

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 29, C.A.R. 32, and C.A.R. 53(g) including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that the amicus brief complies with the applicable word limit set forth in C.A.R. 53(g) in that it contains 3,099 words (does not exceed 3,150 words).

The *amicus* brief complies with the content and form requirements set forth in C.A.R. 29(c).

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 29, C.A.R. 32, and C.A.R. 53.

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IDENTITY OF *AMICI CURIAE*

Juvenile Law Center fights for rights, dignity, equity, and opportunity for youth. Juvenile Law Center works to reduce the harm of the child welfare and justice systems, limit their reach, and ultimately abolish them so all young people can thrive. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center's legal and policy agenda is informed by—and often conducted in collaboration with—youth, family members, and grassroots partners. Since its founding, Juvenile Law Center has filed influential amicus briefs in state and federal courts across the country to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are consistent with children's unique developmental characteristics and human dignity.

Transformative Justice Project of Colorado (TJP, formerly Colorado Juvenile Defender Center) is a nonprofit organization providing legal representation and advocacy for young people with legal system involvement in Colorado and who are as old as 25. To this end, TJP has an interest in protecting the rights of young people facing potential life sentences without the possibility of parole.

ARGUMENT

Today there is clear scientific consensus that older adolescents (youth age 18–21) share the same key developmental characteristics as youth under 18 that were recognized by the U.S. Supreme Court in *Roper v. Simmons*, 543 U.S. 551 (2005) (abolishing the death penalty for youth under 18), *Graham v. Florida*, 560 U.S. 48 (2010) (abolishing life without parole (hereinafter “LWOP”) sentences for youth under 18 who commit non-homicide offenses), and *Miller v. Alabama*, 567 U.S. 460 (2012) (abolishing mandatory LWOP for homicide offenses by youth under 18). Despite recognizing that the “qualities that distinguish juveniles from adults do not disappear when an individual turns 18,” the Supreme Court nevertheless drew the line at 18 for purposes of the Eighth Amendment because the Court determined that was “where society draws the line for many purposes between childhood and adulthood.” *Roper*, 543 U.S. at 574.

Over the last 20 years, however, as the scientific literature on older adolescents has continued to develop, so too have the “the evolving standards of decency that mark the progress of a maturing society.” *Id.* at 561. While the U.S. Supreme Court has not revisited the line it drew in 2005, this Court has “recognized and exercised [its] independent role on a number of occasions and on several [has] determined that the Colorado Constitution provides more protection for our citizens

than do similarly or identically worded provisions of the United States Constitution,” including the cruel and unusual punishments clause. *People v. Young*, 814 P.2d 834, 842 (Colo. 1991) (en banc), *superseded on other grounds by statute*, C.R.S.A. § 16-12-102(1), *as recognized in*, *People v. Vance*, 933 P.2d 576, 577 n.2 (Colo. 1997) (en banc). It is therefore important that this Court grant certiorari to determine, as other state supreme courts have, whether Article II, Section 20 of the Colorado Constitution proscribes LWOP sentences for 19-year-olds like Marquis Hazard as cruel and unusual punishment.

I. NEUROSCIENTIFIC RESEARCH SUPPORTS AFFORDING OLDER ADOLESCENTS THE SAME SENTENCING PROTECTIONS AFFORDED TO YOUTH UNDER 18 YEARS OF AGE

In its juvenile sentencing jurisprudence, the U.S. Supreme Court recognized 3 defining characteristics of youth that make them less culpable, and therefore “less deserving of the most severe punishment.” *Miller*, 567 U.S. at 471 (quoting *Graham*, 560 U.S. at 68). Those characteristics are: (1) lack of maturity, impulsivity, and impetuosity; (2) susceptibility to outside influences; and, most significantly, (3) the capacity for change. *See Montgomery v. Louisiana*, 577 U.S. 190, 206-07 (2016) (quoting *Miller*, 567 U.S. at 471).

