

Law Center

March 23, 2021

The Honorable Tani Cantil-Sakauye, Chief Justice
California Supreme Court
350 McAllister St.
San Francisco, CA 94102

Re: Amicus Curiae Letter in Support of Petition for Review per Rule 8.500(g)
People v. Camarillo, Case No. S267286, COA Case No. A155577, Superior Ct.
No. FCR331711, and **Petition for Writ of Habeas Corpus**, *People v. Camarillo*,
Case No. S267290, Superior Ct. No. FCR331711

Dear Chief Justice Cantil-Sakauye and Associate Justices:

Pursuant to California Rule of Court 8.500(g), we write on behalf of Juvenile Law Center to request that the Court review the opinion in *People v. Camarillo* and consider the accompanying petition for writ of habeas corpus. Juvenile Law Center requests review to ensure that California's rules of criminal procedure account for a defendant's youth and developmental characteristics, as required by the United States Supreme Court and consistent with scientific research. Well-documented differences between adolescents and adults, including immaturity of judgment, lack of impulse control, and vulnerability to external pressures, are directly relevant to whether an individual perceived a threat requiring use of lethal force in self-defense, and to whether that perception was reasonable. The trial court's failure to instruct the jury on the legal significance of these age-related characteristics effectively held a sixteen-year-old to an adult reasonableness standard—defying well-established legal principles and recent Supreme Court precedent—and undermined basic precepts of criminal law by permitting conviction without the requisite *mens rea*. We respectfully ask this Court to grant review to clarify that a defendant's age must be considered in assessing a claim of self-defense.

Interest of Juvenile Law Center

Juvenile Law Center advocates for rights, dignity, equity, and opportunity for young people 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

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first non-profit public interest law firm for children in the country. Juvenile Law Center strives to ensure that laws, policies, and practices affecting young people advance racial and economic equity and are rooted in research, consistent with the unique developmental characteristics of youth and young adults, and reflective of international human rights values. Juvenile Law Center has written extensively on the issue of constitutional protections for children, and authored the *amicus* brief in the United States Supreme Court case, *J.D.B. v. North Carolina*, 564 U.S. 261 (2011), on behalf of 28 individuals and organizations, arguing for consideration of age in the reasonableness analysis of the “in custody” determination under *Miranda v. Arizona*.

Reasons Review Should Be Granted

That children are “different” is a principle that permeates our law. Time and again, the United States Supreme Court has reminded us that “children cannot be viewed simply as miniature adults,” but instead have developmental characteristics that impact their perceptions, vulnerabilities, and behaviors in ways the law must take into account. *J.D.B. v. North Carolina*, 564 U.S. 261, 274 (2011) (citing *Eddings v. Oklahoma*, 455 U.S. 104, 115-16 (1982)); *see also Miller v. Alabama*, 567 U.S. 460, 471 (2012). These characteristics, firmly rooted in established scientific evidence, include adolescents’ immaturity, recklessness, and impetuosity; their vulnerability to peer pressures, especially negative peer pressure; and their unique capacity for rehabilitation. *See Miller*, 567 U.S. at 471 (citing *Roper v. Simmons*, 543 U.S. 551, 569-570 (2005)). These “distinctive attributes of youth” influence the actual perceptions of adolescents, *see id.* at 472, and define the legal standards governing their conduct, including the “reasonable person” standard. *See J.D.B.*, 564 U.S. at 274. Indeed, “criminal procedure laws that fail to take defendants’ youthfulness into account at all would be flawed.” *Graham v. Florida*, 560 U.S. 48, 76 (2010).

The legal standard for self-defense directly implicates these developmental characteristics, and so must take a defendant’s youth into account. Under California law, “[a] homicide is considered justified as self-defense where the defendant actually and reasonably believed the use of deadly force was necessary to defend himself from imminent threat of death or great bodily injury.” *People v. Sotelo-Urena*, 209 Cal. Rptr. 3d 259, 267 (Cal. Ct. App. 2016). To decide whether that standard is met, a jury must determine what the defendant actually perceived, and whether that perception was “reasonable” under the circumstances. *People v. Humphrey*, 921 P.2d 1, 6 (Cal. 1996). Age-related differences in perception of risk, maturity of judgment, impulse control, and susceptibility to stress are relevant to both prongs of that inquiry, necessitating a jury instruction on the impact of youth.

