

No. 18-1259

IN THE
Supreme Court of the United States

BRETT JONES,

Petitioner,

vs.

STATE OF MISSISSIPPI,

Respondent.

On Writ of Certiorari to the
Mississippi Court of Appeals

**BRIEF *AMICI CURIAE* OF THE
NATIONAL ORGANIZATION OF VICTIMS
OF JUVENILE MURDERERS AND
ARIZONA VOICE FOR CRIME VICTIMS, INC.
IN SUPPORT OF RESPONDENT**

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QUESTION PRESENTED

Does a life-without-parole sentence imposed under a discretionary sentencing scheme where the sentencer considers youth and its attendant characteristics violate the Eighth Amendment if the sentencer does not make an express, on-the-record finding that a juvenile is permanently incorrigible?

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INTEREST OF AMICI CURIAE

The National Organization of Victims of Juvenile Murderers (NOVJM)¹ is a national organization comprised of families of victims murdered by juvenile offenders. NOVJM offers victims of violent juvenile offenders who have been tried and sentenced for their crimes a chance to make their voices a part of the national discussion concerning the imposition of appropriate sentences on juvenile murderers and to provide mutual support to each other as victims of the devastating acts of criminally violent teens. NOVJM

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1. The parties have consented to the filing of this brief. No counsel for a party authored this brief in whole or in part. The Criminal Justice Legal Foundation provided printing and incidental expenses for the preparation and submission of this brief, along with providing representation.

also works to protect and preserve victims' rights through public policy advocacy at both the federal and state levels and by filing *amicus* briefs in cases that bear on victims' rights.

Arizona Voice for Crime Victims, Inc. (AVCV) is an Arizona nonprofit corporation that works to promote and protect crime victims' interests throughout the criminal justice process. To achieve these goals, AVCV empowers victims of crime through legal advocacy and social services. AVCV also provides continuing legal education to the judiciary, lawyers, and law enforcement. AVCV seeks to foster a fair justice system which (1) provides crime victims with resources and information to help them seek immediate crisis intervention, (2) informs crime victims of their rights under the laws of the United States and Arizona, (3) ensures that crime victims fully understand those rights, and (4) promotes meaningful ways for crime victims to enforce their rights, including through direct legal representation. A key part of AVCV's mission is working to give the judiciary information and policy insights that may be helpful in the sometimes difficult task of balancing an accused's constitutional rights with the crime victim's right to finality, while also protecting the wider community's need for deterrence.

SUMMARY OF FACTS AND CASE

In August 2004, 15-year-old Brett Jones was living with his grandparents, Bertis and Madge Jones, in their Mississippi home. *Jones v. State*, 285 So. 3d 626, 628 (Miss. Ct. App. 2017). Bertis got upset when he discovered Jones' teenage runaway girlfriend was secretly living with him in his bedroom. When an argument between the two ensued, Jones stabbed his 68-year-old grandfather with the steak knife he was using to make

a sandwich. *Ibid.* When the steak knife bent, he grabbed a filet knife and continued to stab his grandfather. As the two struggled, Jones repeatedly stabbed his grandfather. He then tried to conceal the crime when he hid his grandfather's body in a utility room in the back of the home's carport, tried to wash the large amount of blood off of his body with a hose, and moved his grandfather's car over the "puddles of blood" that collected in the carport. *Id.*, at 628-629.

Jones was convicted of murder and was sentenced to life in prison. *Id.*, at 629. Under the parole statute, he was not eligible for parole. *Ibid.* Following this Court's opinion in *Miller v. Alabama*, 567 U. S. 460 (2012), the Mississippi Supreme Court vacated Jones' sentence and remanded it for a new sentencing hearing. In 2015, the Circuit Court of Lee County conducted a new sentencing hearing and found Jones was not entitled to parole eligibility under *Miller*. *Jones*, 285 So. 3d, at 629-631. Jones appealed and the Mississippi Court of Appeals affirmed the lower court's decision. Jones then successfully sought certiorari from the Mississippi Supreme Court. *Jones v. State*, 250 So. 3d 1269 (Miss. 2018). In November 2018, the court, in a 5-4 decision, voted to dismiss the writ of certiorari finding that there was no need for further review. See App. to Pet. for Cert. 1a-2a.

This Court granted certiorari on March 9, 2020.

SUMMARY OF ARGUMENT

The pain that surviving family members experience when their loved one is violently and horrifically murdered is indescribable. Life without the possibility of parole exists for good reason and legal finality for the family is one of them. *Miller's* core holding requires an individualized sentencing process in which a judge or

jury has the opportunity to consider mitigating evidence of youth. Jones received a sentencing hearing in which a judge evaluated and considered the factors laid out in *Miller* and determined that life without parole was an appropriate sentence. A constitutionally mandated factual finding of permanent incorrigibility would disrupt legal finality and require many murder victims' families to relive much of the trauma they thought they had put to rest.

The possibility of parole for a murderer is a life sentence for many victims' families. An unrelenting series of parole hearings in which the victims' families must repeatedly oppose parole prolongs their suffering. The frequency and intensity of each re-engagement with the killer years after the murder can trigger devastating flashbacks and memories and reopen traumatic wounds.

ARGUMENT

I. Murder victims' families need legal finality.

Over the past 15 years, this Court has made it increasingly difficult to severely sanction highly culpable juvenile murderers who violently and callously extinguish the life of another human being. The devastation families experience from the tragic loss of their loved ones is immense. Constitutionally mandating a factual finding of "permanent incorrigibility" before a juvenile murderer could be sentenced to life in prison without the possibility of parole (LWOP) would have a tremendous negative impact on thousands of murder victims' families lives. The families who have endured trial and sentencing believed that when the perpetrator was sentenced to LWOP legal finality had been reached in their murdered loved ones' cases. Many of the

families were then able to turn their focus from the legal proceedings onto themselves so that they could try to move on with their life-long, post-homicide journey of healing. News that sentencing proceedings may have to start over from the beginning reopens the wounds of trauma that these families have worked so hard to get through.

A. Legal Landscape.

This Court draws the “bright line” of adulthood at age 18 not because the “qualities that distinguish juveniles from adults” magically disappear at the stroke of midnight on an individual’s 18th birthday, but simply because “a line must be drawn” that can be broadly applied. *Roper v. Simmons*, 543 U. S. 551, 574 (2005). Thus, when an “adult” is convicted of deliberately and heinously murdering an innocent victim, it is neither cruel nor unusual to sentence him or her to LWOP or to death. See *Bucklew v. Precythe*, 587 U. S. ___, 139 S. Ct. 1112, 1122-1123, 203 L. Ed. 2d 521, 532 (2019).

When a violent crime is committed by an individual under age 18, prosecutors are sometimes presented with the very difficult decision regarding how to proceed. For the “typical” juvenile, the juvenile justice system best deals with behaviors that are common to most juveniles. All 50 states, however, recognize that *some* individuals under age 18 cannot be adequately handled within the juvenile court system. Every state has laws that allow juveniles who commit violent crimes to be prosecuted and sentenced as an adult either by transfer from juvenile court or by direct filing. Jones was one of the few juveniles tried as an adult and convicted by a jury of the murder of his grandfather and

sentenced to LWOP. *Jones v. State*, 122 So. 3d 725, 740-741 (Miss. Ct. App. 2011).²

Over the past 15 years, this Court has decided a series of cases involving the constitutionality of juvenile sentencing practices. See *Roper*, 543 U. S., at 574; *Graham v. Florida*, 560 U. S. 48 (2010); *Miller v. Alabama*, 567 U. S. 460 (2012). At issue was whether these sentencing practices violated the Cruel and Unusual Punishments Clause of the Eighth Amendment. Beginning with *Roper*, the focus on juvenile offenders being generally less culpable than adults, more amenable to rehabilitation, and thus less deserving of severe penalties came to fruition. *Roper* categorically barred imposition of the death penalty for defendants under age 18. 543 U. S., at 570-571. Five years later, this Court categorically barred LWOP for juveniles convicted of nonhomicide offenses. *Graham*, *supra*, at 74.