It is now widely accepted that these key characteristics persist beyond age 18. *See, e.g.*, Alexander Weingard et al., *Effects of Anonymous Peer Observation on*

Adolescents' Preference for Immediate Rewards, 17 *Developmental Sci.* 71, 71-73 (2013); Kathryn Monahan et al., *Juvenile Justice Policy and Practice: A Developmental Perspective*, 44 *Crime & Just.* 577, 582 (2015). According to a comprehensive 2019 report from the National Academies of Sciences, research confirms that “the unique period of brain development and heightened brain plasticity . . . continues into the mid-20s,” and that “most 18–25 year-olds experience a prolonged period of transition to independent adulthood, a worldwide trend that blurs the boundary between adolescence and ‘young adulthood,’ developmentally speaking.” Nat’l Acads. Scis., Eng’g & Med., *The Promise of Adolescence: Realizing Opportunity for All Youth* 22 (Richard Bonnie & Emily Backes eds., 2019) (emphasis omitted). In a direct rebuke of the Supreme Court’s line-drawing in *Roper*, the report concludes that it would be “arbitrary in developmental terms to draw a cut-off line at age 18.” *Id.*

Researchers have found specifically that two important parts of the brain develop at different times, leading to a “maturational imbalance” in middle to late adolescence. While the area of the brain responsive to rewards and heightened sensation kicks into high gear around the time of puberty, the part of the brain that regulates behavior—self-control, thinking ahead, evaluating the rewards and costs

of a risky act, and resisting peer pressure—develops well into the mid-20s. *See, e.g.,* Monahan et al., *supra*, at 582-85.

For older adolescents, these lags in impulse control are particularly pronounced in emotionally charged situations. Psychologists distinguish between “cold cognition,” thinking and decision-making under calm circumstances, and “hot cognition,” thinking and decision-making under emotionally arousing circumstances. Elizabeth Scott et al., *Young Adulthood as a Transitional Legal Category: Science, Social Change, and Justice Policy*, 85 Fordham L. Rev. 641, 652 (2016). Relative to adults, adolescents’ deficiencies in judgment and self-control are greater under “hot” circumstances than under calmer “cold” circumstances. Alexandra Cohen et al., *When is an Adolescent an Adult? Assessing Cognitive Control in Emotional and NonEmotional Contexts*, 27 Psych. Sci 549, 559-60 (2016). In circumstances of “hot cognition,” brain function among 18–21-year-olds resembles that of a 13–17-year-old. Scott et al., *supra*, at 650 (citing *When Is an Adolescent an Adult?*, *supra*, at 559-60).

Older adolescents also face increased susceptibility to peer pressure just like younger teens and adolescents. A study of 306 individuals in 3 age groups—identified as adolescents (13–16), youths (18–22), and adults (24 and older)—found that “although the sample as a whole took more risks and made more risky decisions

in groups than when alone, this effect was more pronounced during middle and late adolescence than during adulthood” and that “the presence of peers makes adolescents and youth, but not adults, more likely to take risks and more likely to make risky decisions.” Gardner & Steinberg, *Peer Influence on Risk Taking, Risk Preference, and Risky Decision Making in Adolescence and Adulthood: An Experimental Study*, 41 *Developmental Psych.* 625, 632, 634 (2005). Also, the presence of friends has been shown to double risk-taking among both teens and young adults, but have no effect on older adults. Laurence Steinberg, *A Social Neuroscience Perspective on Adolescent Risk-Taking*, 28 *Developmental Rev.* 78, 91 (2008). More recently, studies have confirmed that “exposure to peers increases young adults’ preference for immediate rewards.” Scott et al., *supra*, at 649 (citations omitted).

