NO. 17-1510

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IN THE

Supreme Court of the United States

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ROBERT VEAL,
Petitioner,
v.
STATE OF GEORGIA,
Respondent.

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On Petition For Writ Of Certiorari To
The Supreme Court of Georgia

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BRIEF OF AMICI CURIAE JUVENILE LAW CENTER, CHILDREN & FAMILY JUSTICE CENTER, AND THE SENTENCING PROJECT IN SUPPORT OF PETITIONER

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INTEREST OF AMICI[1]

Juvenile Law Center advocates for rights, dignity, equity and opportunity for youth in the child welfare and justice systems through litigation, appellate advocacy and submission of amicus briefs, policy reform, public education, training, consulting, and strategic communications. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center strives to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are rooted in research, consistent with children's unique developmental characteristics, and reflective of international human rights values. Juvenile Law Center has represented hundreds of young people and filed influential amicus briefs in state and federal cases across the country.

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

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[1] Pursuant to Rule 37.2 counsel of record received timely notice of the intent to file this brief. Written consent of all parties has been provided. 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.

curiae in this Court and in state supreme courts based 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.

The Sentencing Project, founded in 1986, is a national nonprofit organization engaged in research and advocacy on criminal justice and juvenile justice reform. The organization is recognized for its policy research documenting trends and racial disparities within the justice system, and for developing recommendations for policy and practice to ameliorate those problems. The Sentencing Project has produced policy analyses that document the increasing use of sentences of life without parole for both juveniles and adults, and has assessed the impact of such policies on public safety, fiscal priorities, and prospects for rehabilitation. Staff of the organization are frequently called upon to testify in Congress and before a broad range of policymaking bodies and practitioner audiences.

SUMMARY OF ARGUMENT

This Court has repeatedly admonished against the imposition of juvenile life sentences without consideration of the hallmark characteristics of youth. "The juvenile should not be deprived of the opportunity to achieve maturity of judgment and self-recognition of human worth and potential. . . . Life in prison without the possibility of parole gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope." *Graham v. Florida*, 560 U.S. 48, 79 (2010). *See also Miller v.*

Alabama, 567 U.S. 460, 479 (2012). A sentence, whether formally labeled life without parole or not, that provides no "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation" is unconstitutional. *Graham*, 560 U.S. at 75.

Petitioner, Mr. Robert Veal, was initially sentenced to life without the possibility of parole for a crime committed when he was 17 years old. Following this Court's rulings in *Miller* and *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016), the resentencing court circumvented this Court's holdings that children cannot be sentenced to life without parole unless their crimes reflect irreparable corruption or permanent incorrigibility and sentenced Mr. Veal to eight consecutive life sentences plus an additional 60 years. Importantly, this functional life without parole sentence was imposed absent any determination that Mr. Veal was irreparably corrupt or permanently incorrigible. *See Veal v. Georgia*, 810 S.E.2d 127, 128 (Ga. 2018) [hereinafter *Veal II*]; (*See also* Pet. Cert. 5.)

Georgia law requires an individual serving multiple life with parole sentences to serve a minimum of 60 years in prison prior to parole eligibility. Accordingly, Mr. Veal's parole eligibility forecloses any meaningful chance at life outside prison walls.

Regardless of what his sentence has been labeled, Mr. Veal has unquestionably been sentenced to spend the rest of his life in prison and is therefore deprived of a "meaningful opportunity to obtain release." This Court should make clear that its mandates in *Graham*, *Miller*, and *Montgomery* extend to all sentences that condemn a youth to die in prison prior to their parole eligibility.

ARGUMENT

I. THIS COURT SHOULD GRANT CERTIORARI TO CLARIFY THAT ITS PRIOR RULINGS EXTEND TO TERM-OF-YEARS SENTENCES THAT ARE THE FUNCTIONAL EQUIVALENT OF JUVENILE LIFE WITHOUT PAROLE

A. Any Sentence That Condemns A Youth To Die In Prison Is Constitutionally Disproportionate

Although the Eighth Amendment does not bar the possibility that individuals convicted of crimes committed before adulthood will remain behind bars for life, "[i]t does prohibit States from making the judgment at the *outset* that [juvenile nonhomicide] offenders never will be fit to reenter society." *Graham v. Florida*, 560 U.S. 48, 75 (2010) (emphasis added). The sentencing court effectively made that judgment when it ordered Mr. Veal to serve *eight* consecutive life sentences and an additional 60 years in prison.