In *Roper*, 17-year-old Christopher Simmons abducted Shirley Crook, tied her hands and feet together with electrical wire, wrapped duct tape around her face, and threw her from a bridge into the river. 543 U. S., at 556-557. The harrowing torture and murder of Shirley Crook was “premeditated, wanton, and cruel in the extreme.” *Id.*, at 600 (O’Connor, J., dissenting). The inexplicable terror that Shirley Crook must have experienced is unfathomable.³ There is no question that

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2. Miss. Code. Ann. § 97-3-21 was amended in 2013 to separate first- and second-degree murder and allow discretion for a sentence less than life for second-degree.
 3. During the penalty phase of Simmons’ trial, Shirley Crook’s daughter described the haunting images she experiences during recurring nightmares surrounding her mother’s death: “I dream about how she—how I imagine she felt during all of this, what she thought. I can’t imagine what she went through, the

it fell within the “narrow category of crimes” most deserving of a death sentence. See *id.*, at 569. However, because Simmons had not yet reached his 18th birthday, this Court generically grouped him with a class of individuals having “diminished culpability” and thus categorically excluded him from being sentenced to death.

Nevertheless, with the death penalty off the table, this Court assured the nation that the punishment of LWOP for depraved teenage murderers like Christopher Simmons remained available. See *id.*, at 572; see also *Graham*, 560 U. S., at 90 (Roberts, J., concurring in judgment) (“*Roper* explicitly relied on the possible imposition of life without parole on some juvenile offenders”). This Court’s guarantee was subsequently tested in *Miller*.

In *Miller*, two 14-year-old defendants were convicted of murder. State law mandated that they be automatically sentenced to LWOP upon their convictions and in neither case did a judge or jury have the discretion to impose a lesser punishment. 567 U. S., at 465. Both defendants argued that the nature of their state’s sentencing schemes violated the Eighth Amendment. *Id.*, at 467. This Court agreed and held that a *mandatory* sentencing scheme that automatically sentenced a convicted murderer under age 18 to LWOP without any

terror that she felt. I just—I have a picture in my mind that she can’t see, she can’t speak, she can’t scream out, she can’t get her hands on anybody, she’s tied up. . . . I can’t imagine the terror that she’s thinking, what’s happening, what’s going on, I can’t see anything. Then I imagine her hitting the water. Does she know to take a breath? Does she know that’s what was going to happen. Then you hit the water, and then you go in. And then if she had a breath that she held, how long could she hold it? Did it hurt? When the water came in, did it hurt?” *Simmons v. Bowersox*, 235 F. 3d 1124, 1134, n. 4 (CA8 2001).

opportunity for a judge or jury to consider youth as a mitigating factor was unconstitutional. *Id.*, at 465.

Miller expressly declined an invitation to bar all juvenile homicide offenders from being sentenced to LWOP. See 567 U. S., at 479. Instead *Miller* mandates individualized sentencing in homicide cases, which includes “tak[ing] into account the differences among defendants and crimes.” *Id.*, at 480, n. 8. Four years later, this Court was asked to decide in *Montgomery v. Louisiana*, 577 U. S. ___, 136 S. Ct. 718, 725, 193 L. Ed. 2d 599, 610 (2016), if *Miller*’s holding applied retroactively. This Court’s answer to that question was yes. *Id.*, at 736, 193 L. Ed. 2d, at 622. However, the route this Court took in *Montgomery* to reach that conclusion is problematic and has been the source of much confusion for many lower state and federal courts trying to apply the correct rule.⁴

Miller’s core holding is that a sentence of LWOP cannot be mandatory for murderers under age 18. There must be a discretionary individualized sentencing process upon which a judge or jury has the opportunity to consider mitigating evidence. *Miller*, 567 U. S., at 489. In the present case, Jones was initially given a mandatory sentence of LWOP. *Jones*, 285 So. 3d, at 629. After *Miller* was decided, Jones successfully sought post-conviction relief and his case was remanded for a new sentencing hearing. *Ibid.* A second sentencing hearing was held in which a judge evaluated and considered the factors laid out in *Miller* and determined that LWOP was an appropriate sentence. *Id.*, at 630-

4. For a more detailed explanation of how *Montgomery* reinterpreted *Miller* in an intellectually dishonest way in order to reach a desired result, see Brief for Criminal Justice Legal Foundation as *Amicus Curiae* in Support of Respondent in this case.

631. Jones now argues that the *Miller* and *Montgomery* decisions mandate a factual finding of “permanent incorrigibility” before a juvenile homicide offender can be sentenced to LWOP. Brief for Petitioner 15-16. Because that factual finding was not made, his case should “at a minimum” be remanded for yet another sentencing hearing. *Id.*, at 28-32.

Jones was given an opportunity to present mitigating evidence of youth that could have justified a lesser sentence than LWOP, which is all that *Miller* required. The judge disagreed and again sentenced him to LWOP. Remanding Jones’ case and others like his so that they can again try to convince a sentencing authority that they deserve less than LWOP unnecessarily prolongs the suffering that murder victims’ families must endure. In each of these cases, the juvenile killer’s guilt is not at issue. He or she wantonly and viciously took the life of another. LWOP is a rare and serious sentence that is reserved for truly disturbed offenders who demonstrated a very high degree of culpability. Torturing victims’ families with repeated resentencing hearings inflicts emotional violence against those who have truly suffered the most.

B. Fitting the Punishment to the Offender.

In each one of the cases discussed *supra* that addressed juvenile sentencing practices, this Court built upon the reasoning and analysis of the case that came before it and delved further into selective studies on brain science and research into developmental psychology to lump all juveniles into one generic group of individuals with diminished culpability. No one disputes that juveniles generally should be treated differently from adults. NOVJM believes that the “vast majority of teen criminals are able to be rehabilitated and should continue to be treated in the juvenile justice system.”

NOVJM, What We Believe, <http://www.teenkillers.org/index.php/about-us/who-we-are/>.

NOVJM also believes that “[o]ffenses and offenders vary widely” and there are a few youthful offenders who “clearly show that they are dangerous and cannot be allowed to walk among us.” *Ibid.* “[E]ven if everything said about the adolescent brain and juvenile immaturity is generally true, why would one assume that juveniles who commit heinous crimes are typical juveniles?” Lerner, *Juvenile Criminal Responsibility: Can Malice Supply the Want of Years?*, 86 *Tulane L. Rev.* 309, 332 (2011). Thus, the persistent lumping together of all juveniles into one group and all delinquent behavior into one construct ignores the victims’ families whose lives have been shattered by the tragic loss of their loved ones.

Amici NOVJM and AVCV understand that the feelings victims’ families have towards their loved ones’ killers and their responses to the crimes and situations vary widely. Thus, *amici* support the availability of a wide range of sentencing options for the courts to use when evaluating the individual facts of each offense. “Chronological age is not an unfailing measure of psychological development, and common experience suggests that many 17-year-olds are more mature than the average young ‘adult.’” *Roper*, 543 U. S., at 601 (O’Connor, J., dissenting). Determining the best punishment and the best outcome for public safety should be done on a case-by-case basis, and should not be based purely on chronological age alone.

It is no doubt true that many “hallmark features” of youth include immaturity, irresponsibility, vulnerability to peer pressure, impulsivity, and less understanding of the consequences of their actions. See *Miller*, 567 U. S. 460, at 477. *Roper* described these “signature qualities of youth [as] transient.” 543 U. S., at 570 (quoting

Johnson v. Texas, 509 U. S. 350, 368 (1993)). However, “‘juvenile’ is a staggeringly broad term” and all juveniles should not be lumped together as one. Lerner, 86 *Tulane L. Rev.*, at 310. A juvenile offender’s sentence should be based on his or her individual culpability, intent, and actions, and *not* on the common traits and characteristics of other “typical” teenage offenders.

