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EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY

Doneale Feazell,

Petitioner,

v.

Jeremy Bean, et al.,

Respondents.

Case No. A-24-89407-W

Dept. No. 17

Date of Hearing: May 7, 2026

Time of Hearing: 10:30 a.m.

(Not a death penalty case)

SUPPLEMENTAL BRIEF IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS
(VALIDITY OF JUDGMENT OF CONVICTION OR SENTENCE)

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ARGUMENT

I. Doneale Feazell’s life-without-parole sentence—imposed on him without any restrictions for a crime that happened when he was 18 years old—is cruel or unusual punishment under the Nevada Constitution, as shown by converging, un rebutted evidence.

Current scientific research on late-adolescent neurological and psychological development demonstrates that in all the ways that were significant to the *Miller* Court’s constitutional analysis, 18-to-20-year-olds are like younger adolescents. *See infra* Part I.C.2. (summarizing experts’ evidentiary hearing testimony). This evidence was presented by world experts and not rebutted by the State.

In light of these recent scientific advances, courts across the country have begun to recognize that 18-, 19-, and 20-year-olds cannot be treated the same as older, more fully developed adults when they are subjected to harsh criminal sanctions. In 2021, the Washington Supreme Court held that the state’s aggravated murder statute’s requirement of LWOP for all defendants 18 and older, regardless of individual characteristics, was unconstitutional as applied to defendants who were 18, 19, or 20 at the time of their offenses. *Matter of Monschke*, 482 P.3d 276, 288 (Wash. 2021). The court held that sentencing courts must have the discretion to decide whether, in light of “the mitigating qualities of youth,” an 18-, 19-, or 20-year-old is deserving of LWOP. *Id.*

Then in 2022, the Michigan Supreme Court came to a similar conclusion, holding that mandatory LWOP sentences imposed on defendants who were 18 at the time of their offenses violate the Michigan Constitution because they fail “to take into account the mitigating characteristics of youth, specifically late-adolescent brain development.” *People v. Parks*, 987 N.W.2d 161, 164-65 (Mich. 2022). The Michigan court limited its decision to 18-year-olds because the defendants in that case were 18 at the time of their offenses, and the court thus did not have to

1 “address the Michigan constitutional requirements for sentencing offenders who
2 were over 18 years old at the time of the offense.” *Id.* at 171.

3 The Michigan Supreme Court recently expanded on that holding. It held that
4 the mandatory imposition of life-without-parole on late adolescents violates its state
5 constitution. *People v. Taylor*, Case No. 166428, 2025 WL 1085247, at *9 (Mich. Apr.
6 10, 2025) (Opinion). The court explained that, “as a class, 19- and 20-year-old late
7 adolescents are more similar to juveniles in neurological terms than they are to
8 older adults.” *Id.* at *7. Looking to the class’s legal rights, the court observed, “our
9 society does not recognize these individuals as full adults until age 21.” *Id.* at *8. It
10 then analyzed the relevant factors under Michigan’s state constitutional test, “(1)
11 the severity of the punishment relative to the gravity of the offense, (2)
12 punishments imposed in the same jurisdiction for other offenses, (3) punishments
13 imposed in other jurisdictions for the same offense; and (4) Michigan’s traditional
14 goal of and preference for rehabilitation.” *Id.* at *9. Applying these factors, it held
15 that “mandatorily sentencing 19- and 20-year-old defendants to die in prison is
16 unusually excessive and constitutionally disproportionate.” *Id.* at *9. That means
17 that under Michigan law, the sentencing court may only impose life-without-parole
18 on a late adolescent if the prosecution rebuts a presumption against that sentence
19 by clear and convincing evidence. *Id.* at *5.

20 The Massachusetts Supreme Judicial Court (“SJC”) followed and expanded
21 on this reasoning in its breakthrough *Mattis* decision. In March 2024, the SJC
22 issued its final ruling that LWOP is categorically unconstitutional under the
23 Massachusetts constitution when applied to individuals under 21. *Commonwealth*
24 *v. Mattis*, 224 N.E.3d 410, 427-28 (Mass., as amended Mar. 22, 2024). The SJC
25 affirmed the lower court’s four “core” findings of fact regarding emerging adults,
26 based on the extensive scientific record developed in the case: (1) they lack impulse
27 control similar to 16-and-17-year-olds in emotionally arousing situations; (2) they

1 are more prone to risk-taking in pursuit of rewards than those under 18 and those
2 over 21; (3) they are more susceptible to peer influence than individuals over 21;
3 and (4) they have a greater capacity for change than older individuals due to the
4 plasticity of their brains. *Id.* at 421-24. After considering the updated research on
5 the brains of emerging adults, as well as the treatment of emerging adults in
6 Massachusetts and elsewhere, the court concluded that a sentence of life-without-
7 parole did not comport with “contemporary standards of decency” when imposed on
8 youth under 21, and thus was unconstitutional when imposed on that class of
9 offenders. *Id.* at 428-29.