Because almost all youth are capable of rehabilitation as they mature developmentally and neurologically, in the context of life without parole sentences for non-homicides, the U.S. Supreme Court found that "[a] State need not guarantee the offender eventual release, but if it imposes a sentence of life it must provide him or her with some realistic opportunity to obtain release before the end of that term." *Graham*, 560 U.S. at 82. *Graham* further clarified that this "meaningful opportunity to obtain release" should be based on "demonstrated maturity and rehabilitation." *Id.* at 75.

This Court has noted that there is incongruity of imposing a final and irrevocable penalty that affords no opportunity for release on adolescents who have the capacity to change and grow. *See Graham*, 560 U.S. at 75. 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 v. Simmons*, 543 U.S. 551, 570 (2005). 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. at 68 (alteration in original). *Graham* recognized that due to the salient characteristics of youth—the lack of maturity, evolving character, vulnerability and susceptibility to negative influences and external pressure—"juvenile offenders cannot with reliability be classified among the worst offenders." *Id.* (quoting *Roper*, 543 U.S. at 569.) As such, *Graham* requires that juveniles who commit nonhomicide crimes be given "some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Id.* at 75.

This Court later amplified its *Graham* rationale in *Montgomery*, recognizing that "*Miller* drew a line between children whose crimes reflect transient immaturity and *those rare children whose crimes reflect irreparable corruption*," *Montgomery v. Louisiana,* 136 S. Ct. 718, 734 (2016) (emphasis

added), and that a life without parole sentence "could [only] be a proportionate sentence for the latter kind of juvenile offender." *Id.* Thus, life without parole is barred "for all but the rarest of juvenile offenders, *those whose crimes reflect permanent incorrigibility*." *Id.* (emphasis added). Any life sentence that fails to consider whether the sentenced individual demonstrates "irreparable corruption," "permanent incorrigibility," or "irretrievable depravity," and does not afford a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation" is unconstitutional. *See id*; *see also Graham*, 560 U.S. at 75.

B. A Sentence That Precludes A "Meaningful Opportunity To Obtain Release" Is Unconstitutional Regardless Of Whether It Is Formally Labeled "Life Without Parole"

Eighth Amendment jurisprudence has clarified that the constitutionality of a sentence depends on the actual impact of the sentence upon the individual, not how a sentence is labeled. As this Court stated in *Sumner v. Shuman*: "there is no basis for distinguishing, for purposes of deterrence, between an inmate serving a life sentence without possibility of parole and a person serving several sentences of a number of years, the total of which exceeds his normal life expectancy." 483 U.S. 66, 83 (1987). A sentence to die in prison is life without the possibility of parole, regardless of the label. Courts cannot circumvent the categorical ban on life without parole sentences for juveniles by imposing consecutive term-of-years sentences that, while avoiding the label of "life

without parole," ensure the individuals will die in prison.

The sentencing court's imposition of a functional life without parole sentence frustrates this Court's constitutional requirements. While this Court has not squarely addressed whether lengthy term-of-years or aggregate sentences should also be considered repugnant to the Eighth Amendment's ban on cruel and unusual punishments, several state supreme courts and federal circuit courts have, holding that when imposed on juveniles, such sentences are the equivalent of life without parole, even if the product of consecutive sentencing. (*See* Pet. Cert. 7-8.) As such, these courts have found such sentences violative of both *Graham* and *Miller v.* Alabama, 567 U.S. 460 (2012).

The Third Circuit Court of Appeals recently found that a "meaningful opportunity for release" means "opportunity for release at a point in his or her life that still affords 'fulfillment outside prison walls,' 'reconciliation with society,' 'hope,' and 'the opportunity to achieve maturity of judgment and self-recognition of human worth and potential.'" *United States v. Grant*, 887 F.3d 131, 147 (3d Cir. 2018) (quoting *Graham*, 560 U.S. at 79.