For this Court to broadly conclude that no juvenile killer can ever “with reliability be classified among the worst offenders,” no matter how vile and calculating the crime committed, is ludicrous. See *Roper*, 543 U. S., at 598-600 (O’Connor, J., dissenting); see also Stimson & Grossman, *Adult Time for Adult Crimes, Life Without Parole for Juvenile Killers and Violent Teens* (2009) (case studies). “[S]ome juveniles commit horrific crimes with full knowledge of their actions and intent to bring about the results.” Stimson & Grossman, *supra*, at 12.

When the focus is on categorizing all juvenile offenders as being generally less culpable, more amenable to rehabilitation, and thus less deserving of severe penalties, it pulls attention away from the appalling nature of the crimes committed by some of these juveniles and the danger they pose to the public. “And what certain kinds of crimes suggest is that there are violent juvenile offenders—fortunately rare—who are as least as mature and culpable as the typical adult violent offender.” Lerner, 86 *Tulane L. Rev.*, at 314.

C. Real Crimes Against Real People.

For the approximately 371 NOVJM members, “the true stories of lives so cruelly taken, and crimes so horrifically committed, . . . must be told if there is to be any hope for understanding of this difficult issue.” NOVJM, Victim Memorials, <http://www.teenkillers.org/index.php/memorials/>.

Each of the following victims were brutally murdered by juvenile offenders who, with full knowledge of their actions, acted with extreme cruelty and with complete disregard for human life. The heartbroken families of these victims continue to seek out justice and advocate for their loved ones by giving them a “voice” because theirs were prematurely and wantonly snuffed out. The crimes committed by these individuals are just as “morally reprehensible” as that of an “adult.” They deserve to spend the remainder of their lives in prison without the possibility of parole.

Oliver “Chip” Northup and Claudia Maupin

Late one night in April 2013, 15-year-old Daniel Marsh left his mother’s home gripping a freshly sharpened hunting knife looking for someone to kill. He wore all black clothing, a black face mask, and black gloves. He taped his shoes so as not to leave any footprints. Order Granting Transfer in *In re Marsh*, No. JD-18-332 (Yolo Sup. Ct., Oct. 24, 2018), pp. 4-5 , <https://cjlif.org/files/MarshTransferDenYoloSupCt.pdf> (“Marsh Order”). He canvassed the normally quiet neighborhood for an open door or window. When he finally found an open window, he sliced open the screen and entered the house. He followed the sound of snoring to the bedroom and found Oliver “Chip” Northup, 87, and Claudia Maupin, 76, asleep in their bed. He stood over them and watched them sleep feeling “‘nervous but excited and exhilarated’” about what he planned to do to the couple. *People v. Marsh*, No. C078999 (Cal. Ct. App., Feb. 22, 2018), p. 6.⁵

5. The full opinion can be found via <https://appellatecases.courtinfo.ca.gov>. For convenience, a copy is available at <https://cjlif.org/files/MarshC078999.pdf>. The partially published opinion, not including the facts, is *People v. Marsh*, 20 Cal. App. 5th 694, 229 Cal. Rptr. 3d 457 (2018).

When Maupin awoke, Marsh began stabbing her repeatedly. She screamed and begged him to stop. He kept stabbing her. During the attack on Maupin, Northup woke up. Marsh incapacitated him by stabbing him in the neck. After confirming both were dead, Marsh continued to punch and stab their lifeless bodies. He then disemboweled and dissected the two victims and placed objects (a cell phone and a drinking glass) inside of their empty body cavities. He described the murders as “the most enjoyable feeling he had ever experienced . . . which lingered for weeks.” *Ibid.* One of Maupin’s daughters discovered their mutilated bodies the following evening. The couple each suffered over 60 separate wounds inflicted over their entire bodies.

As the Northup and Maupin families were left reeling from the shock and trauma resulting from the horrific and devastating loss of their loved ones, Marsh continued to live his life as normal, bragging about the murders to his friends, and plotting more murders. *Id.*, at 5-6. Marsh was obsessed with serial killers and gory videos and fantasized about killing and death. *Id.*, at 4. When he told his girlfriend about the murders, he “describe[d] with pride the details of the manner in which he had killed the couple, smiling and telling her how great it had felt.” *Id.*, at 5. He believed that there was “‘no way the police would think a 15-year-old would do something like this.’”⁶

Northup and Maupin were the proud and loving parents, grandparents, and great-grandparents of a very close-knit extended family. The intense grief experi-

6. Lauren Keene, Psychologist Casts Doubt on Marsh Insanity Defense, *The Davis Enterprise*, Sept. 13, 2014, <https://www.davisenterprise.com/local-news/crime-fire-courts/psychologist-casts-doubt-on-marsh-insanity-defense/> (all Internet material as visited August 14, 2020).

enced by each one of those left behind is unfathomable. Maupin's oldest daughter, Victoria Hurd, now suffers from Post Traumatic Stress Disorder (PTSD).⁷ In her victim impact statement, she told the court that since the murders,

"I can't focus. I don't like leaving the house. I'm tired all the time. The quality of life I once enjoyed is on hold, as I have been thrust into a period of dark recovery. In addition to burying my Mother, I cleaned out and packed up her home, which was a crime scene. I found her blood on her bedroom furniture that the clean-up team had missed.

...

"No one in our family is able to stay alone overnight. . . . The children and the adults suffer from unrelenting flashbacks and nightmares of the tortures my Mom and Chip suffered. Everyone is taking time out [of] their days and weeks to go to counseling appointments just so they can make it through to the next week[.] The ramifications of this gruesome crime are unending." Victim Impact Statement of Victoria Hurd (attached as Appendix A to this brief), pp. A-4 to A-5.

Marsh was convicted of the "extraordinarily heinous" and brutal murders of these two profoundly loved human beings. *People v. Marsh*, 20 Cal. App. 5th 694, 696, 229 Cal. Rptr. 3d 457, 459 (2018). The trial court later found that "[t]his was a highly sophisticated,

7. According to PTSD expert Dr. Frank Ochberg, "[t]he triad of disabling [PTSD] responses is: 1) recurring intrusive recollections; 2) emotional numbing and a constriction of life activity; and 3) a physiological shift in the fear threshold, affecting sleep, concentration, and sense of security." Frank Ochberg, PTSD 101, Dart Center for Journalism & Trauma, March 24, 2009, <https://dartcenter.org/content/ptsd-101?section=all>.

extraordinary and rare crime even for the most hardened and seasoned adult criminal.” Marsh Order, *supra*, at 5. Marsh claimed that he chose to murder “strangers” because “[t]hey weren’t worth anything.”⁸ Northup and Maupin may have not been “worth anything” to Marsh, but the couple meant everything to their family and friends. As described by her daughter, Maupin

“was the most loving and compassionate person I ever met. She lived her life loving people. She lived each day in gratitude and goodness. She was simply the [kindest] person I have ever known. She was always willing to lend a hand, a shoulder, an ear. She would go out of her way to help us and to help others. She was elegant, earthy and refined. She had deep wisdom and a sense of humor that could bring you to your knees. She listened intently when you spoke to her and she looked you in the eyes when she said, ‘I love you’. She could be trusted with the deepest questions of life and she was not a fan of ‘small talk’. She was a student of the divine, a lover of GOD, a lover of people; theology, philosophy, science, and politics. My Mom lived a huge, encompassing life. She was engaged in living and loving *deeply*. She wanted to make her mark on the world by loving people and she did just that.” Victim Impact Statement of Victoria Hurd, at A-1 to A-2.