10 Following these cases, the question presented here is whether the current
11 science on late-adolescent development renders all life-without-parole sentences
12 imposed on them cruel or unusual in violation of the Nevada Constitution. The
13 research and the weight of authority provides only one answer: yes. At a minimum,
14 the Nevada Constitution bars these sentences for people under 21 when imposed
15 without any restrictions, i.e., without protections that account for the neurological
16 vulnerabilities and capacity for rehabilitation inherent to late adolescents.

17 Late adolescents exhibit a cognitive-emotional imbalance that renders them
18 less culpable. As they mature, late adolescents overwhelmingly leave behind any
19 pathological or behavioral issues they exhibit as young people. Meanwhile, it is
20 impossible to identify which late adolescents will not rehabilitate, due to the
21 developmental state of flux they are in. As a result, life-without-parole constitutes a
22 disproportionate punitive sentence that invariably ensnares adolescents who would
23 have overcome any behavioral issues with the simple remedy of—time.

1 **A. In a series of cases, the Supreme Court found that the**
2 **imposition of the death penalty and LWOP on juveniles as a**
3 **class violates the Eighth Amendment because juveniles are less**
4 **culpable and more capable of change than adults.**

5 In a series of decisions, the U.S. Supreme Court determined that the federal
6 constitution forbade the imposition of the harshest penalties—those that doom
7 people to die at the hands of or in the custody of the state—upon juvenile offenders
8 because of their diminished culpability and capacity for change. The Court’s
9 decisions were informed by the fast-growing scientific research and based on the
10 principle that the Eighth Amendment’s protection against cruel and unusual
11 punishment “flows from the basic ‘precept of justice that punishment be graduated
12 and proportioned’ to both the offender and the offense.” *Miller v. Alabama*, 567 U.S.
13 460, 469 (2012). This essential concept of proportionality is assessed “according to
14 the evolving standards of decency that mark the progress of a maturing society.” *Id.*
15 at 469-70; *Trop v. Dulles*, 356 U.S. 86, 100-101 (1958).

16 Starting with *Roper v. Simmons*, the Supreme Court established an absolute
17 bar on imposing the death penalty on adolescents who committed their crimes
18 before age 18. 543 U.S. 551, 574 (2005). The Court rested this holding on its
19 recognition of “[t]hree general differences between juveniles under 18 and adults
20 [that] demonstrate that juvenile offenders cannot with reliability be classified
21 among the worst offenders.” *Id.* at 569.

22 “First, as any parent knows and as the scientific and sociological studies . . .
23 tend to confirm, a lack of maturity and an underdeveloped sense of responsibility
24 are found in youth more often than in adults and . . . often result in impetuous and
25 ill-considered actions and decisions.” *Roper*, 543 U.S. at 569 (cleaned up). Second,
26 “juveniles are more vulnerable or susceptible to negative influences and outside
27 pressures, including peer pressure.” *Id.* Third, “the character of a juvenile is not as
well formed as that of an adult.” *Id.* at 570. Ultimately, the Court adopted a

1 categorical bar on the death penalty for juveniles, rather than simply allowing
2 youth to be considered a mitigating factor at sentencing, because “[i]t is difficult
3 even for expert psychologists to differentiate between the juvenile offender whose
4 crime reflects unfortunate yet transient immaturity, and the rare juvenile offender
5 whose crime reflects irreparable corruptions.” *Id.* at 573 (citing Laurence Steinberg
6 & Elizabeth S. Scott, *Less Guilty by Reason of Adolescence: Developmental*
7 *Immaturity, Diminished Responsibility, and the Juvenile Death Penalty*, 58 *Am.*
8 *Psychologist* 1009, 1014-1016 (2003)).