Adolescents' Developmental Characteristics Define Their Actual Perceptions of Risk and the Need for Lethal Force

As the United States Supreme Court has repeatedly recognized, “youth is more than a chronological fact.” *Miller*, 567 U.S. at 476 (quoting *Eddings*, 455 U.S. at 115). Rather, it is a phase of life marked by “immaturity, irresponsibility, ‘impetuosity[,] and recklessness’”—a time “when a person may be most susceptible to influence and to psychological damage.” *Id.* (alteration in original) (first quoting *Johnson v. Texas*, 509 U.S. 350, 368 (1993); and then quoting *Eddings*, 455 U.S. at 115). See also *Haley v. Ohio*, 332 U.S. 596, 599 (1948) (“That which would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens.”). These “hallmark features” of youth impact the experiences and perceptions of adolescents in ways that have legal significance. See *Miller*, 567 U.S. at 477.

Scientific research shows that adolescents' developmental characteristics impact their actual perceptions of threatening situations. According to brain imaging studies, the prefrontal cortex—which controls executive functioning—matures late in adolescence. Sarah-Jayne Blakemore & Suparna Choudhury, *Development of the Adolescent Brain: Implications for Executive Function and Social Cognition*, 47 J. CHILD PSYCHOL. & PSYCHIATRY 296, 301 (2006). Developmental changes within this region are essential to developing higher-order cognitive functions, such as foresight, weighing risks and rewards, and making decisions that require the simultaneous consideration of multiple sources of information. Laurence Steinberg, *Adolescent Development and Juvenile Justice*, 5 ANN. REV. CLINICAL PSYCHOL. 459, 466 (2009). Indeed, studies of behavior show that adolescents often have difficulty accurately assessing risks—particularly long-term risks—and may be unable to see or understand possible alternative actions. See Elizabeth S. Scott & Laurence Steinberg, *Adolescent Development and the Regulation of Youth Crime*, 18 Future Child. 15, 20 (2008); Laurence Steinberg, *The Science of Adolescent Brain Development and Its Implication for Adolescent Rights and Responsibilities*, in HUMAN RIGHTS AND ADOLESCENCE 59, 64-65 (Jacqueline Bhabha ed., 2014). At the same time, the parts of the brain responsible for social-emotional regulation are highly active during adolescence, which can lead to impulsive behavior and heightened emotional responses. Steinberg, *Adolescent Development and Juvenile Justice*, *supra*, at 466; see also Lindsay C. Malloy et al., *Interrogations, Confessions, and Guilty Pleas Among Serious Adolescent Offenders*, 38 L. & HUM. BEHAV. 181, 182 (2014). Scientists therefore describe adolescence as a time of developmental imbalance, where emotional responsiveness outpaces the executive functioning needed for accurate risk assessment and behavior control. Steinberg, *Adolescent Development and Juvenile Justice*, *supra*, at 466.

These adolescent limitations in judgment and impulse control are exacerbated by stressful or emotionally charged situations. Psychologists distinguish between “cold” cognition, which refers to the thinking abilities used under calm circumstances, and “hot”

cognition, which refers to thinking abilities used under emotionally arousing circumstances. See Sarah-Jayne Blakemore and Trevor W. Robbins, *Decision-Making in the Adolescent Brain*, 15 NATURE NEUROSCIENCE 1184, 1185, 1187-88 (2012). Relative to adults, adolescents' deficiencies in judgment and self-control are greater under "hot" circumstances in which emotions are aroused than they are under calmer "cold" circumstances. See Alexandra O. Cohen et al., *When Is an Adolescent an Adult? Assessing Cognitive Control in Emotional and Non-Emotional Contexts*, 27 PSYCHOL. SCI. 549, 559 (2016); Marc D. Rudolph et al., *At Risk of Being Risky: The Relationship Between "Brain Age" Under Emotional States and Risk Preference*, 24 DEVELOPMENTAL COGNITIVE NEUROSCIENCE 93, 93-94 (2017). Negative emotional arousal, as occurs during threatening circumstances, further amplifies these effects, as does the presence of peers. See B.J. Casey et al., *The Storm and the Stress of Adolescence: Insights from Human Imaging and Mouse Genetics*, 52 DEVELOPMENTAL PSYCHOBIOLOGY 225, 228 (2010); Margo Gardner & Laurence Steinberg, *Peer Influence on Risk Taking, Risk Preference, and Risky Decision Making in Adolescence and Adulthood: An Experimental Study*, 41 DEV. PSYCHOL. 625, 632 (2005). Adolescents therefore may become even more impulsive and make more mistakes in judgment when they confront threatening, socially charged situations. Cohen et al., *supra*, at 559.