Cassie Jo Stoddart

In September 2006, Cassie Jo Stoddart, 16, was house sitting for relatives. *Adamcik v. State*, 163 Idaho 114, 116, 408 P. 3d 474, 476 (2017). Cassie, her boy-

8. Antoinette Bourbon, Psychologist Casts Doubt on Marsh’s Story, *The Davis Vanguard*, Sept. 13, 2014, <https://www.davisvanguard.org/2014/09/psychologist-casts-doubt-on-marshs-story/>.

friend, and their friends Brian Draper, 16, and Torey Michael Adamcik, 16, were “hang[ing] out” in the home during the evening. *Ibid.* Later that night, Draper and Adamcik told Cassie and her boyfriend that they were leaving. Unbeknownst to the couple, Draper and Adamcik then “checked out the whole house” and Draper “unlocked the back doors.” *Id.*, at 120, 408 P. 3d, at 480.

Cassie’s boyfriend left a bit later and called Adamcik to tell him he was going home for the night. Draper and Adamcik then drove back to the home armed with knives and dressed in dark clothing and masks. The two reentered the house through one of the doors they purposely unlocked earlier in the evening and stabbed Cassie to death. *Id.*, at 121, 408 P. 3d., at 481. Her body was discovered by her 13-year-old cousin two days later.⁹ Cassie had been stabbed approximately 30 times by two knives. *State v. Draper*, 151 Idaho 576, 585, 261 P. 3d 853, 862 (2011).

It was later discovered that Draper and Adamcik had decided the day before to murder their classmate Cassie. She was to be the first victim in a planned thrill killing spree of others. *Id.*, at 600, 261 P. 3d, at 877. The pair documented their plan by videotaping themselves talking and laughing about the murder of their “friend” Cassie. *Adamcik*, 163 Idaho, at 117-121, 408 P. 3d, at 477-481. Soon after they murdered Cassie, they returned to their car and videotaped themselves boasting about stabbing Cassie “in the throat, and

9. Angelica N. Sumter, Cassie Jo Stoddart: The Murder Of A 16-Year-Old Girl By Her Classmates, Brian Draper And Torey Michael Adamcik, Who Attacked Her While She Was House-sitting, *The Criminal Journal*, May 24, 2019, <https://www.thecriminaljournal.com/murder-of-cassie-jo-stoddart-16-year-old-brutally-killed-by-her-classmates-brian-draper-and-torey-michael-adamcik/>.

[seeing] her lifeless body.” *Id.*, at 121, 408 P. 3d, at 481. They then drove to a secluded area and buried evidence of their crime, including the knives, their clothing, masks, gloves, and the videotape. *Draper*, 151 Idaho, at 586, 261 P. 3d, at 863.

Cassie was a well-liked honor student who loved drawing and music. The news of her death at the hands of fellow classmates, only a few weeks after the new school year began, was both shocking and tragic, and “it had a very sad and horrific impact” on the entire school community. Shelbie Harris, Remembering Cassie Jo — Brother Opens Up on 10th anniversary of grisly murder, Idaho State Journal, Sep. 25, 2016, https://www.idahostatejournal.com/members/remembering-cassie-jo-brother-opens-up-on-th-anniversary-of/article_b160f34d-1f1e-5a9c-a585-bc49422a78b7.html.

Cassie’s younger brother Andrew was 15 years old when his sister was murdered. The two were only one grade apart in school and he considered her his “role model” while growing up. *Ibid.* Cassie was murdered in September 2006 and for her brother, “September is one I struggle to get through. It comes in waves honestly. There’s days when I’m fine and others I’ll just crumble. We love her. It’s always going to be a part of us. . . . Nobody should ever have to go through this.” *Ibid.*

Cassie’s entire family was adversely affected by her death in different ways, and it took years before many of them were able to talk about the devastation they endured. Cassie was house sitting for her aunt and uncle when she was killed. They had just purchased their “dream home” only one year earlier and lived in

it with their three children.¹⁰ Their 13-year-old daughter found Cassie dead on their living room floor. The discovery of her cousin profoundly affected her. She later suffered a breakdown and attempted suicide. *Ibid.*

The day Cassie's body was discovered was the last time the family ever set foot in the living room. For Cassie's uncle, "[i]t was our dream home, and it turned into a nightmare." *Ibid.* Cassie's aunt fell into a deep depression and lost her job. Cassie's uncle turned to alcohol and the two separated. Cassie's mother never got a chance to say goodbye and the devastating loss of her daughter caused "a void in her home and family." NOVJM, Cassie Stoddart, <http://www.teenkillers.org/index.php/memorials/idaho-victims/cassie-stoddart/>.

Too often in these cases, the victims of juvenile murderers and their surviving family members are relegated to the background. Several family members of these three murder victims suffer from PTSD. The trauma many surviving family members experience is "dose-dependent" and the frequency and intensity of each re-engagement with the killer reawakens and triggers devastating flashbacks and memories. NOVJM, Jones v. Mississippi, <http://www.teenkillers.org/index.php/courts-2/jones-v-mississippi/>.

"[M]any traumatized people . . . do not respond to stress in the way that other people do. Under pressure they may feel or act as if they were being traumatized all over again. Thus high states of arousal seem selectively to promote retrieval of traumatic memories, sensory information, or behaviors associated with

10. Debbie Bryce, House where murder of Cassie Jo Stoddart took place proving hard to sell, Idaho State Journal, Oct. 26, 2014, <https://www.idahostatejournal.com/members/house-where-murder-of-cassie-jo-stoddart-took-place-proving/article/57694590-5cdb-11e4-876d-270a4ac0f093.html>.

previous traumatic experiences.” Bessel A. van der Kolk, *The Body Keeps the Score: Memory and the Evolving Psychobiology of Posttraumatic Stress*, 1 *Harv. Rev. Psychiatry* 253, 258-259 (1994).

Victims’ families deserve legal finality with the least amount of re-engagement with the killers as possible so that they can regain some quality of life after the devastation they have endured.

II. The possibility of parole is a life sentence of legal battles and re-engagement with the killer for the victim’s family.

In *Montgomery v. Louisiana*, 577 U. S. ___, 136 S. Ct. 718, 736, 193 L. Ed. 2d 599, 622 (2016), the majority opinion appears to be unaware of the impact of repeated parole hearings on the families of murder victims. “Extending parole eligibility to juvenile offenders . . . [does not] disturb the finality of state convictions. Those prisoners who have shown an inability to reform will continue to serve life sentences.” For the families of murder victims and those who work with them, it is astonishing and disheartening that this Court could have so little awareness of the true impact of its decisions.

When a juvenile murderer is sentenced to life *with* the possibility of parole, legal finality is never achieved for the victim’s family. Rather, in the future the family must endure a never-ending series of parole hearings whereby they must try to convince a parole board that the killer should not be released. Such a process requires the family to constantly re-engage with the offender who caused them intense devastation and pain.

The sentence of LWOP exists for good reasons, and legal finality for the murder victim’s family is one of

them. The possibility that an individual who commits an especially heinous murder will walk free, perhaps while he or she still has more than half of a lifetime to live an unfettered life, is an egregious miscarriage of justice. *Amici* contend that punishment must be based upon a thorough evaluation of the offender's culpability, and not upon chronological age alone.

"[M]urder victims' families will always suffer horribly when there are regular, protracted, and endless on-going proceedings that accompany frequent parole hearings . . ." NOVJM, What We Believe, <http://www.teenkillers.org/index.php/about-us/who-we-are/>. Often times a victim's family feels compelled to fight against the offender's release, bringing back the overwhelming pain to the surface and reliving the horror each time their loved one's killer comes up for parole.

Amici believe that in a few extreme cases society and victims of crime need the assurance that a murderer will never be released through routine parole hearings. The experiences of the following two families illustrate the profound negative impact that prolonged legal proceedings continue to have long after the loss of their loved ones.