The California Supreme Court recently held that a 50-year-to-life sentence for a youth ineligible for parole under the Youthful Offender Parole Act violated the Eighth Amendment within the meaning of *Graham v. Florida*. *People v. Contreras*, 411 P.3d 445, 446 (Cal. 2018). In *Contreras*, the Attorney General urged the court to consider actuarial data, which showed that the average life expectancy for a 16-year-old boy was 76.9 years old. *Id*. at 449. As Contreras would be 74 years old when he becomes

eligible for parole, the Attorney General argued that he would have a meaningful opportunity for release within his natural life expectancy. *Id*. The majority opinion rejected this actuarial approach to determining what constitutes a *de facto* life without parole sentence, reasoning that it could create a risk of gender and race discrimination. *Id*. at 449-50. The court further reasoned that

> [a]n opportunity to obtain release does not seem "meaningful" or "realistic" within the meaning of *Graham* if the chance of living long enough to make use of that opportunity is roughly the same as a coin toss. Of course, there can be no guarantee that every juvenile offender who suffers a lengthy sentence will live until his or her parole eligibility date. But we do not believe the outer boundary of a lawful sentence can be fixed by a concept that *by definition* would not afford a realistic opportunity for release to a substantial fraction of juvenile offenders.

Contreras, 411 P.3d at 451 (citation omitted). The court reinforced its holding, citing 1) scientific research demonstrating youths' capacity to change and rehabilitate and that 2) there is no penological justification. *Id*. at 452-53. In reaching its conclusion, the court also relied upon its prior decision in *People v. Caballero*, 282 P.3d 291, 295 (Cal. 2012) (holding a 110-years-to life sentence as *de facto* life without parole) and the decisions of other state supreme courts.

The Wyoming State Supreme Court held that a life sentence plus up to 30 additional years that wouldn't make the defendant eligible for parole until he was 70 years old was the equivalent of a life without parole sentence and therefore violative of *Miller*. *Sam v. State*, 401 P.3d 834, 860 (Wyo. 2017), *cert. denied*, __ S. Ct. __, No. 17-952, 2018 WL 2186232 (May 14, 2018). The court relied on its previous decision in *Bear Cloud v. State*, holding that "[t]he prospect of geriatric release . . . does not provide a 'meaningful opportunity' to demonstrate the 'maturity and rehabilitation' required to obtain release and reenter society as required by *Graham*." 334 P.3d 132, 142 (Wyo. 2014) (alteration in original) (quoting *State v. Null*, 836 N.W.2d 41, 71 (Iowa 2013)). The court reasoned that because the defendant was not "one of the juvenile offenders whose crime reflects irreparable corruption," an aggregated sentence that does not permit parole eligibility for 52 years is unconstitutional under *Miller*. *Sam*, 401 P.3d at 860. *See also Bear Cloud*, 334 P.3d at 141-42 ("To do otherwise [not conduct a full *Miller* sentencing hearing, which accounts for the distinct characteristics of youth] would be to ignore the reality that lengthy aggregate sentences have the effect of mandating that a juvenile 'die in prison even if a judge or jury would have thought that his youth and its attendant characteristics, along with the nature of his crime, made a lesser sentence . . . more appropriate.'" (quoting *Miller*, 567 U.S. at 465)).

Additionally, the Ohio Supreme Court recently struck down a young man's sentence of 112 years as a functional life without parole sentence:

> *Graham* decried the fact that the defendant in that case would have no opportunity to obtain release 'even if he spends the next half century attempting to atone for his crimes and learn from his mistakes.' . . . *Graham* is less concerned about how many years an offender serves in the long term than it is about the offender having an opportunity to seek release while it is still meaningful.

