence individuals serving mandatory life without parole sentences consistent with the process prescribed in *Miller*, which requires a consideration of age and its attendant characteristics in fashioning an individualized sentence. *See Montgomery*, 136 S. Ct. at 736 ("A State may remedy a *Miller* violation by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them."). *Miller* mandated that "a sentencer follow a certain process—considering an offender's youth and attendant characteristics—before imposing a particular penalty." *Miller v. Alabama*, 567 U.S. 460, 483 (2012). In so requiring, this Court stated, "our decision flows straightforwardly from our precedents: specifically, the principle of *Roper, Graham*, and our individualized sentencing cases that youth matters for purposes of meting out the law's most serious

punishments." *Id.* This requirement was set forth by this Court to ensure that only the "rare and uncommon" juvenile would face a sentence of life without parole. As such, any court handing down a discretionary sentence that even considers the possibility of life without parole must follow the guidelines set forth in *Miller*.

In the instant matter, the Idaho sentencing court neither applied a presumption against life without parole sentences nor appropriately considered youth and its attendant characteristics when sentencing Ms. Johnson. By relying on the sentencing court's pre-*Miller* hearing, which failed to sufficiently and thoroughly address youth as contemplated by *Miller,* the Idaho Supreme Court presumed the constitutionality of a life without parole sentence and provided no forum to reexamine the sentence in light of changing jurisprudence.

B. The Idaho Supreme Court Erred In Finding That Ms. Johnson's Pre-*Miller* Sentence Complies With *Miller*

The Idaho Supreme Court denied Ms. Johnson's petition for post-conviction relief and affirmed the sentence given by the lower court after finding that *Miller* only "'requires a sentencer to consider a juvenile offender's youth and attendant characteristics before determining that life without parole is the proportionate sentence.'" *State v. Johnson*, 188 P.3d 912 (Idaho 2008); *Johnson v. State*, 395 P.3d. 1246 (Idaho 2017). While *Miller* does indeed require a sentencer to consider youth and all of its attendant characteristics, it also delineated specific factors that sentencers must examine before imposing

a discretionary sentence of life without parole: (1) the juvenile's "chronological age" and related "immaturity, impetuosity, and failure to appreciate risks and consequences;" (2) the juvenile's "family and home environment that surrounds him;" (3) "the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him;" (4) the "incompetencies associated with youth" in dealing with law enforcement and a criminal justice system designed for adults; and (5) "the possibility of rehabilitation." 567 U.S. at 477-78.

This Court warned, "[b]y making youth (and all that accompanies it) irrelevant to imposition of that harshest prison sentence, such a scheme poses too great a risk of disproportionate punishment." *Id.* at 479. Thus prior to imposing a juvenile life without parole sentence, the sentencer must "follow a certain process," which meaningfully considers youth, and how it impacts the juvenile's overall culpability. *Id.* at 483. As the lower court sentenced Ms. Johnson before *Miller* or *Montgomery* were decided, it was unable to benefit from the guidance that this Court has since provided on what a proper consideration of the *Miller* factors entails. Therefore the sentence the court imposed is deficient until reexamined.

1. A life without parole sentence that fails to sufficiently consider the characteristics of youth as set forth in *Miller* is unconstitutional

Justice Sotomayor made clear in her concurrence in *Tatum v. Arizona* that a mere recitation of the age

of the individual or consideration in checklist fashion is insufficient:

> It is clear after *Montgomery* that the Eighth Amendment requires more than mere consideration of a juvenile offender's age before the imposition of a sentence of life without parole. It requires that a sentencer decide whether the juvenile offender before it is a child "whose crimes reflect transient immaturity" or is one of "those rare children whose crimes reflect irreparable corruption" for whom a life without parole sentence may be appropriate.