Eric Kane

In August 1986, Eric Kane, 16, went on a supervised camping trip to Arizona with a couple of other teen boys and a counselor. We Remember Eric, What Happened on August 13, 1986 ... and since, <https://wewremembereric.org/what-happened>. While on their way to the Grand Canyon, the group decided to stop for the night at a motel in Flagstaff where Eric shared a room with 16-year-old Jacob Wideman. On the night of August 13, Wideman took a hunting knife he had recently purchased on their travels and stabbed Eric twice in the chest while he slept. Wideman left Eric to

bleed to death alone in the room then “stole the rental car the group had been using, forged travelers’ checks, and roamed the country before giving himself up eight days later when he ran out of money.” *Ibid.*

For Sandy and Louise Kane, the news of their youngest son’s horrific death was shocking and traumatic. They had sent their son on a supervised summertime camping adventure of a lifetime 2,000 miles away from their New York home, and it was inconceivable to them that while on that trip he would be murdered by a fellow camper.

Wideman eventually confessed to the murder and admitted there had been no animosity between him and Eric. Rather, it was an unprovoked act of violence by a deeply disturbed individual. Wideman pled guilty and was sentenced to life in prison. Under Arizona law at the time, Wideman was eligible for parole after 25 years. At sentencing, the judge made a strong recommendation on the record that Wideman should never be paroled. *Ibid.*

Eric was a peaceful, generous, and kind young man who was dearly adored by his family and friends. He was the youngest child of three very close siblings who loved sports, music, art, and science. His sense of humor and gift of laughter filled the room. His death profoundly affected his entire family. At the sentencing hearing, Louise Kane explained to the court that,

“Birthdays and anniversaries and family occasions and sorrows and joys are all impossible without Eric. There is always a void for all of us that no one can fill, but Eric. . . . Every moment of every day is difficult no matter how busy, no matter how we fill our time. We’re torn up inside. It’s like our insides are ripped out. There’s a hole in our life.”

Testimony of Louise Kane (attached as Appendix B to this brief), p. B-7.

For several years after the murder, the Kane family experienced extreme grief. They could not escape the agonizing images of the crime and the suffering their son endured from permeating their thoughts daily. Eventually, the horrific images of their son's death began to soften as they proceeded through the grief process. Knowing their son's killer was incarcerated helped them reach a relative level of peace over time, and the memories of the good times with their son started to replace the agonizing thoughts of their son's death.

After Eric's death, the Kane family designated a drawer in their office file cabinet where they placed all information and paperwork relating to Eric's death. For nearly 20 years that file drawer sat untouched. It was a receptacle of painful reminders of a young life tragically extinguished.

In 2011, the Kane family received news that Wideman was being considered for parole. When the family received the notice, the Kane family started to prepare their opposition to his release. To accomplish this, Sandy Kane opened up the file drawer with the intent to only gather a few items. As he began to examine the drawer's contents, the 20 years of relative peace he had worked so hard to accomplish was gone in an instant. Everything in that file drawer brought back the horrific memories of the day their 16-year-old son was murdered. The traumatic feelings he had worked so hard to get through inundated him, and it left him sobbing and inconsolable.

Wideman was denied parole in 2011. We Remember Eric, *supra*. He was denied parole five more times between 2012 and 2015. In 2016, the parole board voted

3 to 2 to release Wideman from prison to “home arrest.” Less than a year later, he violated the terms of his “home arrest” and was sent back to prison. Every six months, Wideman is eligible for a parole hearing. Since 2011, Sandy and Louise Kane have prepared for and participated in ten separate hearings. They travel from their home in New York to Arizona at their own expense so that they can advocate for their son. They participate in every hearing because “Eric can’t” and they will continue to do so into the future because if by chance Wideman is released after a hearing in which they did not take part, the resulting guilt would be too much for them to bear.

The Kane family did not ask to be victims. Rather, they were unwillingly thrust into the role when Wideman made the decision to end their son’s young life. The grievous wound that Wideman inflicted upon them continues to fester with every parole hearing. Every impending hearing causes their emotions to flare. Weeks before each hearing, they work tirelessly collecting letters, emails, and statements from hundreds of individuals to present to the parole board in protest of Wideman’s release.¹¹

Catherine Pauley Haynes

In June 1993, 66-year-old Catherine Pauley Haynes was stabbed to death in her home by 14-year-old Ruthann Veal. *State v. Veal*, 564 N. W. 2d 797, 804 (Iowa 1997). Although only 14 years old, Veal already

11. Since 2011, the Kanes have collected over 1,000 letters in support of denying parole. One study shows that “[t]he more letters of protest in an offender’s file, the more persons protesting at an offender’s hearing, the more likely that parole will be denied.” Morgan & Smith, *Victims, Punishment, and Parole: The Effect of Victim Participation on Parole Hearings*, 4 *Criminology & Pub. Pol’y* 333, 357 (2005).

had an extensive juvenile delinquency record, which included five previous assault charges. NOVJM, Catherine Pauley Haynes, <http://www.teenkillers.org/index.php/memorials/iowa-victims/catherine-pauley-haynes/>. Veal had run away from a juvenile detention home when she entered Haynes' house and viciously beat and murdered her. *Veal, supra*, at 804. Veal was later convicted of first-degree murder and given a mandatory sentence of LWOP. *Id.*, at 802.

After *Miller*, Veal was given a new sentencing hearing. She was resentenced to life with the possibility of parole. At the resentencing hearing, Haynes' daughter and NOVJM member, Laura Haynes Shimek, read her powerful victim impact statement to the court. The following large portions of that statement provide this Court with a first person perspective of the profound impact that the perpetual re-engagement with the killer at parole hearings can have on a victim's family:

"20 years ago. It's unbelievable to me it has been 20 years since my mother's death. . . . Everything in my life can be divided into before and after my mother's murder. Now we are going through this all over and I don't know how to do it—I don't know how to stand in the courtroom with the woman who murdered my mother and try to pretend it doesn't matter, try to pretend the possibility of Ruthann Veal walking the streets again doesn't terrify me.

"The judge at the original sentencing hearing didn't allow us to read our impact statements. He said the sentence was mandatory 'life without parole' so what we had to say didn't make any difference. It turns out he was wrong, and here we are 20 years later facing 'life with the possibility of parole', the possibility that someday Ruthann may get out of prison. . . . My children are now sentenced to life fighting that possible parole.

...

"I've been waking up night after night, rivers of words flowing through my head, trying to figure out how to be eloquent enough to make you understand the impact your thoughtless and unspeakable cruelty has had on my life and the lives of those I love the most. . . .

"The agony we felt as we found out more and more about what had happened. The pain my children went through, and how their hurt ripped out my shredded heart time and time again. . . . I will do everything in my power to make sure you spend the rest of your life in prison for the murder of my mother, Catherine.

...

"20 years ago, when my 4 year old son was trying to puzzle out why you had killed his Grandma Catie, he said, 'Just because you're mad at someone doesn't mean you can just kill them!' If a 4 year old knew that, surely you at 14 knew that as well. You were fully capable of discerning right from wrong, and you were held accountable for your actions. That was true 20 years ago, it's true today, and it will be true 20 years from now.

"When I walk out of this courtroom I will continue to cherish the people I love, the people who have helped me get through the last 20 years. I will go forward and I will live a full and vibrant life because that's exactly what Catherine would want me to do. I will do my best not to think of you again until I absolutely have to. But know this—every time you are up for a parole review, you should think of me, because every time you get an opportunity to go in front of the parole board, I will be there. In 2 years, in 5 years, in 10 years, in 20 years,

until the day I die. And after that my children will be there to continue the fight. Every time we are there, we will argue that you are right where you need to be so that no one else ever—EVER—has to endure what you put Catherine through, and what that did to everyone who loved her. It is my fervent wish that you spend the rest of your life in jail trying to atone for what you did 20 years ago on that summer night in June when you walked through our backyard and changed our lives forever.” NOVJM, Catherine Pauley Haynes <http://www.teenkillers.org/index.php/memorials/iowa-victims/catherine-pauley-haynes/>.

