

IN THE  
SUPREME COURT OF INDIANA

No. \_\_\_\_\_

Court of Appeals No. 22A-CR-00457

NICKALAS JAMES KEDROWITZ,	)	
Appellant-Defendant,	)	Appeal from the Ripley Circuit Court
	)	
v.	)	Trial Court Case No. 69C01-1909-MR-1
	)	
STATE OF INDIANA,	)	The Honorable Ryan J. King, Presiding
Appellee-Plaintiff.	)	

BRIEF OF *AMICI CURIAE* JUVENILE LAW CENTER; THE CENTER FOR LAW, BRAIN AND BEHAVIOR; THE SENTENCING PROJECT; AND THE CHILDREN’S POLICY AND LAW INITIATIVE OF INDIANA ON BEHALF OF APPELLANT

Victoria Bailey Casanova, No.24082-49  
CASANOVA LEGAL SERVICES, LLC  
320 N. Meridian Street, Ste. 701  
Indianapolis, IN 46204  
(317) 974-9977  
victoria@casanovalegalservices.com

Marsha L. Levick, No. 3057-95-TA  
JUVENILE LAW CENTER  
1800 JFK Blvd., Ste. 1900B  
Philadelphia, PA 19103  
215-625-0551  
mlevick@jlc.org

*Counsel for Amici Curiae*

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### **INTEREST OF *AMICI CURIAE***

**Juvenile Law Center; The Center for Law, Brain and Behavior (CLBB) of the Massachusetts General Hospital; The Sentencing Project; and The Children’s Policy and Law Initiative of Indiana** have particular expertise in the area of children’s constitutional rights, especially with regard to children’s interaction with the juvenile and criminal legal systems, and the promotion of well-being through those systems. *Amici* also share a unique perspective on the interplay between the constitutional rights and developmental psychology of children in the legal system. *Amici* urge this Court to grant Petitioner’s request consistent with the constitutional mandates in *Miller v. Alabama*.

### **SUMMARY OF ARGUMENT**

*Amici* write to provide this court with developmental context on why a 100-year aggregate life sentence imposed on a child is constitutionally impermissible. Youth are developmentally different from adults, which makes them less culpable for the purpose of sentencing, gives them greater prospects for reform, and makes them less deserving of the most severe sentences. A 100-year aggregate sentence is an unconstitutional de facto life sentence—different from a mandatory life without parole sentence only in name. As such, the constitutional protections mandated by the Supreme Court in *Miller v Alabama* must be applied.

## ARGUMENT

### I. DEVELOPMENTAL SCIENCE INSTRUCTS THAT CHILDREN ARE DIFFERENT FROM ADULTS IN CONSTITUTIONALLY SIGNIFICANT WAYS

#### A. Cognitive Neuroscientific Research Confirms The Developmental Differences Between Youth And Adults

It is settled constitutional law that children are less culpable than adults for the purpose of sentencing because of their developmental differences and heightened capacity for rehabilitation. *See, e.g., Roper v. Simmons*, 543 U.S. 551, 578 (2005) (banning the death penalty for individuals convicted of murder under the age of 18); *Graham v. Florida*, 560 U.S. 48, 75, 82 (2010) (banning life without parole sentences for juveniles convicted of non-homicide offenses and requiring “some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation”); *Miller v. Alabama*, 567 U.S. 460, 465 (2012) (banning mandatory life without parole sentences for juveniles convicted of homicide). Uncontroverted evidence has long indicated that these differences have “neuropsychological and neurobiological underpinnings.” Laurence Steinberg & Elizabeth S. Scott, *Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty*, 58 *Am. Psych.* 1009, 1013 (2003); *see also* Ctr. for L., Brain & Behav. at Mass. Gen. Hosp., *White Paper on the Science of Law Adolescence: A Guide for Judges, Attorneys and Policy Makers* 2, 10-41 (2022); Alexandra O. Cohen et al., *When Is an Adolescent an Adult? Assessing Cognitive Control in Emotional and Nonemotional Contexts*, 27 *Psych. Sci.* 549, 559-60 (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 Neurosci.* 93, 101-02 (2017); B.J. Casey et al., *Development of the Emotional Brain*, 693 *Neurosci. Letters* 29, 29-33 (2019).