9 Five years later, in *Graham v. Florida*, the Supreme Court held that the
10 Eighth Amendment “prohibits the imposition of a life without parole sentence on a
11 juvenile offender who did not commit homicide.” 560 U.S. 48, 82 (2010). In so doing,
12 the Court relied not just on developmental psychology, as it had in *Roper*, but also
13 on neuroscience: “Developments in psychology and brain science continue to show
14 fundamental differences between juvenile and adult minds. For example, parts of
15 the brain involved in behavior control continue to mature through late adolescence.”
16 *Id.* at 68 (citing AMA and APA amicus briefs).

17 Two years later, the Court held in *Miller v. Alabama* that “the Eighth
18 Amendment forbids [any] sentencing scheme that mandates life in prison without
19 possibility of parole for juvenile offenders.” 567 U.S. at 479. Under this rule, a
20 sentencing scheme “requiring that all children convicted of homicide receive lifetime
21 incarceration without possibility of parole, regardless of their age and age-related
22 characteristics and the nature of their crimes,” violates “the Eighth Amendment’s
23 ban on cruel and unusual punishment.” *Id.* at 489. An LWOP sentence is excessive
24 for all but the “rare juvenile offender whose crime reflects irreparable corruption.”
25 *Montgomery v. Louisiana*, 577 U.S. 190, 208 (2016).

26 The Court’s holding in *Miller*, like its earlier holdings in *Roper* and *Graham*,
27 “rested not only on common sense—on what ‘any parent knows’—but also on science

1 and social science as well,” including the “fundamental differences between juvenile
 2 and adult minds.” *Miller*, 567 U.S. at 471-72. The Court noted that two important
 3 consequences flow from these research findings: first, juveniles are less morally
 4 culpable than their adult counterparts; and, second, there is an “enhanced . . .
 5 prospect that, as the years go by and neurological development occurs, [a juvenile’s]
 6 deficiencies will be reformed.” *Id.* at 472 (cleaned up). In making these observations,
 7 the Court relied on amici curiae briefs submitted by the American Psychological
 8 Association and a group of prominent psychologists, social scientists, and
 9 neuroscientists who have devoted their careers to studying adolescent behavior and
 10 development. *Id.* at 472 n.5. Citing dozens of peer-reviewed studies, these briefs
 11 provided the Court with a comprehensive description of the then-current scientific
 12 understanding of adolescent brain development.

13 To synthesize: this line of cases establishes that young people are more
 14 impulsive, reckless, and risk-prone than adults, are more susceptible to outside
 15 influences, and are more likely to change as they mature into adulthood. Therefore,
 16 because of their social, psychological, and neurobiological immaturity, the
 17 imposition of extreme punishments on them offends the Eighth Amendment.

18	1988	2005	2010	2012	2016
19	<i>Thompson v. Oklahoma</i>	<i>Roper v. Simmons</i>	<i>Graham v. Florida</i>	<i>Miller v. Alabama</i> <i>Jackson v. Hobbs</i>	<i>Montgomery v. Louisiana</i>
20	Bans the death penalty for juvenile offenders 15 and younger	Bans the death penalty for juvenile offenders 17 and younger	Prohibits mandatory LWOP sentences for juvenile offenders 17 and younger except for cases of murder	Prohibits mandatory LWOP sentences for juvenile offenders 17 and younger for any crime.	Rules that ban of mandatory LWOP sentences for juvenile offenders 17 and younger applies retroactively

22 *Figure 1: Exhibit 7 at 3*

23 Importantly, the Supreme Court’s cases from *Roper* to *Miller* limited the
 24 relief they granted to defendants who were younger than 18 at the time of their
 25 offenses. But only one case, *Roper*, even commented on whether this limitation was
 26 justified, and it provided no empirical justification. Instead, after acknowledging
 27

1 that the “qualities that distinguish juveniles from adults do not disappear when an
2 individual turns 18,” the Court merely asserted that “a line must be drawn.” *Roper*,
3 543 U.S. at 574. At the same time, the Court recognized that the line is not set in
4 stone. Rather, the Court noted that while it had held 17 years earlier in *Thompson*
5 *v. Oklahoma*, 487 U.S. 815, 837-838 (1988), that the Eighth Amendment prohibits
6 the execution of a person under the age of sixteen at the time of his or her offense,
7 “[t]he logic of *Thompson* extends to those who are under 18.” *Roper*, 543 U.S. at 574.
8 In reaching this conclusion, the *Roper* Court rejected its holding in *Stanford v.*
9 *Kentucky*, 492 U.S. 361 (1989), announced the year after it decided *Thompson*, that
10 “the imposition of capital punishment on any person who murders at 16 or 17 years
11 of age . . . does not offend the [Eighth Amendment].” *Id.* at 380.