Many surviving family members, like Sandy and Louise Kane and Laura Haynes Shimek, continue to tirelessly advocate against parole because they never want to see the killer released from prison, and studies show “the greater the amount of input, either oral or written, the more likely that parole will be denied. . . .” Morgan & Smith, 4 *Criminology & Pub. Pol’y*, at 355. But, these families should not have to keep trying to convince a parole board that the killer should remain locked up. Had Wideman and Veal both been sentenced to LWOP, the Kane and Haynes families would be spared the agony they now find themselves enduring every time a parole hearing is scheduled. The unrelenting barrage of parole hearings years after the murders were committed prevents victims’ families from returning to a level of peace many worked so hard to achieve while traversing through the grief process.

III. Teenage murderers are not “children” and should be held responsible for their acts.

Those who favor ending LWOP for teenage murderers often attempt to sway the public into supporting

their cause by calling the offenders “children.” The word “child” is associated with innocence and vulnerability. It brings to mind the mental image of an elementary school student needing support, compassion, and protection. The mental image that term evokes strikes an emotional chord, but it is a false image.¹²

It is no secret that the majority of homicides committed by juveniles increase as they age. Since 2009, 76% of all known juvenile homicide offenders were age 16 or 17.¹³ Thus, the vast majority of those who are sentenced to LWOP are not “children,” but rather are older teens on the cusp of legal adulthood. Use of the term “children” to refer to depraved juvenile murderers is not only inaccurate, but it is highly insensitive and cruel to the victims of their crimes. *Amici* vehemently object to this Court’s usage of the term “children” when referring to individuals who acted with such violence, brutality, and depravity.

Katherine Cardenas was a two-year-old *child* when she was kidnapped, beaten, raped, and murdered by a 17-year-old *juvenile*. Antonio Angel Santiago was a one-year-old *child* when he was shot in the face and killed by a 17-year-old *juvenile*. See Teen Killers Are Not “Children,” *supra*. Madyson Middleton was an 8-year-

12. NOVJM firmly believes that the type of juvenile murderers who are sentenced to LWOP are not “children.” A member of NOVJM thoroughly researched the many examples of propaganda and false images used by organizations like the ACLU or the Children’s Defense Fund to advocate for more lenient sentencing of juvenile murderers. See NOVJM, Teen Killers Are Not “Children,” <http://www.teenkillers.org/index.php/juvenile-lifers/teen-killers-are-not-children/>.

13. United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Statistical Briefing Book, Offending by Juveniles: Homicide, <https://www.ojjdp.gov/ojstatbb/offenders/qa03104.asp?qaDate=2018>.

old *child* when she was beaten, raped, strangled, and dumped by a 15-year-old *juvenile*. Shavanna McCann was a five-year-old *child* when she was lured into a vacant apartment building, raped, and thrown from the 14th floor by a 17-year-old *juvenile*. These *juvenile* killers were old enough to understand the impact of the crimes they committed on *children* yet they chose to commit them anyway. *Amici* respectfully request that this Court refrain from using the term “child” or “children” when referring to the murderer, but instead use the terms “juvenile” or “minor,” which generally are more common terms to use when referring to a class of individuals under age 18.

For most families, the aftermath of the sudden and unexpected murder of their loved ones left them feeling vulnerable, helpless, and fearful. Many times families involve themselves in the legal proceedings that follow to “‘remind judges, juries, and prosecutors that *behind the state is a real person* with an interest in how the case is resolved.’” Morgan & Smith, 4 Criminology & Pub. Pol’y, at 336 (emphasis in original).

Oliver Northup, Claudia Maupin, Cassie Jo Stoddart, Eric Kane, Catherine Pauley Haynes, and far too many others were *real people* who were tragically and intentionally murdered by teenage offenders. The victims must always remain at the forefront of the discussion. *Morris v. Slappy*, 461 U. S. 1, 14 (1983). The fact that the perpetrators of these homicides were under 18 years old does not mitigate their crimes or render them less culpable than someone over age 18. Each of the offenders had the sufficient moral culpability to be held fully responsible for the decision he or she made to deliberately take the life of another.

CONCLUSION

The decision of the Mississippi Court of Appeals should be affirmed.

August, 2020

Respectfully submitted,

KYMBERLEE C. STAPLETON

*Attorney for Amici Curiae
Nat'l Organization of Victims of Juvenile Murderers
and Arizona Voice for Crime Victims, Inc.*

APPENDIX A

Excerpt of Transcript of Sentencing Hearing,
People v. Marsh, Superior Court of California for
County of Yolo, No. CR-2013-2418,
Dec. 12, 2014.

Appendix A-1

VICTIM IMPACT STATEMENT
Victoria Hurd

Your Honor and people of the court, Claudia Maupin was my Mom, she was my mentor and she was my best friend. My name is Victoria Hurd. I am her eldest daughter.

On April 13, 2013, my Mother and her husband, Chip Northup were terrorized, tortured and brutally murdered after the defendant broke in to their home. I know this because I was present in court to hear the defendant's self-satisfied, four-hour confession describing in graphic detail how he entered my parent's home. He confessed that he stabbed, disemboweled, dissected, struck and murdered my cherished parents. I sat in horror as I listened to the details of his crime and wondered how anyone could be so cruel and sadistic and without remorse. I was present in court as Deputy District Attorneys Michael Cabral and Amanda Zambor proved the facts of this case beyond any doubt. On Sept 26 and Sept 29, 2014, the jury in this case rendered verdicts of guilty and sane.

Now, it is my opportunity to make a Victim's Statement. This is the information I wish the court to know and record.

My Mom was my best friend. Her death has caused me immense pain and suffering. I have had to watch my sisters and my children scream in pain and grief. The defendant's narcissistic indifference to human life and his ability to randomly kill two human beings, who were so profoundly loved and who so richly loved life is inconceivable to me. His actions are irredeemable.

My Mom was the most loving and compassionate person I ever met. She lived her life loving people. She lived each day in gratitude and goodness. She was simply the kindness person I have ever known. She was

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always willing to lend a hand, a shoulder, an ear. She would go out of her way to help us and to help others. She was elegant, earthy and refined. She had deep wisdom and a sense of humor that could bring you to your knees. She listened intently when you spoke to her and she looked you in the eyes when she said, "I love you". She could be trusted with the deepest questions of life and she was not a fan of "small talk". She was a student of the divine, a lover of GOD, a lover of people; theology, philosophy, science, and politics. My Mom lived a huge, encompassing life. She was engaged in living and loving *deeply*. She wanted to make her mark on the world by loving people and she did just that.

My Mom adored us completely and she made sure that we all knew it everyday without question. She grounded us. She cared for us on every level, emotionally, spiritually, physically and sometimes financially. One of the greatest things about my Mom was that she was *present*. She was at every childbirth, birthday, marriage, graduation, recital, concert, housewarming, barbeque, illness, divorce, funeral, break-up, Christmas, Thanksgiving and Easter that I can remember. She always brought support, graciousness and laughter.

Whatever the party was, it wouldn't start until Mom got there. She wasn't just our Mom, our grandmother, our great grandmother. Mom was our teacher, our cheerleader, our sage, our rock. She was larger than life to me ...to anyone who knew her.

The way my Mother left this world is absolutely unfathomable. The defendant tortured and killed the most beautiful person I've ever known. He stole her from us without shame or regret, but with what he described as elation. My Mom begged him for her life but he kept stabbing, cutting, punching without mercy. I think his words were, "the old woman wouldn't die". That doesn't surprise me. She had so much life-force.

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I'll never forget the sound of my sister's voice at 5 in the morning as she described finding my parents dead at the crime scene. My sister lost her mind that day. Later I watched her faint on my kitchen floor, my daughter and brother had to carry her to bed in front of her sobbing, panic-stricken daughters.

I saw my Mom and Chip being taken from their home in body bags. I will remember it for the rest of my life.

I will remember my Mom's last moments of life mixed with images of police officers, FBI agents, the Coroner, news vans, and yellow tape. I will remember the feeling of police officers restraining me from moving towards her house and a sensation of hysteria washing over me like tidal wave of horror.