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Modern research indicates that important developments during adolescence occur in brain regions “implicated in processes of long-term planning, the regulation of emotion, impulse control, and the evaluation of risk and reward.” Steinberg & Scott, *supra*, at 1013 (citing Linda Spear, *The Adolescent Brain and Age-Related Behavioral Manifestations*, 24 *Neurosci. & Biobehav. Revs.* 417 (2000)); see Laurence Steinberg & Grace Icenogle, *Using Developmental Science to Distinguish Adolescents and Adults Under the Law*, 1 *Ann. Rev. Developmental Psych.* 21, 27-32 (2019). Thus, youth have diminished decision making capacity because of psychosocial differences that are biological in origin. Steinberg & Scott, *supra*, at 1013. “[E]xtensive literature in cognitive neuroscience . . . [shows] that there exist patterns of normative structural and functional brain development in adolescence that can be reliably distinguished from those characterizing childhood or adulthood.” Steinberg & Icenogle, *supra*, at 22.

A child’s prefrontal cortex is the most distinct from adults in that it is the brain region that accounts for personality expression, decision-making, and moderating social behavior, which undergoes crucial changes during adolescence. See Sara M. Szczepanski & Robert T. Knight, *Insights into Human Behavior from Lesions to the Prefrontal Cortex*, 83 *Neuron* 1002, 1002 (2014) (stating that the frontal lobes “play an essential role in the organization and control of goal-directed thought and behavior,” and that these functions are collectively referred to as cognitive or executive control); Jennifer A. Silvers et al., *vLPFC–vmPFC–Amygdala Interactions Underlie Age-Related Differences in Cognitive Regulation of Emotion*, 27 *Cerebral Cortex* 3502, 3509-12 (2017). As a result of myelination, the process through which nerve fibers become sheathed in myelin (a white fatty substance that facilitates faster, more efficient communication between brain systems), adolescents experience an increase of “white matter” in the prefrontal cortex as they age. Laurence Steinberg, *The Science of Adolescent Brain Development and its Implications for*



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*Adolescents Rights and Responsibilities*, in *Human Rights and Adolescence* 59, 64 (Jacqueline Bhabha, ed., 2014); *see also* Catherine Lebel et al., *A Review of Diffusion MRI of Typical White Matter Development from Early Childhood to Young Adulthood*, 32 *NMR Biomed.* 1, 1 (2019); Daniel Miller et al., *Prolonged Myelination in Human Neocortical Evolution*, 109 *Proc. Nat'l Acad. Scis.* 16480, 16480, 16484 (2012).

“More efficient neural connections within the prefrontal cortex” are critical for the development of “higher-order cognitive functions [that are] regulated by multiple prefrontal areas working in concert—functions such as planning ahead, weighing risks and rewards, and making complicated decisions.” Steinberg, *supra*, at 64. Compared to the brain of a young teenager, the brain of an adult displays “a much more extensive network of myelinated cables connecting brain regions,” *id.*, and adolescents become better at completing tasks that require self-regulation and management of processing as they age, Laurence Steinberg et al., *Around The World, Adolescence Is a Time of Heightened Sensation Seeking and Immature Self-Regulation*, 21 *Developmental Sci.* 1, 12 (2018) (“[A]dolescence is a time when individuals are inclined to pursue exciting and novel experiences but have not yet fully developed the capacity to keep impulsive behavior in check.”).