Recognition of these developmental characteristics can assist a fact-finder in assessing the mental state of an adolescent facing a stressful or threatening circumstance. A 16-year-old present during an escalating confrontation among older peers is likely experiencing substantial negative emotional arousal, due both to the threatening circumstances and the presence of peers. The overriding emotional response such circumstances produce may cloud the teenager's ability to accurately assess risks, limit their perception of alternative courses of action, and increase their impulsiveness. Prior exposure to violent situations can further affect an adolescent's mental state; research on gang violence in particular suggests that young people who grow up in high-crime areas may come to expect violent responses, "[s]o when an adolescent hears that someone has threatened violence against him or her, the threat is perceived as real." Jeffrey Fagan, *Contexts of Choice by Adolescents in Criminal Events*, in YOUTH ON TRIAL: A DEVELOPMENTAL PERSPECTIVE ON JUVENILE JUSTICE 371, 390 (Thomas Grisso & Robert G. Schwartz eds., 2000). Thus, just as evidence of the effects of chronic homelessness can be relevant to a defendant's *actual* belief in the need for lethal force in response to a threat, see *Sotelo-Urena*, 209 Cal. Rptr. 3d at 269-270, so too can evidence on adolescent development aid a jury in deciding whether a 16-year-old *actually* believed he confronted a threat requiring the use of deadly force.

Age-Related Characteristics Must Also Be Considered When Assessing the Reasonableness of An Adolescent's Perceived Need for Lethal Force

In addition to helping reveal the actual perceptions of an individual defendant, youthfulness and the "commonsense conclusions about behavior and perception" it

generates also “apply broadly to children as a class.” *J.D.B.*, 564 U.S. at 272. A defendant’s age must therefore be taken into account when comparing his response to a perceived threat to the actions of a “reasonable person in the position of defendant.” See *Humphrey*, 921 P.2d at 6.

In *J.D.B. v. North Carolina*, the United States Supreme Court made clear that courts must use a “reasonable child” test, rather than a generic “reasonable person” standard, when determining whether a child was “in custody” for purposes of Fifth Amendment *Miranda* protections. 564 U.S. at 274. Noting the scientific research demonstrating age-related differences in maturity and susceptibility to outside pressure, the Court concluded that “a reasonable child subjected to police questioning will sometimes feel pressured to submit when a reasonable adult would feel free to go.” *Id.* at 272-73 & n.5. The Court therefore held that a child’s age can be included in the “in custody” analysis without undermining the objective nature of that test. *Id.* at 277. Indeed, to ignore youth in the reasonableness analysis would be “nonsensical,” the Court said, given its direct relevance to whether an individual might feel able to walk away from police questioning. *Id.* at 275-76. See also *Gallegos v. Colorado*, 370 U.S. 49, 54 (1962) (an adolescent “cannot be compared with an adult in full possession of his senses”); *Haley*, 332 U.S. at 599 (noting that teens “cannot be judged by the more exacting standards of maturity”).

In adopting this “reasonable child” standard, the U.S. Supreme Court emphasized that including age in objective assessments of reasonableness is not new. Common law has long recognized distinctions between children and adults, “even where a ‘reasonable person’ standard otherwise applies,” such as the negligence standard in tort law. *J.D.B.*, 564 U.S. at 274 (citing Restatement (Third) of Torts § 10, Comment *b*, p. 117 (2005)). Nor is adoption of a “reasonable child” standard in the criminal context unique to the “in custody” analysis. Both before and after *J.D.B.*, courts across the country have considered age to be a necessary component of “reasonableness” tests in an array of criminal law doctrines. See, e.g., *Commonwealth v. Evelyn*, 152 N.E.3d 108, 119 (Mass. 2020) (“The consideration of age will not undermine the objective nature of the [reasonableness] inquiry” in Fourth Amendment seizure context); *C.M. ex rel. A.M. v. McKee*, 398 P.3d 228, 232 (Kan. App. 2017) (applying a “reasonable child” standard to question of whether a “reasonable person would have feared for his or her safety”); *State v. Krasky*, 696 N.W.2d 816, 820 (Minn. App. 2005) (assessing whether a “reasonable child” would have expected her outside-of-court statements to have been used in later trial).