I'll never forget the sound of my daughter screaming into the phone when I called to tell her that her beloved grandmother, the one who helped her through college, was at her wedding, who had nurtured her through heartache, the one who had loved her unconditionally for 35 year was murdered. I heard her screaming, "Moma, Moma, NO, Moma, NO! Moma, NO! I don't know what to do!" I don't know I how managed to tell her to make flight arrangements and get here as quickly as she could.

I remember looking into the face of my 37-year-old son, as he trembled and tears rolled down his face. I had to explain to him that his grandmother, the woman who helped him buy his first car, was at his wedding and the birth of his first child and who was just a week ago, in church celebrating Easter with his family, had been stabbed 67 times, her organs excavated from her body. That she was found with her cell phone in her empty belly.

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How do you tell an 11 year old, a nine-year-old, a seven-year-old, a 5-year-old that their Granza has been murdered? What horror for such a young family... for my grandchildren, her Great-grandchildren to bear. I don't know how my son did that and I hate the fact that he had to.

I remember talking to a coroner, numerous detectives, funeral home and cemetery personnel....all while the defendant was bragging about the murders to his friends.

I was insane with grief. I wasn't allowed to see my Mom's body for days, not just because she was a murder victim, but because her wounds were so extensive that an expert had to be called in to restore her body order for us to hold her hand and kiss her goodbye. For months we waited in terror knowing that the person who had done this to Mom and Chip was still out there.

All the while, that man was walking the streets of streets of our community looking for his next victim.

Since the murders, I suffer from Post Traumatic Stress Disorder. I can't concentrate. I can't perform my job with the level of competence I used to. I can't focus. I don't like leaving the house. I'm tired all the time. The quality of life I once enjoyed is on hold, as I have been thrust into a period of dark recovery. In addition to burying my Mother, I cleaned out and packed up her home, which was a crime scene. I found her blood on her bedroom furniture that the clean-up team had missed. I attended a 5-week murder trial, while caring for myself and my sisters in the midst of going back to work and trying maintain some sense of normalcy. All because the defendant decided his grotesque pleasure was more important than our lives.

No one in our family is able to stay alone overnight and it has been a year and a half. The majority of us are

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still unable to return to work. The children and the adults suffer from unrelenting flashbacks and nightmares of the tortures my Mom and Chip suffered. Everyone is taking time out their days and weeks to go to counseling appointments just so they can make it through to the next week. The ramifications of this gruesome crime are unending.

The financial trauma on my family and I has been overwhelming. Beginning with extended time off work due to trauma disorders and trial time to job loss due inability to work. There were travel and accommodation expenses for family members out of state. There was and continues to be extensive counseling costs. For the eldest member of the family to the youngest this has been financially devastating.

Without a doubt this is the most devastating situation our family has ever endured. No one deserves this, ever, especially not my Mom. If she were here, she would've helped us survive this. She would've comforted us with her presence and calmed us with her laughter. But she's NOT HERE because Daniel Marsh killed my mother for his own perverted gratification. I can't hug her, or call her for guidance. I can't hold her hand or cry in her arms. I will never hear soothing voice, ever again.

I know will make it through this darkness and so will my family, because of my Mom and the way she lived her life and because her spirit lives in each one of us. She taught us that no matter how bad it gets, "this too shall pass". She taught us that you can trust God and you can trust love". And because she taught us that we always have each other.

Love and compassion are words my mother used daily and practiced intentionally. Through all of this, I have struggled with the question of where love and

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compassion, torture and murder find their common ground. I wonder how much compassion the defendant considered when he continued to torture my mother after she begged him to stop. I wonder how much compassion he showed to her when she pled for her life and he hit her in the face. I wonder what kind of "cruel and unusual punishment" that was. And for what purpose.

I'm blessed with the experience and the process of this trial. So many of my questions have been answered and with the evidence presented, I believe without a doubt that once the defendant is free, he will torture and kill again. Of this, I am sure. If he is free, people will be tortured and people will die. Another son or daughter, father, mother, brother, sister will suffer as I have. It is my firm conviction that the defendant's freedom will put innocent people in danger of dismemberment and death.

This man has no conscience, his lack of remorse unbelievably heartless. His mockery of my Mom and his pride in this crime is beyond my understanding. I can't comprehend how any human being could be so cruel.

Therefore, in honor of my mother, Claudia Maupin and the legacy of love she left behind, it is my belief that the loving and compassionate action in this situation is to request from the court the maximum sentence allowable for the torture and murder of my mother and her husband, Chip Northup. I request that the defendant carry out his sentence to the full term of more than 52 consecutive years to life without the possibility of parole.

It is my request that the maximum penalty for the crimes, with enhancements for which the defendant stands convicted, be served, in their entirety and that

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defendant, Daniel Marsh never secure freedom from incarceration in his lifetime.

I offer my sincerest thanks to the court for allowing this opportunity to speak on behalf of myself, family and my Mom, Claudia Maupin.

Thank You.

APPENDIX B

Excerpt from Transcript of Restitution and
Sentencing Hearing, *State v. Wideman*,
Superior Court of Arizona for County of Coconino,
No. 12878, Oct. 12, 1988.

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**Testimony of Louise Kane
Excerpt from sentencing hearing of Jacob Wideman,
Arizona District Court—State v. Jacob Edgar Wideman
Siblings' names redacted**

(At this time four members of the victim's family were duly sworn by the Clerk of Court.)

THE COURT: Okay. Who would like — please state your name, first, ma'am.

MRS. KANE: My name is Louise Kane. I'm Eric's mother.

THE COURT: Thank you. Please be seated.

MRS. KANE: Your Honor, I would like to give you this picture of Eric —

THE COURT: You may approach the bench.

MRS. KANE: (continuing) — and have you keep it in the file.

THE COURT: Thank you.

MRS. KANE: I am here today for Eric. Eric is the most important person here. Everything is focused on Jacob Wideman; why he needed to murder, how he took Eric's life, Jacob's life. But now we have to turn our attention to Eric and focus on Eric's life and Eric's pain. Eric must tell us what it is like to be sleeping peacefully and have a six-inch hunting knife thrust in his chest, not once, but twice — excruciating, screeching pain, ultimate agony, and bleed to death for hours. Imagine someone violating your body; an operation without anesthesia. But operations are for good, and Jacob only had evil on his mind.

As parents, we worried about our children, if they get a scratch or if they fall off the bike when they're learning to ride a two-wheeler, or if they break a bone when they're doing sports or skiing, or something. This

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is the ultimate dread. There's nothing that could be worse.

Where is death? Who can tell me? Who can help me find my child? After Eric died, when I was able to sleep, I had nightmares. I had a bassinet, but I couldn't find my baby, and it was so horrible that I would have to get up from the dream, and then it was worse, because my baby was dead.

Eric led a beautiful life. Beautiful not because it was easy, nor because it was filled with monetary things. But beautiful because he gave out so much love and kindness. Beautiful because he taught us courage and strength and stamina by his example. He taught us not to give up, nor be satisfied with less than the best we could do. He believed in helping less fortunate people than he, and if he could not change the entire world immediately, then at least he could change his part of the world by his work and his example. He taught us well.

The animal that killed Eric was really a weakling. It was Eric who was the strong one. As we all know, the physical body diminishes in death. It's Eric's [soul] that lives on, still giving, still teaching us, always inspiring us on.

It's difficult to keep up with him. But then his gentle kindness shows, and we go onward. Eric was absolutely brilliant. By the age of five, he was reading the encyclopedia with an understanding and an unquenchable thirst for knowledge. Knowledge tickled his fancy. He was a ferocious reader, who [e]specially loved history and science, a sense of the past, and a sense of the future.

I remember, when as a small child, he was stricken with a migraine headache. He lay holding a book the way another child would hold a stuffed animal. He had

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an insatiable curiosity as long as I could remember, and from the earliest, he would ask questions about everything. After he learned to read, he would research them himself. Eric was the embodiment of the true Renaissance man. In his zest for life, he had so many, many shining facets. His love of people and dolphins led him to be very conscious of ecology and concerned with it. Eric loved sports, both watching and playing. Eric loved music. He played the piano. He strummed the guitar. He sang. He composed melodies on his synthesizer. He loved rock music, and he loved classical music, and show tunes.