137 S. Ct. 11, 13 (2016) (Sotomayor, J., concurring) (mem.) (quoting *Montgomery*, 136 S. Ct. at 734).[2] When "[t]here is no indication that, when the factfinders . . . considered petitioners' youth, they even asked the question *Miller* required them not only to answer, but to answer correctly: whether petitioners' crimes reflected 'transient immaturity' or 'irreparable corruption,'" remand is required. *Adams v. Alabama,* 136 S. Ct. 1796, 1800 (2016) (Sotomayor, J., concurring) (mem.) (quoting *Montgomery,* 136 S. Ct. at 734); *see also Tatum*, 137 S. Ct. at 13 (Sotomayor, J., concurring) (mem.). Justice Sotomayor reasoned that remand was required because "none of the sentencing judges addressed the question *Miller* and *Montgomery* require a sentencer to ask: whether the

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[2] This Court noted that Justice Sotomayor's concurring opinion in *Tatum* "also applies to No. 15–8842, *Purcell* v. *Arizona*; No. 15– 8878, *Najar* v. *Arizona*; No. 15–9044, *Arias* v. *Arizona*; and No. 15– 9057, *DeShaw* v. *Arizona*." *Tatum*, 137 S. Ct. at 11 n.1.

petitioner was among the very 'rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility.'" *Tatum*, 137 S. Ct. at 12 (Sotomayor, J., concurring) (mem.) (quoting *Montgomery*, 136 S. Ct. at 734). In the instant matter, as in *Tatum*, although the sentencing court mentioned Ms. Johnson's youth, there is no indication that it did a meaningful analysis of all of the *Miller* factors, or that it made a determination as to whether her crime was merely a reflection of "transient immaturity," or truly signified "irreparable corruption." *See id* at 13.

2. *Miller v. Alabama* and *Montgomery v. Louisiana* establish a presumption against imposing life without parole sentences on juveniles

This Court has repeatedly recognized that youth are not as culpable as their adult counterparts, and that life without parole sentences may violate the Eighth Amendment when imposed on children. *Miller,* 567 U.S. at 473. Relying on *Roper v. Simmons*, this Court cited three essential characteristics in *Graham v. Florida*, that distinguish youth from adults for culpability purposes: "[a]s compared to adults, juveniles have a 'lack of maturity and an underdeveloped sense of responsibility'; they 'are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure'; and their characters are 'not as well formed.'" 560 U.S. 48, 68 (2010) (quoting *Roper v. Simmons*, 543 U.S. 551, 569-70 (2005)). *See also Miller*, 567 U.S. at 471; *Montgomery*, 136 S. Ct. at 733. The holding in *Graham* rested largely on the incongruity of imposing

a final and irrevocable penalty that afforded no opportunity for release on an adolescent who had capacity to change and grow. *See Graham*, 560 U.S. at 68. This Court explained that

> Juveniles are more capable of change than are adults, and their actions are less likely to be evidence of "irretrievably depraved character" than are the actions of adults. *Roper*, 543 U.S. at 570. It remains true that "[f]rom a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed."

Id. (quoting *Roper*, 543 U.S. at 570). Accordingly, "juvenile offenders cannot with reliability be classified among the worst offenders," *id.* (quoting *Roper*, 543 U.S. at 569), and although "[a] juvenile is not absolved of responsibility for his actions, . . . his transgression 'is not as morally reprehensible as that of an adult.'" *Id.* (quoting *Thompson v. Oklahoma*, 487 U.S. 815, 835 (1988) (plurality opinion)).

This Court has advised that "given all we have said in *Roper, Graham,* and this decision about children's diminished culpability and heightened capacity for change, we think *appropriate occasions for sentencing juveniles to this harshest possible penalty* [life without parole] *will be* ***uncommon***." *Miller,* 567 U.S. at 479 (emphasis added). That is particularly so because the salient characteristics of youth—the lack of maturity, evolving character, vulnerability and susceptibility to negative influences

and external pressure—would make it "difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption." *Graham*, 560 U.S. at 68 (quoting *Roper*, 543 U.S. at 573). The American Psychological Association reinforced this point:

> [T]here is no reliable way to determine that a juvenile's offenses are the result of an irredeemably corrupt character; and there is thus no reliable way to conclude that a juvenile—even one convicted of an extremely serious offense—should be sentenced to life in prison, without any opportunity to demonstrate change or reform.