Age and its related characteristics are particularly relevant to the reasonableness inquiry at issue here. Because “children characteristically lack the capacity to exercise mature judgment and possess only an incomplete ability to understand the world around them,” an adolescent’s belief that a threat exists cannot be measured against the standard of a reasonable adult. See *J.D.B.*, 564 U.S. at 273. Due to age-related immaturity in

judgment, heightened responses to negative emotional stimuli, and limitations in impulse control, a reasonable adolescent witnessing a violent conflict with rival gang members might impulsively conclude they have no option but to respond to a threatening action with deadly force, whereas a reasonable adult might identify other ways to avoid harm. To hold an adolescent to an adult standard in assessing the reasonableness of a response to a perceived threat ignores the well-established characteristics that define youth as a class, and undermines a primary objective of the criminal law: punishing only those acts that are accompanied by the requisite *mens rea*. See Model Penal Code § 2.02(2).

A Jury Instruction Was Necessary to Ensure Meaningful Consideration of the Impact of Youth

Criminal defendants have a right under the California Constitution “to have the jury determine every material issue presented by the evidence.” *People v. Breverman*, 960 P.2d 1094, 1101 (Cal. 1998). To make this right meaningful, the trial court “must instruct on the general principles of law relevant to the issues raised by the evidence.” *Id.* at 154 (quoting *People v. St. Martin*, 463 P.2d 390, 393 (Cal. 1970)); see also *id.* (requiring instruction on the legal principles “necessary for the jury’s understanding of the case”). Here, the well-established legal principle that “children cannot be viewed simply as miniature adults,” but instead have developmental characteristics that the criminal law must take into account, has direct relevance to the evidence of self-defense presented at trial. See *J.D.B.*, 564 U.S. at 274. In fact, the Court of Appeals agreed that Jesus’s “age is a relevant factor in determining what he actually believed,” and that it is also relevant to assessing whether “an individual reasonably believed in the need to act in self-defense.” (*People v. Camarillo*, No. A155577, Jan. 20, 2021 Op. at 13, 14.) The court nonetheless denied relief, concluding that an instruction on the relevance of age was “implicit.” *Id.* at 14. Yet the jury in this case was clearly struggling to determine Jesus’s precise mental state at the time of the shooting—requesting clarification of the difference between second degree murder and manslaughter, and ultimately acquitting him of premeditated murder—and self-defense was the only disputed issue at trial. (See Appellant’s Pet. Rev. at 23.) An understanding of the legal significance of age-related developmental characteristics was therefore “necessary for the jury’s understanding of the case,” and so an instruction on that legal principle was required under the California Constitution.¹ See *Breverman*, 19 Cal. 4th at 155 (quoting *St. Martin*, 463 P.2d at 393).

For the foregoing reasons, Juvenile Law Center requests that the Court grant the pending petition for review and the accompanying petition for writ of habeas corpus.

¹ For the same reasons, Petitioner was denied the right to effective assistance of counsel due to his trial attorney’s failure to request such an instruction or to argue how youth factored into the self-defense inquiry, as described in Petitioner’s accompanying Petition for Writ of Habeas Corpus.

Respectfully,

/s/ Jessica R. Feierman

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cc: See attached Proof of Service

DECLARATION OF SERVICE BY MAIL AND ELECTRONIC SERVICE

Re: *People v. Camarillo.*, S267286

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause. I am employed in the County of Philadelphia, Commonwealth of Pennsylvania. My business address is 1800 JFK Blvd., Ste. 1900B, Philadelphia, PA 19103. On the date listed below, I served the AMICUS CURIAE LETTER IN SUPPORT OF PETITION FOR REVIEW AND WRIT OF HABEAS CORPUS (CAL. RULES OF COURT, RULE 8.500(g)) on the following via email:

Solano County Superior Court
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Attn: Hon. E. Bradley Nelson
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And by transmitting a PDF version of the document via electronic service through TrueFiling on the parties listed below:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 23, 2021 at Philadelphia, Pennsylvania.

/s/ Jessica R. Feierman
Declarant