State v. Moore, 76 N.E.3d 1127, 1140-41 (Ohio 2016) (citation omitted). The court interpreted *Graham* to mean that juvenile offenders should have time to truly re-enter society and then live a portion of their lives outside the reprising walls. *Id.* at 1141. Similarly, by pointing to the realities of seeking employment, starting a family, and various health concerns after spending fifty years in prison, the Supreme Court of Connecticut further reasoned that "[t]he United States Supreme Court viewed the concept of 'life' in *Miller* and *Graham* more broadly than biological survival; it implicitly endorsed the notion that an individual is effectively incarcerated for 'life' if he will have no opportunity to truly reenter society or have any meaningful life outside of prison." *Casiano v. Comm'r of Corr.*, 115 A.3d 1031, 1047 (Conn. 2015) (citing *Graham*, 560 U.S. at 75). *See also State v. Riley*, 110 A.3d 1205, 1206, 1213-14 (Conn. 2015) (aggregate 100 year sentence for a total of four offenses, including murder, is a *de facto* life sentence)

The state supreme courts of Florida, Illinois, Nevada, New Jersey, and Washington have all similarly found that lengthy term-of-years sentences are *de facto* life without parole sentences. *Henry v.*

State, 175 So. 3d 675, 676 (Fla. 2015) (a consecutive 90 year sentence imposed on a juvenile for eight separate felony offenses constituted a *de facto* life without parole sentence); *see also Gridine v. State*, 175 So. 3d 672, 674-75 (Fla. 2015) (a 70 year sentence for a non-homicide crime is unconstitutional because it fails to provide a meaningful opportunity for early release based on the demonstration of maturity and rehabilitation); *People v. Reyes*, 63 N.E.3d 884, 888 (Ill. 2016) (mandatory aggregate sentences for multiple homicide and nonhomicide crimes under which the juvenile defendant would not be eligible for parole until he had served 89 years created a *de facto* life sentence in violation of *Miller* because "[a] mandatory term-of-years sentence that cannot be served in one lifetime has the same practical effect on a juvenile defendant's life as would an actual mandatory sentence of life without parole—in either situation, the juvenile will die in prison"); *State v. Boston*, 363 P.3d 453, 458 (Nev. 2015) (*Graham* applies to juvenile non-homicide offenders with aggregate sentences that are the functional equivalent of life without parole, and 14 parole-eligible life sentences plus a consecutive 92 years in prison, which created a minimum of 100 years, was unconstitutional under *Graham*); *State v. Zuber*, 152 A.3d 197, 201, 212-213 (N.J. 2017) (though the term-of-years sentences in the appeals were not officially "life without parole," the juvenile defendants' potential release after five or six decades of incarceration when they would be in their seventies and eighties implicated the principles of *Graham* and *Miller*, as the "proper focus belongs on the amount of real time a juvenile will spend in jail and not on the formal label attached to his sentence"); *State v.*

Ramos, 387 P.3d 650, 659-660 (Wash. 2017) (*Miller* applies to juvenile homicide offenders facing *de facto* life without parole sentences, whether the sentence was invoked for a single crime or is an aggregate sentence resulting from the commission of multiple crimes), *cert. denied*, 138 S. Ct. 467 (Nov. 27, 2017) (mem.).

The Iowa Supreme Court held that even sentences significantly shorter than those addressed by other state courts could be considered equivalent to life without parole. In *Null*, the court held that

> while a minimum of 52.5 years imprisonment is not technically a life-without-parole sentence, such a lengthy sentence imposed on a juvenile is sufficient to trigger *Miller*-type protections. Even if lesser sentences than life without parole might be less problematic, we do not regard the juvenile's potential future release in his or her late sixties after a half century of incarceration sufficient to escape the rationales of *Graham* or *Miller*. The prospect of geriatric release, if one is to be afforded the opportunity for release at all, does not provide a "meaningful opportunity" to demonstrate the "maturity and rehabilitation" required to obtain release and reenter society as required by *Graham*.

836 N.W.2d at 71 (quoting *Graham*, 560 U.S. at 75). The court recognized that though the evidence did not clearly establish that Null's prison term is beyond his

life expectancy, they did "not believe the determination of whether the principles of *Miller* or *Graham* apply in a given case should turn on the niceties of epidemiology, genetic analysis, or actuarial sciences in determining precise mortality dates." Id. at 71-72.