Brief for the American Psychological Association et al. as *Amici Curiae* in Support of Petitioners at 25, *Miller v. Alabama*, 567 U.S. 460 (2012), (Nos. 10-9646, 10-9647).

In *Montgomery*, the Court reiterated that "*Miller* did bar life without parole . . . for all but the rarest of juvenile offenders, *those whose crimes reflect permanent incorrigibility*." 136 S. Ct. at 734 (emphasis added). "*Miller* drew a line between children whose crimes reflect transient immaturity and *those rare children whose crimes reflect irreparable corruption*." *Id*. (emphasis added). A life without parole sentence "could [only] be a proportionate sentence for the latter kind of juvenile offender." *Id*. In a dissenting opinion, Justices Scalia, Thomas, and Alito found that imposition of a life

without parole sentence would be "a practical impossibility" given this Court's decision in *Montgomery*. *Montgomery*, 136 S. Ct. at 744 (Scalia, J., dissenting).

Thus *Miller* and *Montgomery* established a presumption against juvenile life without parole. A clear majority of states that have considered this issue have found such a presumption.[3] The Connecticut Supreme Court found that

> in *Miller*, the court expressed its confidence that, once the sentencing authority considers the mitigating factors of the offender's youth and its attendant circumstances, "appropriate occasions for sentencing juveniles to this harshest possible penalty will be uncommon." This language suggests that the mitigating factors of youth establish, in effect, a presumption against imposing a life sentence without parole on a juvenile offender that must be overcome by evidence of unusual circumstances.

State v. Riley, 110 A.3d 1205, 1214 (Conn. 2015) (citation omitted), *cert. denied*, 136 S. Ct. 1361 (2016). Similarly, the Missouri Supreme Court held that the

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[3] Massachusetts has gone further, banning juvenile life without parole sentences altogether. Relying on United States Supreme Court precedent, the Massachusetts Supreme Judicial Court held that even the discretionary imposition of juvenile life without parole sentences violates the state constitution. *Diatchenko v. Dist. Attorney for Suffolk Dist.,* 1N.E.3d 270, 283-85 (Mass. 2013).

state bears the burden of demonstrating, beyond a reasonable doubt, that life without parole is an appropriate sentence. *See State v. Hart*, 404 S.W.3d 232, 241 (Mo. 2013) (en banc) ("[A] juvenile offender cannot be sentenced to life without parole for first-degree murder unless the state persuades the sentencer beyond a reasonable doubt that this sentence is just and appropriate under all the circumstances."). The Iowa Supreme Court also found that *Miller* established a presumption against juvenile life without parole. *State v. Seats*, 865 N.W.2d 545, 555 (Iowa 2015). And, since its decision in *Seats*, the Iowa Supreme Court has expanded its decision and held that juvenile life without parole sentences are always unconstitutional pursuant to their state constitution. The Iowa Supreme Court found:

> [T]he enterprise of identifying which juvenile offenders are irretrievable at the time of trial is simply too speculative and likely impossible given what we now know about the timeline of brain development and related prospects for self-regulation and rehabilitation. . . . But a district court at the time of trial cannot apply the *Miller* factors in any principled way to identify with assurance those very few adolescent offenders that might later be proven to be irretrievably depraved. In short, we are asking the sentencer to do the impossible, namely, to determine whether the offender is "irretrievably corrupt" at a time when even trained professionals with years of clinical

> experience would not attempt to make such a determination.
>
> No structural or procedural approach, including a provision of a death-penalty-type legal defense, will cure this fundamental problem.

State v. Sweet, 879 N.W.2d 811, 836-37 (Iowa 2016).

Most recently, the Pennsylvania Supreme Court, in *Commonwealth v. Batts*, 163 A.3d 410 (Pa. 2017), held that there must be a presumption against the imposition of life without parole sentences as the resentencings or sentencings of youth convicted of homicide in Pennsylvania go forward. The court reasoned that "a faithful application of the holding in *Miller*, as clarified in *Montgomery*, requires the creation of a presumption against sentencing a juvenile offender to life in prison without the possibility of parole." *Batts,* 163 A.3d at 452.