There is now widespread agreement that the development of the prefrontal cortex, which plays a key role in “higher-order cognitive functions” like “planning ahead, weighing risks and rewards, and making complicated decisions,” continues into the early twenties. Monahan et al., *supra*, at 582. The existing scientific research also addresses differences in brain development concerning specific activities, suggesting more delayed development in brain functions related to impulse control, hot cognition, and susceptibility to peer pressure than for activities involving

informed decision-making and logical reasoning. *See, e.g.,* Cohen et al., *When Does a Juvenile Become an Adult? Implications for Law and Policy*, 88 Temple L. Rev. 769, 786-87 (2016) (finding the developmental period from age 18–21 characterized by a cognitive capacity and ability to “overrid[e] emotionally triggered actions,” which is “still vulnerable,” “diminished,” and “immature” to an extent that “may be relevant for evaluating appropriate age cutoffs relevant to policy judgments relating to risk-taking, accountability, and punishment”). Overall, older adolescents are more prone to risk-taking and impulsivity—traits that likely influence their criminal conduct—and are not yet mature enough to anticipate the future consequences of their actions. *See* Monahan et al., *supra*, at 581-82; Scott et al., *supra*, at 644.

This science also suggests that while younger and older adolescents are more likely to commit crime than adults, they are also more likely to desist as they mature into adulthood. Indeed, the “age-crime curve” is a well-documented pattern of the propensity to engage in crime over the life course. Studies of arrest data confirm this “curve,” and demonstrate that criminal conduct is most common when individuals are young, peaks in their late teens, and drops dramatically as adulthood is reached, beginning in the early to mid-20s. *See* Rolf Loeber et al., *Age-Crime Curve*, in *Encyclopedia of Criminology and Criminal Justice* 12-18 (Jay Albanese ed., 2014); Lila Kazemian, *Pathways to Desistance from Crime Among Juveniles and Adults*:

Applications to Criminal Justice Policy and Practice, Nat. Inst. Just. 3 (2021), <https://www.ojp.gov/pdffiles1/nij/301503.pdf>. Adulthood is marked scientifically by greater maturity and complete brain development, as well as sociological factors that encourage desistance from crime, like family and work responsibilities. Studies show that the combination of these factors result in a natural cessation in criminal conduct by the end of one's 30s for acts of violence, and typically much sooner. *See* Loeber et al., *supra*, at 12-18.

II. ACROSS THE COUNTRY OLDER ADOLESCENTS ARE RECEIVING MANY OF THE SAME LEGAL PROTECTIONS AS CHILDREN UNDER 18

When the *Roper* Court relied on society's "evolving standards of decency," 543 U.S. at 563, to afford greater protections from extreme sentencing to children under 18 it explained that identifying current standards required "a review of objective indicia of consensus, as expressed in particular by the enactments of legislatures that have addressed the question." *Id.* at 564. *See also Graham*, 560 U.S. at 62 ("The analysis begins with objective indicia of national consensus."). There is now a strong national consensus that older adolescents, including 19-year-olds like Mr. Hazard, deserve the same protections afforded to youth under 18.

Existing law already treats older adolescents differently than adults. In addition to affording older adolescents earlier parole eligibility and sentence review,

state laws limit their ability to engage in risky conduct and afford them various additional protections and supports. Many of these laws have been on the books for decades, while others reflect more recent trends in response to the growing scientific and societal consensus that young people continue to develop and mature into their twenties. As the national legal landscape increasingly reflects current developmental research, today’s “evolving standards of decency” require drawing the line between childhood and adulthood above age 19 for extreme sentences.

A. A Growing Number Of Jurisdictions Have Rejected Life Without Parole Sentences For Older Adolescents

Recently, state supreme courts have begun to acknowledge the salience of current brain science in abolishing extreme sentencing practices for young people over age 18. Earlier this year the Michigan Supreme Court, and last year, the Massachusetts Supreme Judicial Court, held that imposing mandatory LWOP or any LWOP sentence, respectively, on youth who commit crimes under age 21 violates state constitutional prohibitions against cruel *or* unusual punishment. *People v. Taylor*, Nos. 166428 & 166654, 2025 WL 1085247, at *1 (Mich. Apr. 10, 2025); *Commonwealth v. Mattis*, 224 N.E.3d 410, 415 (Mass. 2024). In *Mattis*, the Court reasoned that:

Supreme Court precedent, as well as our own, dictates that youthful characteristics must be considered in sentencing, that the brains of emerging adults are not fully developed and are more similar to those

of juveniles than older adults, and that our contemporary standards of decency in the Commonwealth and elsewhere disfavor imposing the Commonwealth's harshest sentence on [individuals under age 21 at the time of the offense].