Here, where Mr. Veal will not be eligible for parole until he has served a minimum of 60 years in prison, debating whether he will have a "meaningful opportunity" to obtain release "based on demonstrated maturity and rehabilitation" is an exercise in futility. This Court should grant review to establish that lengthy term-of-years sentences are constitutionally equivalent to life without parole sentences, and likewise barred.

C. Scientific Research Confirms That Juveniles Must Not Be Sentenced To Life Without Parole Or Its Functional Equivalent

This Court has repeatedly held that children are categorically different from adults, and that as such, "children are constitutionally different from adults for purposes of sentencing." *Miller v. Alabama*, 567 U.S. 460, 471 (2012); *see also Roper v. Simmons*, 543 U.S. 551, 569-70 (2005); *Graham*, 560 U.S. at 68-69. As explained in *Miller*, "[b]ecause juveniles have diminished culpability and greater prospects for reform . . . 'they are [categorically] less deserving of the most severe punishments.'" 567 U.S. at 471 (quoting *Graham*, 560 U.S. at 68).

Roper and *Graham* noted three significant differences that distinguish youth from adults for culpability purposes:

> First, children have a "lack of maturity and an underdeveloped sense of responsibility," leading to recklessness, impulsivity, and heedless risk-taking. Second, children "are more vulnerable . . . to negative influences and outside pressures," including from their family and peers; they have limited "contro[l] over their own environment" and lack the ability to extricate themselves from horrific, crime-producing settings. And third, a child's character is not as "well formed" as an adult's; his traits are "less fixed" and his actions less likely to be "evidence of irretrievabl[e] deprav[ity]."

Miller, 567 U.S. at 471 (alterations in original) (citations omitted). In reaching these conclusions about a juvenile's reduced culpability, this Court has relied upon an increasingly settled body of research confirming the distinct emotional, psychological, and neurological attributes of youth. *Graham*, 560 U.S. at 68 (confirming that since *Roper*, "developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds").

For example, as this Court has observed, adolescents "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them." *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011) (quoting *Bellotti v. Baird*, 443 U.S. 622, 635 (1979). *See also* Elizabeth S. Scott & Laurence Steinberg, *Adolescent Development and the Regulation of Youth Crime*, 18 THE FUTURE OF

CHILDREN 15, 20 (2008) ("Considerable evidence supports the conclusion that children and adolescents are less capable decision makers than adults in ways that are relevant to their criminal choices."). Although adolescents have the capacity to reason logically, they "are likely less capable than adults are in *using* these capacities in making real-world choices, partly because of lack of experience and partly because teens are less efficient than adults in processing information." Scott & Steinberg, *supra*, at 20. Because adolescents are less likely to perceive potential risks, they are less risk-averse than adults. *Id*. at 21. *See also* Laurence Steinberg, *The Science of Adolescent Brain Development and Its Implications for Adolescent Rights and Responsibilities*, in HUMAN RIGHTS AND ADOLESCENCE 59, 64-65 (Jacqueline Bhabha ed., 2014) ("[A]dolescents' reward centers are activated more than children's or adult's when they expect something pleasurable to happen. Heightened sensitivity to anticipated rewards motivates adolescents to engage in acts, even risky acts, when the potential for pleasure is high . . . ." (internal citations omitted)).

This diminished ability to perceive potential risks and make appropriate decisions is exacerbated by adolescents' difficulty in thinking realistically about events that may occur in the future. *See* Brief for the American Psychological Association et al. as *Amici Curiae* Supporting Petitioners at 11-12, *Graham v. Florida*, 560 U.S. 48 (2010) (Nos. 08-7412, 08-7621). This lack of future orientation means that adolescents are both less likely to think about potential long-term consequences, and more likely to assign less weight to those that they *have* identified, especially when faced with the prospect of short-term

rewards. Scott & Steinberg, *supra*, at 20; *Graham,* 560 U.S. at 78. Because adolescents attach different values to rewards than adults do, they often exhibit sensation-seeking characteristics that reflect their need to seek "varied, novel, [and] complex . . . experiences [as well as a] willingness to take physical, social, legal and financial risks for the sake of such experience." MARVIN ZUCKERMAN, BEHAVIORAL EXPRESSIONS AND BIOSOCIAL BASES OF SENSATION SEEKING 27 (1994). The need for this type of stimulation frequently leads adolescents to engage in risky behaviors, and as they are less able to suppress action toward emotional stimulus, adolescents often have difficulty exhibiting self-control. Scott & Steinberg, *supra*, at 21-22. All of these attributes cause adolescents to make different calculations than adults when they participate in criminal conduct.