A presumption against life without parole sentences requires a sentencer to recognize that "the distinctive attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders, *even when they commit terrible crimes*," *Miller,* 567 U.S. at 472 (emphasis added), and that the vast majority of juvenile offenses are a reflection of transient immaturity inherent to adolescent behavioral and neurological development. *See id.* at 471-73 ("[N]one of what [*Graham*] said about children—about their distinctive (and transitory) mental traits and environmental vulnerabilities—is crime-specific. Those features are evident in the same way, and to the same degree [no matter the crime]."). Judges must ensure that, due to the inherent immaturity and

reduced culpability of children, only the truly rare and uncommon juvenile whose crime reflects irreparable corruption is sentenced to life without parole. *Id. See also Batts,* 163 A.3d at 452 ("Only in 'exceptional circumstances' will life without the possibility of parole be a proportionate sentence for a juvenile." (quoting *Montgomery*, 136 S. Ct. at 736).

3. *Miller* requires a determination that a juvenile has no potential for rehabilitation before imposing a life without parole sentence

Miller requires that courts consider "the possibility of rehabilitation" before imposing life without parole on a juvenile. 132 S. Ct. at 2468. Research shows that as youth develop, they become less likely to engage in antisocial activities, an attribute that can be dramatically enhanced with appropriate treatment. "Contemporary psychologists universally view adolescence as a period of development distinct from either childhood or adulthood with unique and characteristic features." Elizabeth S. Scott & Laurence Steinberg, *Rethinking Juvenile Justice* 31 (2008). Studies show that youthful criminal behavior can be distinguished from permanent personality traits, and brain imaging techniques show that areas of the brain associated with impulse control, judgment, and the rational integration of cognitive, social, and emotional information do not fully mature until early adulthood. Scott & Steinberg, *Rethinking Juvenile Justice, supra,* at 46-68. *See also* Laurence Steinberg, *Age of Opportunity: Lessons from the New Science of*

Adolescence 9-11 (Boston: Houghton Mifflin Harcourt, 2014).

Youth are developmentally capable of change, and research demonstrates that when given a chance, even youth with histories of violent crime can and do become productive and law-abiding citizens, even absent intervention. As this Court has recognized, "[f]or most teens, [risky or antisocial] behaviors are fleeting; they cease with maturity as individual identity becomes settled. Only a relatively small proportion of adolescents who experiment in risky or illegal activities develop entrenched patterns of problem behavior that persist into adulthood." *Roper v. Simmons*, 543 U.S. 551, 570 (2005) (second alteration in original) (quoting Laurence Steinberg & Elizabeth S. Scott, *Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty*, 58 Am. Psychologist 1009, 1014 (2003)). In a study of juvenile offenders, "even among those individuals who were high-frequency offenders at the beginning of the study, the majority had stopped these behaviors by the time they were 25." Laurence Steinberg, *Give Adolescents the Time and Skills to Mature, and Most Offenders Will Stop* 3 (Chicago, IL: MacArthur Foundation 2014), *available at* http://www.pathwaysstudy.pitt.edu/documents/MacArthur%20Brief%20Give%20Adolescents%20Time.pdf.

In the instant matter, both doctors who testified at Ms. Johnson's trial determined that she was amenable to treatment. (Trial Tr. vol. 9, 6289, 6392 6448-49.) Dr. Richard Worst, an independent psychiatrist retained by the court, stated that Ms. Johnson was "rehabilitative," and that he did not find anything in the data collected that would allow him to

predict that Ms. Johnson would be prone to violence. (Trial Tr. vol. 9, 6288-89.) Additionally, Dr. Worst spoke briefly about the effect that being incarcerated has on adolescents, and stated that he could "already . . . see some evidences where the incarceration has affected her development." (Trial Tr. vol. 9, 6293-94.) *See* Justice Policy Institute, *Sticker Shock: Calculating the Full Price Tag for Youth Incarceration*, (December 2014) at 21-22 *at* www.justicepolicy.org/uploads/justicepolicy/documents/sticker_shock_final_v2.pdf (stating that compelling evidence demonstrates that non-rehabilitative, punitive sanctions have negative effects on juveniles' normal development from childhood to adulthood, and studies have shown that punitive sanctions may actually promote reoffending rather than help rehabilitate the youth.)