Neuroscientists have also observed that different parts of the cortex mature at different rates. Myelination and pruning start at the back of the brain and spread toward the front, which means that areas involved in more basic functions, such as those involved in processing information from the senses and in controlling movement, develop first, while the parts of the brain responsible for more “top-down” control, such as controlling impulses and planning ahead, are among the last to mature. Nat'l Inst. of Mental Health, *The Teen Brain: Still Under Construction* 3 (2011), [http://www.ncdsv.org/images/NIMH\\_TeenBrainStillUnderConstruction\\_2011.pdf](http://www.ncdsv.org/images/NIMH_TeenBrainStillUnderConstruction_2011.pdf); *see also* Joseph M. Peraino & Patrick J. Fitz-Gerald, *Psychological Considerations in Direct Filing*, 40 *Colo. Law.*

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41, 43 (2011). Developmental psychology has shown that though reasoning improves throughout adolescence and into adulthood, it is tied to and limited by the adolescent's psychosocial immaturity. *See* Steinberg & Scott, *supra*, at 1011-13. Even if an adolescent has "adult-like" cognitive capacity to apply in certain "cold" decision making contexts, the adolescent's sense of time, lack of future orientation, pliable emotions, calculus of risk and gain, and vulnerability to pressure will often drive the teen to make very different decisions than an adult would make in emotionally stressful or "hot" situations. *Id.*

Adolescents' risk assessment, decision-making capacities, and future orientation differ from those of adults in ways that are particularly relevant to criminal conduct. *See* Elizabeth S. Scott & Laurence Steinberg, *Adolescent Development and the Regulation of Youth Crime*, 18 *Future Child* 15, 20-21 (2008) ("[C]hildren and adolescents are less capable decision makers than adults in ways that are relevant to their criminal choices."). Although adolescents may possess the capacity to reason logically, they "are likely less capable than adults are in *using* these capacities in making real-world choices, partly because of lack of experience and partly because teens are less efficient than adults in processing information." *Id.*, at 20; *see also* Eveline A. Crone & Ronald E. Dahl, *Understanding Adolescence as a Period of Social–Affective Engagement and Goal Flexibility*, 13 *Nature Rev. Neurosci.* 636, 636-50 (2012) (finding that changes in processing are crucial to understanding adolescents' vulnerabilities). Adolescents are both less likely to think about potential long-term consequences, and more likely to assign less weight to those that they *have* identified, especially when faced with the prospect of short-term rewards. *See* Scott & Steinberg, *supra*, at 20; *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011) (stating that adolescents "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them" (quoting *Belotti v. Baird*, 443 U.S. 622, 635 (1979))); *Graham*, 560 U.S. at

78. Sensation-seeking peaks at age 19 and self-regulation doesn't reach full development until ages 23 through 26. Steinberg et al., *supra*, at 1-2. The United States Supreme Court has recognized this, stating that adolescents "have a 'lack of maturity and an underdeveloped sense of responsibility,' leading to recklessness, impulsivity, and heedless risk-taking." *Miller*, 567 US at 471 (quoting *Roper*, 543 US at 569). As young people grow and mature, these behaviors desist.

The predisposition for sensation seeking, hypersensitivity to immediate rewards, and present-focused decision-making peaks in middle to late adolescence and then declines in young adulthood. Further, capacities for self-regulation also improve with age and stabilize in young adulthood. This is in part due to changes in brain function and connectivity and to improved executive functioning as the prefrontal cortex matures.

Ctr. for L., Brain & Behav. at Mass. Gen. Hosp., *supra*, at 10 (citation omitted).