12 The Court thus recognized that while it may be that “a line must be drawn”
13 for the kind of categorical rule announced in *Roper*, that line must be rational,
14 based on empirical fact, and subject to change as scientific understandings develop
15 and change. *See Moore v. Texas*, 581 U.S. 1, 20 (2017) (holding that when
16 determining whether an inmate’s execution would violate the Eighth Amendment
17 due to intellectual disability, states must be informed by the “medical community’s
18 current standards” that reflect “improved [scientific] understanding over time”).

19 **B. Following *Miller*, the Nevada Legislature enacted statutes**
20 **regulating the sentences and parole eligibility of adolescents**
21 **under 18, while leaving intact harsh sentences for late**
22 **adolescents.**

22 Following *Miller* in 2012, the Nevada Legislature enacted a slew of laws that
23 regulate the sentences and parole eligibility of adolescents under 18.

24 In 2015, the Legislature determined that the maximum punishment that can
25 be meted out to persons who were under 18 at the time of the crime is life
26 imprisonment *with* the possibility of parole. NRS 176.025.

1 If such a person is convicted, the court “shall consider the differences between
2 juvenile and adult offenders, including . . . the diminished culpability of juveniles as
3 compared to that of adults and the typical characteristics of youth.” NRS 176.017
4 (2015). In 2017 (after *Montgomery*, 577 U.S. 190 (2016)), the Legislature amended
5 the law to give courts the discretion to reduce mandatory minimum sentences for
6 such people, if “warranted given the age of the person and his or her prospects for
7 rehabilitation.” NRS 176.017(2) (2017).

8 Also in 2015, the Legislature determined that prisoners must be eligible for
9 parole after serving 15 years of incarceration, if they were convicted of an offense or
10 offenses that they committed when they were under 18, which “did not result in the
11 death of a victim.” NRS 213.12135(1)(a). Similar prisoners convicted of an offense or
12 offenses that resulted in the death of one victim must be eligible for parole after
13 serving 20 years of incarceration. NRS 213.12135(1)(b).

14 In other words, Nevada took the promise of *Miller* seriously. Since 2015, no
15 new life-without-parole sentences have been imposed on people who were under 18
16 at the time of their crime. Courts may even reduce the mandatory minimum
17 sentences of such individuals, and they must consider “the diminished culpability of
18 juveniles.” Looking to the sentences of young people that predate 2015, most such
19 individuals are now eligible for parole after 15 or 20 years of imprisonment.

20 On the other hand, the Legislature has not extended these protections to late
21 adolescents. In fact, a late adolescent who committed an offense after July 1, 1995,
22 cannot even ask the Pardons Board to commute his sentence to one that would
23 allow parole, no matter how extraordinary his rehabilitative efforts. NRS 213.085.
24 This exclusion of late adolescents from all protections against excessive
25 punishment, and this failure to protect a vulnerable class, is the sort of arbitrary
26 situation that must be urgently reconciled with the Nevada Constitution.
27

1 **C. The Nevada Constitution is highly protective of the right to be**
2 **free from cruel or unusual punishments, which includes life-**
3 **without-parole sentences imposed on late adolescents.**

4 Nevada’s Constitution prohibits even more than the Eighth Amendment’s
5 “cruel and unusual punishment.” The Nevada Supreme Court has long recognized
6 its ability to find greater constitutional protections under the state constitution
7 than under the federal constitution. *See, e.g., Mack v. Williams*, 522 P.3d 434, 444
8 (Nev. 2022) (explaining that the Nevada Supreme Court is free to interpret the
9 provisions of the Nevada Constitution as it sees fit, “regardless of any similarities
10 between our state and federal constitutions”); *State v. Kincade*, 317 P.3d 206, 208
11 (Nev. 2013) (explaining “states are permitted to provide broader protections and
12 rights than provided by the U.S. Constitution”).