D. Scientific Research On Juvenile Offending Supports Early And Regular Review Of Sentences

For an opportunity for release to be "meaningful" under *Graham,* review must begin long before a juvenile reaches old age. *See, e.g.*, *State v. Pearson*, 836 N.W.2d 88, 96 (Iowa 2013) (striking down a 35-year sentence that would render the juvenile eligible for parole at age 52 because in violation of *Miller, it* "effectively deprived [him] of any chance of an earlier release and the possibility of leading a more normal adult life"). The Florida Supreme Court recently noted that their jurisprudence made it

> clear that we intended for juvenile offenders, who are otherwise treated like

> adults for purposes of sentencing, to retain their status as juveniles in some sense. In other words, we have determined . . . that juveniles who are serving lengthy sentences are entitled to periodic judicial review to determine whether they can demonstrate maturation and rehabilitation.

Kelsey v. State, 206 So. 3d 5, 10 (Fla. 2016). The court discussed its earlier decision in *Henry v. State*, where it held that "*Graham* was not limited to certain sentences but rather was intended to ensure that 'juvenile nonhomicide offenders will not be sentenced to terms of imprisonment without affording them a meaningful opportunity for early release based on a demonstration of maturity and rehabilitation.'" *Id*. at 9 (quoting *Henry v. State*, 175 So. 3d 675, 680 (Fla. 2015).

This Court has recognized that "[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*, 543 U.S. at 570 (second alteration in original) (quoting Steinberg & Scott, *Less Guilty by Reason of Adolescence: Development Immaturity, Diminished Responsibility, and the Juveniles Death Penalty*, 58 AM. PSYCHOLOGIST 1009, 1014 (2003)). In a study of over thirteen hundred 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. (2014) Chicago, IL: MacArthur Foundation, p. 3, *available at* http://www.pathwaysstudy.pitt.edu/documents/MacArthur%20Brief%20Give%20Adolescents%20Time.pdf. Most juvenile offenders would no longer be a public safety risk once they reached their mid-twenties, let alone later in life. Because most juveniles are likely to outgrow their antisocial and criminal behavior as they mature into adults, review of the juvenile's maturation and rehabilitation should begin relatively early in the juvenile's sentence, and their progress should be assessed regularly. *See, e.g.*, *Research on Pathways to Desistance: December 2012 Update*, Models for Change, p. 4, *available at* http://www.modelsforchange.net/publications/357 (finding that, of the more than 1,300 serious offenders studied for a period of seven years, only approximately 10% report continued high levels of antisocial acts. The study also found that "it is hard to determine who will continue or escalate their antisocial acts and who will desist," as "the original offense . . . has little relation to the path the youth follows over the next seven years").

Early and regular assessments of juveniles would enable timely evaluation of the juvenile's maturation, progress and performance, as well as provide an opportunity to confirm that the juvenile is receiving vocational training, programming, and treatment opportunities that foster growth and rehabilitation. *See, e.g.*, *Graham*, 560 U.S. at 74 (noting the importance of "rehabilitative opportunities or treatment" to "juvenile offenders, who are most in need of and receptive to rehabilitation"). A meaningful opportunity for release

must mean more than release on a gurney to possibly imminent death outside the prison walls. It should provide individuals an opportunity to live a meaningful life in their communities and to make meaningful contributions.

CONCLUSION

For the foregoing reasons, *Amici Curiae*, Juvenile Law Center, Children and Family Justice Center, and The Sentencing Project, respectfully request that this Court grant the petition for *writ of certiorari*.

Respectfully Submitted,

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