**B. Developmental Differences Between Children And Adults Must Inform Criminal Sentencing Of Youth**

For more than 35 years, the Supreme Court has recognized the developmental differences between youth and adults. *See Thompson v. Oklahoma*, 487 U.S. 815, 835 (1988) ("The reasons why juveniles are not trusted with the privileges and responsibilities of an adult also explain why their irresponsible conduct is not as morally reprehensible as that of an adult."). In 2005, the Court reasoned that youth are incapable of being classified as "the worst offenders" because they: 1) lack "maturity" and have an underdeveloped sense of responsibility which results in "impetuous and ill-considered actions and decisions," *Roper*, 543 U.S. at 569 (quoting *Johnson v. Texas*, 509 U.S. 350, 367 (1993), 2) "are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure" and have limited control over their environment, and 3) their character is "not as well formed as that of an adult" making their personality traits "more transitory" and "less fixed," *id.* at 569-571, 579 (prohibiting the imposition of the death penalty on youth under 18 due to their diminished culpability and blameworthiness, "to a substantial degree,

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by reason of youth and immaturity.”). The unique developmental characteristics of youth both lessened a child's “moral culpability” and enhanced the prospect that, as the years go by and neurological development occurs, “deficiencies will be reformed.” *Miller*, 567 U.S. at 472 (quoting *Graham*, 560 U.S. at 68). These attributes make youth less deserving of the most severe punishments.

Sentencing an early adolescent to life without the possibility of parole ignores his unique capacity to grow and change. This capacity to grow and change is reflected in the broad age-curve trajectory of desistance from even violent misconduct with social and neurodevelopment maturation as young persons enter their 20’s. Edward P. Mulvey et al., *Trajectories of Desistance and Continuity in Antisocial Behavior Following Court Adjudication Among Serious Adolescent Offenders*, 22 *Dev. & Psychopathology* 453, 470 (2010); Terrie E. Moffitt, *Adolescence-Limited and Life-Course-Persistent Antisocial Behavior: A Developmental Taxonomy*, 100 *Psych. Rev.* 674, 674-78 (1993). Even youth that exhibit strongly antisocial behavior and impaired empathy in early adolescence consistently have high rates of remission of those features by their mid-20’s. Jennifer L. Skeem et al., *Psychopathic Personality: Bridging the Gap Between Scientific Evidence and Public Policy*, 12 *Psych. Sci. Pub. Int.* 95, 125-26 (2011); *see also* Matthew A. Harris et al., *Personality Stability from Age 14 to Age 77 Years*, 31 *Psych. & Aging* 862, 870-71 (2016). Further, the vast majority of individuals convicted of homicide during adolescence desist with maturation, as reflected in the very low recidivism rates of persons released through resentencing or parole after serving prison sentences. *See* The Sentencing Project, *A New Lease on Life* 12 tbl. 1 (2021), <https://www.sentencingproject.org/app/uploads/2022/08/A-New-Lease-on-Life.pdf> (measuring outcomes for over four-hundred thousand arrests in over thirty states); *see also* Matt DeLisi et al.,

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*The Unpredictability of Murder: Juvenile Homicide in the Pathways to Desistance Study*, 14 Youth Violence & Juv. Just. 26 (2016).

In 2012 the Court reaffirmed the understanding that children have diminished culpability, no matter how serious the offense, and delineated characteristics that should be considered before sentencing youth to life without parole. *Miller*, 567 U.S. at 471-72, 477-78. These characteristics are inclusive of those identified by behavioral scientists, including consideration of youth's chronological age related to "immaturity, impetuosity, and failure to appreciate risks and consequences," the "family and home environment that surrounds him," and the impact of familial and peer pressures. *Id.* at 477-78. *Miller* significantly changed the role that youth and its attendant circumstances play in sentencing as it stood on the principal that "imposition of a State's most severe penalties on juvenile offenders cannot proceed as though they were not children." *Id.* at 474. Because youth have diminished culpability, they have greater prospects for reform, making them "less deserving of the most severe punishments." *Id.* at 471 (quoting *Graham*, 560 U.S. at 68). To meet the Eighth Amendment's proportionality requirement, the *Miller* factors require courts to take into account "how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." *Id.* at 480. Indeed, whether labeled a life without parole sentence or effectively serving as one, the imposition of such a sentence requires the necessary constitutional protections defined by the court and supported by research.