Mattis, at 428. Previously, the Washington Supreme Court also abolished mandatory LWOP for youth under 21. *In re Monschke*, 482 P.3d 276, 284-88 (Wash. 2021) (en banc). Six years prior, the Washington Supreme Court barred application of the state's mandatory minimum sentencing provisions to a defendant over 18. *State v. O'Dell*, 358 P.3d 359, 366 (Wash. 2015) (en banc). The Court held that the defendant's youthfulness could be a mitigating factor justifying a sentence below the standard sentencing range even when the defendant is over 18, in part because brain development involving behavior control continues to develop into a person's 20s. *Id.* at 364-66.

B. Many Jurisdictions Afford Older Adolescents Additional Protections In The Criminal Legal System

Numerous states have enacted laws to afford opportunities for earlier release and "second look" resentencing for older adolescents and young adults. In 2017, California extended youth offender parole eligibility to individuals with determinate sentences for certain offenses committed before age 26. A.B. 1308, Reg. Sess. (Cal. 2017) (amending Cal. Penal Code §§ 3051 & 4801); see *People v. Briscoe*, 105 Cal. App. 5th Dist. 479, 495 (2024) (expanding protections to include those serving

LWOP for felony murder). The relevant parole statute instructs the parole board to “give great weight to the diminished culpability of youth as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner in accordance with relevant case law.” Cal. Penal Code § 4801(c). Illinois similarly provides for special parole review for persons under 21, excluding those convicted of 1st degree murder, directing the Prisoner Review Board to consider, *inter alia*, “the diminished culpability of youthful offenders, the hallmark features of youth, and any subsequent growth and maturity of the youthful offender during incarceration.” 730 Ill. Comp. Stat. 5/5-4.5-115(b), (j). Connecticut provides earlier parole eligibility to people who were under 21 at the time of their offense. Conn. Gen. Stat. Ann. § 54-125a(g). Rhode Island shortened the first parole review date to 20 years (from 25 years) for individuals who committed offenses prior to age 22. 13 R.I. Gen. Laws Ann. § 13-8-13(e). Wyoming provides an avenue for offenders under 30 years old, excluding those sentenced to life, to be placed in a youthful transition program and to receive a sentence reduction. Wyo. Stat. Ann. §§ 7-13-1002 & 1003. In 2021, Washington, D.C. expanded the reach of its Incarceration Reduction Amendment Act—which originally permitted persons who committed serious crimes under age 18 to petition for resentencing after serving at least 15 years in prison—to include persons who committed crimes under age 25. D.C. Law 23-274

§ 601, 68 D.C. Reg. 1034 (Apr. 27, 2021) (amending D.C. Code Ann. § 24-403.03). Earlier this year, Maryland amended a law to allow individuals who were under 25 when they committed certain crimes to petition for a sentence reduction after serving at least 20 years. H.B. 853, 2025 Gen. Assemb., Reg. Sess. (Md. 2025).

In 2022, the American Bar Association adopted Resolution 502, urging federal, state, local, territorial, and tribal governments to authorize courts to review lengthy sentences after an individual has served at least ten years. A.B.A., Res. 502 & Report to H.D. (Aug. 8-9, 2022), <https://www.americanbar.org/content/dam/aba/directories/policy/annual-2022/502-annual-2022.pdf>. In advocating for “second look” resentencing hearings, the ABA specifically acknowledged the neuroscientific research showing that “certain brain systems and development of the prefrontal cortex that are involved in self-regulation and higher-order cognition, continue to develop into the mid-20s;” accordingly, “[t]hose sentenced while young merit second looks.” *Id.* at 5, 6. In 2024, the U.S. Sentencing Commission updated its Guidelines Manual to suggest a “downward departure” due to a defendant’s youthfulness because “[c]ertain risk factors may affect a youthful individual’s development into the mid-20’s.” United States Sentencing Commission, *Guidelines Manual 2024: Supplement to Appendix C*, 272-73 (Nov. 2024) (Amendment 829 to

§ 5H1.1), https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/2024/APPENDIX_C_Supplement.pdf.