The best treat that I could give Eric was an art lesson. He enjoyed doing life drawings and still-life drawings in all media. He was a tremendously talented artist, and our home is graced with his prolific works. We have exquisite ceramic pieces he sculptured. He loved going to museums to enjoy the works of other artists.

Eric had a marvelous sense of humor. His gift of laughter was at once both his way of seeing the world and his ability to surmount difficulties. Eric so enjoyed making people laugh, that he very often laughed along at his own jokes. His eyes would crinkle up and sparkle, and out would come a highly contagious belly laugh. He also had a wonderful ability to laugh at himself and not take himself too seriously.

Eric loved science. Often, I would find around the house scientific experiments in various stages. He was thrilled when there was a space flight or a new development that would make life on earth better or more interesting or more exciting.

Eric felt that because he had been saved after being so sick as a child, that he wanted to help others. He wanted to become a heart surgeon to save lives. The flu

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medical developments fascinated him, and he was looking to the future for better ones, always to try harder and do better.

Eric was a wonderful writer with an utterly amazing vocabulary. What he had not actually lived, he would research. His favorite topics were scientific with their own sense of adventure. Many young people as old are stymied when they're faced with a blank page, but not Eric. He had something to say and something to share.

Very central to Eric's being was the question of peace. Elusive as it has been to mankind, Eric, who never gave up or became frustrated, always felt there was hope. When at the age of 15, Eric's [sibling] lived in France with a French family we had not known before, he was delighted. How can you make war if countries are made up of families who are friends with families in other countries? He felt the world should share friendships.

A short, simple poem he quickly jotted down shows his thinking. [Rennes] is mentioned. It's the place in France — the city in France that [sibling] and her family lived in. "How can the laws of peace apply when beings are sheltered by a bloody red, combat sky? The sounds and sights of airplanes, ships, and fighting men, without the courage to be chicken. A war could come here, and then could be in Beirut, London, Paris, or [Rennes]. So the next time we think of peace, we can contemplate a soft breeze rustling the leaves of a tree. Peace every day, peace all day, peace every time, and peace all the time."

When Eric died, one of his friends wrote others a note saying, among other things, Eric's great generosity and kindness should be remembered. Not only could you borrow just about anything from Eric, but he cared about his friends. There were times that Eric had work

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to do, and had the self imposed discipline and responsibility to go out to play — not to go out and play. Not to worry, his friends who came over to get him were welcome to stay and use the basketball court, but before Eric went back inside, he brought out soda and cups for them for when they got thirsty.

When Eric was in ninth grade, and mythology was being studied, he was unanimously voted the party guide. He enjoyed so having his friends gather and being the thoughtful host. Eric's friends are having a particularly difficult time. They cannot understand how Eric could have been hurt, much less murdered. Not Eric. Eric would not fight with anyone. Jacob Wideman robbed them of their innocence. But worse, Eric's best friend now contemplates suicide.

When Eric — when Eric died, his friends came to our home for the services that are traditional in the Jewish religion. Jews, Catholics, Protestants arrived at 6:45 in the morning at our home. The week that we sat shiva, imagine 16-year-olds doing that, getting up that early the last week before school starts. They needed to be with us and they're still in touch with us. They're off to college now and they still are having a hard time without Eric.

We had a wonderful relationship, Eric and I. We spoke all the time. I would never accept just a "fine" as to how his day was. We discussed life, ideas, events, feelings. When he was little, we were fascinated that he could soak up knowledge like a sponge. As he got older, it was more fun, because of the exchange of ideas. In moments, when I was down, Eric would always say something to make me feel good or to laugh. He saw in me, as in all the people around him, endless abilities of what a person can achieve. He believed that people are separated only by their desire to try hard and be kind and be good to other people.

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The very first thing Eric ever wanted to be was a knight. He was even then concerned with doing good for others, having courage to prevail, and not to ever get frustrated, and in all ways Eric was a knight. Most of all, Eric looked up to his [siblings.] There was nothing that [his siblings] would not do for Eric, and he knew no matter what, he could always count on them. The way he said, "My brother," or, "My sister," saying, "Emperor of the world," couldn't be said with more love or adoration or reverence or honor.

My children are unusually close. When Eric's siblings were away at school, rather than enjoy getting all the attention himself, he missed them terribly, and even they — he would speak to them several times a week. When Eric died, [sibling] did not go back to college for six months. Ten days after she returned to school, we received a phone call from her that she was coming home for the weekend. As a 15-year-old, she had lived in a foreign country with a family that she had not previously known, and as a 19-year-old, she couldn't spend 10 days away. When she got home she told us that she had gone to the phone to call Eric because she hadn't spoken to him for a while, and when she got there she didn't know what to do. [Sibling] goes to the cemetery and lies on Eric's grave. No blanket. He wants to be as close as he could be to his brother.

Imagine having to order a stone for the cemetery for your child. Children are supposed to outlive parents. That's the natural order. They are our future, our most precious gifts. Jacob Wideman stole our future.

When people ask me how many children I have, I unfailingly say "three". But when people ask me their ages I have a problem. [Sibling] is 22, and [sibling] is 20, but what about Eric? Is Eric 16? He's always 16. He's not going to get any older.

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Birthdays and anniversaries and family occasions and sorrows and joys are all impossible without Eric. There is always a void for all of us that no one can fill, but Eric. For two years after Eric died, I couldn't cook. Our friends filled in. I could not bear to go to a supermarket to see the foods that Eric [e]specially liked and not buy them. Every moment of every day is difficult, no matter how busy, no matter how we fill our time. We're torn up inside. It's like our insides are ripped out. There's a hole in our life.

We survived because of the blessings of Eric's memory, his gentle kindness, his incredible strength, and his appreciation of life. He's adored and remembered with love and pride, and he lives on in our hearts and minds.

We are here for sentencing today. Sentencing for a subhuman, an animal. Please focus on the sentence he gave us. Forever will our lives be filled with pain and agony. Will we be eligible for parole? Will our life sentence end in 25 years? (Shakes head) Your Honor, when one takes a life without provocation there was no fight, no ill feelings, no war, just an animal with a basic animalistic drive — he must be kept out of society forever. Our government — in this case our Judicial system — must protect we the people. It must provide for the common good. The only way we can be sure that this animal will not strike again is to execute him. The dead neither break out of prison, nor get paroled. However, in accordance with the agreement, I understand that the death penalty cannot be given. I therefore implore you to give this animal a sentence of life and strongly recommend that he never be paroled.

We have seen that he can disguise himself and act like his out-of-form, a human. His basic cowardly [soul] will never be more than that of an animal. He has already confessed to killing 22-year-old Shelly Wiley in

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Laramie, Wyoming. Another family given a sentence of anguish for life. And he attempted to murder someone in Boston after he killed Eric.

Your Honor, our laws provide you – or bind you to provide for the common good, to protect us all. I ask you to have the courage to be strong in seeing what really is and in recommending that Jacob Wideman, no matter how good his prison record, never be paroled.

It's easy to look aside and say, "Oh, he'll get better," or to not have to deal with what a loss of life really is. As long as killers are among us, no one is safe. We're all vulnerable. Jacob Wideman stole our future. Eric taught us well. He had the strength to obey rules and laws. Jake believes he can do anything he feels like when the mood strikes him. He believes he's above our laws.

Your Honor, protect we the people. Our family and our friends have been able to survive these past 26 months because of the person Eric was. He left us a beautiful legacy of strength and courage. His beauty touches us all. By having lived, Eric made the world a better place. I'm proud to be Eric's mom. Eric is a blessing.

Wherever you are, Eric, I love you.

THE COURT: Thank you, Mrs. Kane