**C. Trauma, Age, And Developmental Functioning Are Important Considerations In How Developmental Science Is Interpreted In The Context Of Sentencing**

Adolescence is a time of extreme plasticity and knowledge absorption about the social environment. Nim Tottenham & Adriana Galván, *Stress and the Adolescent Brain: Amygdala-Prefrontal Cortex Circuitry and Ventral Striatum as Developmental Targets*, 70 *Neurosci. & Biobehav. Revs.* 217, 217-18 (2016). Yet, this also means that overwhelming trauma and adversity

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from multiple dimensions, like family dysfunction and violence, is especially virulent to adolescents, often causing “developmental delays across a broad spectrum, including cognitive, language, motor and socialization skills.” Bessel A. van der Kolk, *Developmental Trauma Disorder*, 35 *Psychiatric Annals* 401, 404-05 (2005). Indeed, studies have found that stress and elevated levels of neurotransmitters caused by trauma may lead to adverse brain development and delays in myelination. Michael D. De Bellis & Abigail Zisk, *The Biological Effects of Childhood Trauma*, 23 *Child & Adolescent Psychiatric Clinics N. Am.* 185, 197 (2014). This trauma can be explained “in part” by the fact that youth “have less control, or less experience with control, over their own environment.” *Roper*, 543 U.S. at 569 (citing Steinberg & Scott, *supra*, at 1014). This includes family and home environments that may be “brutal or dysfunctional” from which youth usually cannot escape. *Miller*, 567 U.S. at 477. As such youth “have a greater claim than adults to be forgiven for failing to escape negative influences.” *Roper*, 543 U.S. at 570.

The Supreme Court agrees, declaring youth is “a moment and ‘condition of life when a person may be most susceptible to influence and to psychological damage.’ And its ‘signature qualities’ are all ‘transient.’” *Miller*, 567 U.S. at 476 (quoting *Eddings v. Oklahoma*, 455 U.S. 104, 115 (1982)). In *Eddings*, the Court invalidated the death penalty for a 16-year-old youth convicted of murder because the sentencing court failed to consider evidence of neglect, a violent family background and the youth’s emotional disturbance. *Id.* (citing *Eddings*, 455 U.S. at 115); *see also id.* at 478-79 (noting parental physical abuse and neglect due to drugs and alcohol in banning mandatory life without parole sentences for youth homicide cases). The Court held that just as “chronological age” is a mitigating factor of “great weight,” so must “the background and mental and emotional development” of youth be considered in assessing culpability. *Id.* at 476 (quoting *Eddings*, 455 U.S. at 116).

In this case, Nickalas Kedrowitz, experienced a chronically traumatizing family life that included physical and sexual abuse from his biological father, physical and mental abuse from his stepfather and neglect and exposure to domestic violence. (Appellant’s Br. at 61 (citing Tr. Vol. 10, P. 207)). Although Nickalas was 13-years old at the time of his arrest, he was described as functioning with significant cognitive and emotional deficits and therefore appeared more like an 8 or 9-year-old child. (Appellant’s Br. at 29 (citing Tr. Vol. 2, P. 155-56, 163)). Nevertheless, Nickalas was responsible for his younger siblings; he had an extensive chore list demanding skills well beyond his developmental and cognitive capacities that included watching, bathing and putting his siblings to sleep, as well as cleaning and doing laundry for the entire household. (Appellant’s Br. at 43-44 (citing Tr. Vol. 10, P. 226); Appellee’s Br. at 12 (citing Tr. Vol. VII, P. 220-21; Ex. Vol. XIII, P. 172-73, 208)). “Being left to their own devices leaves chronically traumatized children with deficits in emotional self-regulation...[and] poorly modulated affect and impulse control.” van der Kolk, *supra*, at 404. Nickalas was a developmentally delayed and seriously emotionally disturbed youth who lacked the cognitive ability to even understand the permanence of death. He was reportedly motivated to save his younger siblings from the maltreatment he had endured and spoke of freeing them from hell. (*See* Appellee’s Br. at 15 (citing Tr. Vol. IX, P. 21-22)). Indeed, police and his aunt had to explain the permanence of the deaths of the siblings he killed and far from being remorseless and lacking empathy, he was reportedly highly distressed. (*See* Appellant’s Br. at 45 (citing Tr. Vol. 7, P. 59-60; Tr. Vol. 8, P. 30, 35-37, 43, 180-81)).