C. States And The Federal Government Have Set The Age Of Adulthood Above 18 For The Exercise Of Many Rights And Responsibilities

Many jurisdictions, including Colorado, set the age of adulthood above 18 in contexts involving dangerous, risky, and potentially addictive behaviors. For example, the minimum age to purchase tobacco and alcohol is universally set at 21 across the country. *See* Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, § 2NI603, 133 Stat. 2534, 3123 (2019) (amending 21 U.S.C. 387f(d)(5)); National Minimum Drinking Age Act, 23 U.S.C.A. § 158 (2012). Additionally, in each of the 24 states, including Colorado, and the District of Columbia that have legalized marijuana for recreational use, the minimum age to purchase is 21. Elliott Davis Jr. et al., *Where is Marijuana Legal? A Guide to Marijuana Legalization*, U.S. News (April 30, 2024), <https://www.usnews.com/news/best-states/articles/where-is-marijuana-legal-a-guide-to-marijuana-legalization>. In 38 states, including Colorado, you have to be at least 21 to legally gamble in casinos. Alexander Korsager, *Legal U.S. Gambling Age in Every US State and Where You Can Gamble*, <https://www.casino.org/us/local/guide/>. Federal law also prohibits individuals under 21 from driving most commercial vehicles across state lines. 49 C.F.R. §

391.11(b)(1). Though not statutory, most rental car companies limit or bar rentals to individuals under 21 and impose restrictions or surcharges on individuals under 25, recognizing the increased risk posed by this age group. *See, e.g., Alamo FAQs, Renting a Car Under 25*, <https://www.alamo.com/en/customer-support/car-rental-faqs/age-to-rent-a-car.html> (last visited June 4, 2025).

Many jurisdictions have extended additional supports and benefits to older adolescents. In 2008, Congress passed the Fostering Connections to Success and Increasing Adoptions Act, allowing states to use federal funding to extend foster care up to age 21. 42 U.S.C.A. § 675(8)(B). Since then, Colorado, 47 additional states, and the District of Columbia, have extended foster care eligibility past 18, typically to age 21. U.S. Dep’t Health & Hum. Servs., *Extension of Foster Care Beyond Age 18*, 2 (2022), <https://tinyurl.com/4c84mcr6>. Additionally, with limited exceptions, the federal government designates individuals under 24 as legal dependents for the Free Application for Federal Student Aid. *See Federal Student Aid, Dependency Status*, <https://studentaid.gov/apply-for-aid/fafsa/filling-out/dependency> (last visited June 4, 2025). Under the Affordable Care Act, individuals 25 or younger are able to remain on their parents’ health insurance as part of the government’s recognition of continued dependence. 42 U.S.C.A. § 18001(e). The Individuals with Disabilities Education Act requires school districts nationwide offer

special education services to individuals with disabilities through age 21 (or until high school graduation). 20 U.S.C.A. § 1412(a)(1)(A).

In sum, a panoply of state and federal laws reflective of the national consensus and the evolving standards of decency, recognize that older adolescents share the same unique characteristics of youth as those under 18 and therefore deserve the same protections from extreme criminal sentences afforded to youth.

CONCLUSION

For the foregoing reasons, this Court should grant certiorari to determine whether Mr. Hazard's sentence violates Article II, Section 20 of the Colorado Constitution.

Respectfully submitted,

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This is to certify that I have duly served the foregoing **Brief of *Amici Curiae*** upon all parties below, via Colorado Courts E-filing System on June 5th, 2025.

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