Dr. Craig Weaver, a neuropsychologist hired by the defense, found that Ms. Johnson's lack of a "well-defined mental health disorder that typically involves bipolar disorder or schizophrenia," lack of drug or alcohol dependency, her possession of average intelligence, and lack of a prior history of violence or criminal behavior all weighed in favor of Ms. Johnson's potential for rehabilitation. (Trial Tr. vol. 9, 6399.) Though the sentencing judge noted that Ms. Johnson's lack of prior criminal history weighed in her favor, and acknowledged that the court's own expert found her capable of being rehabilitated, he nevertheless sentenced Ms. Johnson to the harshest possible sentence available.

4. The judge improperly allowed the penological goal of incarceration and deterrence to override all other considerations

The sentencing court articulated the four goals of sentencing: protection of society, deterrence, retribution and rehabilitation. (Trial Tr. vol. 9, 6460.) In weighing these goals, the judge spoke at some length about deterrence, stating that "imprisonment will provide appropriate punishment and deterrent to you. . . . [and] will provide an appropriate deterrent for other persons in the community." (Trial Tr. vol. 9, 6470.) The judge claimed that in his view, "general deterrence certainly has some effect in regard to this kind of case, the nature of these offenses," and that "the kids in this state have to understand . . . [that] when they get grounded by their parents when they refuse to follow family rules . . . kids can't just go kill [their] parents." *Id.* at 6470, 6499-6500. However, as this Court wrote in *Miller*,

> Because "[t]he heart of the retribution rationale" relates to an offender's blameworthiness, "the case for retribution is not as strong with a minor as with an adult." Nor can deterrence do the work in this context, because "the same characteristics that render juveniles less culpable than adults"—their immaturity, recklessness, and impetuosity—make them less likely to consider potential punishment. Similarly, incapacitation could not support the life-without-parole sentence

> in *Graham*: Deciding that a "juvenile offender forever will be a danger to society" would require "mak[ing] a judgment that [he] is incorrigible"—but "incorrigibility is inconsistent with youth."

Miller, 567 U.S. at 472-473 (alterations in original) (internal citations omitted) (quoting *Graham*, 560 U.S. at 72-73). Thus this Court found that deterrence was not a justifiable goal in sentencing juvenile offenders to harsh sentences because their immaturity, recklessness and impetuosity rendered them incapable of considering potential punishment and modifying their behavior accordingly. *Id.*

In reviewing the sentence, the Idaho Supreme Court found that "the [trial] court clearly considered Johnson's youth and all its attendant characteristics and determined, in light of the heinous nature of the crime, that Johnson, despite her youth, deserved life without parole." *Johnson v. State*, 395 P.3d 1246, 1259 (Idaho 2017). Ms. Johnson's sentence, however, fails to comply with *Miller*. *Graham* made clear that state laws that allowed for the imposition of life without parole sentences "based only on a discretionary, subjective judgment by a judge or jury that the offender is irredeemably depraved" are insufficient to prevent the possibility that offenders would receive life without parole sentences though they categorically lacked the culpability of adult offenders. 560 U.S. at 76-77. Although Ms. Johnson's crimes were heinous, as this Court noted, even when juvenile offenders commit terrible crimes, sentencers must not be so overwhelmed by the facts that they disregard the distinctive attributes of youth and impose

disproportionately harsh sentences. *See Graham*, 560 U.S. at 73. In this case, the judge improperly allowed the penological goal of incapacitation to override all other considerations and foreclosed Ms. Johnson's opportunity to demonstrate, through growth and maturity, that she was fit to rejoin society.

CONCLUSION

For the foregoing reasons, *amici* respectfully request that this Court grant the petition for a *writ of certiorari*.

Respectfully Submitted,

Marsha L. Levick*
**Counsel of Record*
Riya Saha Shah
Danielle Whiteman
JUVENILE LAW CENTER
1315 Walnut St., 4th Floor
Philadelphia, PA 19107
(215) 625-0551
mlevick@jlc.org

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