## **II. NICKALAS KEDROWITZ’S SENTENCE IS AN UNCONSTITUTIONAL LIFE WITHOUT PAROLE SENTENCE**

From *Roper* to *Miller*, the Supreme Court banned the death penalty and mandatory life without parole sentences for youth, even for the most heinous offenses, by recognizing the significance of the chronological age of youth and its hallmark features. *Miller*, 567 U.S. at 477-78. As seen in this case, sentencers sometimes attempt to circumvent *Miller*’s ban on mandatory life without parole sentences by imposing a lengthy term of years that cannot realistically be fulfilled during an individual’s lifetime. Such sentences are functional equivalents to a life without parole sentence, or a de facto life sentence, and are unconstitutional.

### **A. A Sentence That Condemns A Child To Die In Prison Is A Life Without Parole Sentence**

The *Miller* Court reasoned that imprisoning an individual until death “alters the remainder of his life” by an irrevocable forfeiture. *Miller*, 567 U.S. at 474-75 (citing *Graham*, 560 U.S. at 69). Life without parole is “the second most severe penalty permitted by law.” *Graham*, 560 U.S. at 69 (quoting *Harmelin v. Michigan*, 501 U.S. 957, 1001 (1991)). It is different from the death penalty only in name, as it equally alters the remainder of one’s life and removes all possibility of a changed future. Indeed, as the death penalty is no longer a constitutional punishment for children, life without parole is the most severe punishment available to a child. *See Roper*, 543 U.S. at 578. Yet, such a sentence is especially harmful because it results in a youth serving “more years and a greater percentage of his life in prison than an adult offender.” *Graham*, 560 U.S. at 70; *see also Miller*, 567 U.S. at 475. For youth, it “means denial of hope . . . that good behavior and character improvement are immaterial . . . that whatever the future might hold in store for the mind and spirit of [the youth], he will remain in prison for the rest of his days.” *Graham*, 560 U.S. at 70 (third alteration in original) (quoting *Naovarath v. State*, 779 P.2d 944, 944-45 (Nev. 1989)). A life



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without parole sentence “forfeits altogether the rehabilitative ideal” and is “at odds with a child’s capacity for change.” *Miller*, 567 U.S. at 473 (quoting *Graham*, 560 U.S. at 74). A life without parole sentence also runs afoul of the developmental characteristics of youth relied on in *Graham* and *Miller*. Per *Miller*, removing youth from the balance contravenes “*Graham*’s (and also *Roper*’s) foundational principle: that the imposition of a State’s most severe penalties on juvenile offenders cannot proceed as though they were not children.” *Id.* at 474.

A term of years sentence that results in a child spending the remainder of his life in prison is equivalent to a life without parole sentence. Courts across the country have agreed that virtual life sentences violate the Eighth Amendment when imposed on youth. Through judicial decisions, a third of states have recognized that a term-of-years sentence imposed on young people can be an unconstitutional de facto life sentence. *See, e.g., People v. Reyes*, 63 N.E.3d 884, 888 (Ill. 2016) (“*Miller* makes clear that a juvenile may not be sentenced to a mandatory, unsurvivable prison term without first considering in mitigation his youth, immaturity, and potential for rehabilitation.”); *State v. Booker*, 656 S.W.3d 49, 52 (Tenn. 2022) (holding that mandatory life sentences of 51 years violates the Eight Amendment). In *State v. Null*, after reviewing the extensive history of youth sentencing, including the growing body of science highlighting the diminished culpability of youth, the Iowa Supreme Court held that an aggregate mandatory minimum sentence over 52.5 years is unconstitutional. *State v. Null*, 836 N.W.2d 41, 76 (Iowa 2013). In *Null*, a 16-year-old was required to serve at least 52.5 years of an aggregate 75-year sentence before reaching parole eligibility at 69 years old. *Id.* at 45. The Court reasoned that *Roper*, *Graham* and *Miller* fully apply in cases involving lengthy sentences and stated that the potential release in the youth’s late sixties “after a half century of incarceration,” was not “sufficient to escape the rationales of *Graham* or *Miller*.” *Id.* at 71. The North Carolina Court of Appeals likewise held that a sentence

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that includes ineligibility for parole for 50 years is in fact a de facto life without parole sentence. *State v. Kelliher*, 849 S.E.2d 333, 349-51 (N.C. Ct. App. 2020), *aff'd as modified by* 873 S.E.2d 366 (N.C. 2022). The North Carolina Supreme Court also concluded “any sentence or combination of sentences which, considered together, requires a juvenile offender to serve more than forty years in prison before becoming eligible for parole is a de facto sentence of life without parole.” *Kelliher*, 873 S.E.2d at 370.

**B. Nickalas Kedrowitz’s Sentence Does Not Afford Him A Meaningful Opportunity For Release**

In prohibiting life without parole sentences, the Supreme Court further ruled that youth must be given a “meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.” *Graham*, 560 U.S. at 75. Youth must be given the opportunity to show that their crime did not reflect “irreparable corruption.” *Miller*, 567 U.S. at 479-480 (quoting *Roper*, 543 U.S. at 573). Release or the opportunity for release late in life cannot satisfy this constitutional requirement. Children “should not be deprived of the opportunity to achieve maturity of judgment and self-recognition of human worth and potential. . . . Life in prison without the possibility of parole gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope.” *Graham*, 560 U.S. at 79; *see also Miller*, 567 U.S. at 479. Parole eligibility in old age is not a “meaningful opportunity” as contemplated by *Graham*.

Nickalas was sentenced to two consecutive 50 year sentences—an aggregate de facto life sentence of 100 years. He is not eligible for parole until he has served 75% of his sentence. In other words, he will be nearly 90 by the time he is eligible for parole. (*See Appellant’s Br.* at 22). As his sentence dictates, Nickalas will die behind bars.

## CONCLUSION

For the foregoing reasons, *Amici Curiae* respectfully request that this court grant petitioner's request in recognition of the scientifically demonstrated developmental differences between youth and adults.

Respectfully submitted, this 13th day of March, 2023.

/s/ Victoria Bailey Casanova  
Victoria Bailey Casanova, No. 24082-49  
CASANOVA LEGAL SERVICES, LLC  
320 N. Meridian Street, Ste. 701  
Indianapolis, IN 46204  
(317) 974-9977  
victoria@casanovalegalservices.com

/s/ Marsha L. Levick  
Marsha L. Levick, No. 3057-95-TA  
JUVENILE LAW CENTER  
1800 JFK Blvd., Ste. 1900B  
Philadelphia, PA 19103  
(215) 625-0551  
mlevick@jlc.org

*Counsel for Amici Curiae*

**CERTIFICATE OF WORD COUNT**

I verify that this brief contains 3,997 words, as calculated by the word processing software used to prepare this brief and excluding the parts of the brief excluded from length limits by Ind. Appellate Rule 44(C).

/s/ Victoria Bailey Casanova  
Victoria Bailey Casanova, No. 24082-49

**CERTIFICATE OF SERVICE**

I certify that the foregoing document was served through the IEFS upon Jennifer A. Joas, counsel for Appellant, and Theodore Edward Rokita and Ellen Hope Meilaender, counsel for Appellee, on this 13th day of March, 2023.

/s/ Victoria Bailey Casanova  
Victoria Bailey Casanova, No. 24082-49