13 Here, especially, there is cause to construe the Nevada Constitution’s 1864
14 provision more broadly than its 18th-century federal counterpart. The provision,
15 unlike its federal counterpart, is disjunctive, prohibiting “cruel or unusual”
16 punishments. *Compare* Nev. Const. art. 1, § 6, *with* U.S. Const. am. VIII. By giving
17 meaning to each term, the provision independently prohibits both cruel punishment
18 and unusual punishment. *See Anderson v. State*, 865 P.2d 318, 321 (Nev. 1993).¹

19 As explained next, the Nevada Constitution requires courts to strike down
20 punishments that are disproportionate to the offense and offender, especially with
21 respect to the goals of punishment and evolving standards of decency. Under this
22 analysis, a life-without-parole sentence for a person under 21 is unconstitutional.

23
24 ¹*See also* Antonin Scalia & Bryan Garner, *Reading Law: The Interpretation of*
25 *Legal Texts* 116, 119 (2012) (describing Conjunctive/Disjunctive Canon and “The Basic
26 Prohibition”: “With the conjunctive list, the listed things are individually permitted but
27 cumulatively prohibited. With the disjunctive list, none of the listed things is allowed.”);
id. at 116 (“Hence in the well-known constitutional phrase *cruel and unusual*
punishments, the *and* signals that cruelty or unusualness alone does not run afoul of
the clause . . .”).

1 **1. A prison sentence is cruel or unusual if it is**
2 **disproportionate to a person’s culpability and the**
3 **rehabilitative function of criminal punishment, or**
4 **transgresses contemporary standards.**

5 A life-without-parole sentence, as applied to 18-,19-, and 20-year-olds, allows
6 disproportionate retribution to completely override the rehabilitative function of
7 criminal punishment. The sentence is irreconcilable with the Nevada Constitution.

8 Nevada’s prohibition on “cruel” sentences at least requires that a sentence be
9 proportionate to the offense and the offender, that is, that the sentence not be
10 unduly harsh in light of the goals of punishment. That concern arises with young
11 defendants. For example, the Nevada Supreme Court recognized that a non-
12 commutable life-without-parole sentence imposed on a “quite young defendant”
13 would mean that the defendant “would die in prison, possibly having served sixty or
14 seventy calendar years behind bars.” *Smith v. State*, 802 P.2d 628, 630 (Nev. 1990).
15 “Assuming, without deciding, that the state constitution may, consistent with the
16 United States Constitution” countenance this, “it appears entirely unfair.” *Id.*² “All
17 but the deadliest and *most unsalvageable of prisoners have the right* to appear
18 before the board of parole” *Naovarath v. State*, 779 P.2d 944, 944 (Nev. 1989)
19 (emphasis added). Thus, even under existing Nevada law, a life-without-parole
20 sentence is extreme and excessive for all but the “most unsalvageable prisoners.”

21 Young people are, as a rule, not unsalvageable, and this is critical for the
22 state constitutional inquiry. But first, some context for that inquiry. There is
23 increasing interest in “neglected state constitutional protections against extreme
24 punishments.” Ben Finholt & Kevin Bendesky, *The Neglected State Constitutional*

25 ²For that reason, the court held that such defendants could seek commutations to
26 parole-eligible sentences—an outcome the law has since barred. NRS 213.085(1). Now
27 the result that the court said “appears entirely unfair” is a reality, triggering the need
 for state constitutional scrutiny.

1 *Protections Against Extreme Punishments*, State Court Report (July 21, 2023).³ But
2 these rights have not been neglected everywhere, and even where they have been,
3 the tide is turning. Some state courts aptly analyze whether a particular
4 punishment is unlawful through a state constitutional lens. *See, e.g., People v.*
5 *Bullock*, 485 N.W.2d 866, 877 (Mich. 1992) (explaining the people of the state “have
6 forbidden the imposition of cruel or unusual punishments, and we are duty-bound to
7 devise a principled test by which to enforce that prohibition”). The state
8 constitutions of Michigan, California, North Carolina, and Minnesota, for example,
9 all mirror Nevada in prohibiting cruel “or” unusual punishments, and courts in all
10 four states have adopted a separate state constitutional approach.⁴

11 As a matter of statutory interpretation, use of the disjunctive “or” in “cruel or
12 unusual” renders Nevada’s anti-punishment provision divisible and thus broader
13 than the Eighth Amendment. Michigan courts have recognized this. *See, e.g., People*
14 *v. Benton*, 817 N.W.2d 599, 607 (Mich. Ct. App. 2011) (holding that the “or” makes
15 the state constitutional provision more protective). Its state constitutional provision
16 incorporates the Eighth Amendment’s gross disproportionality test but adds an
17 inquiry as to whether the punishment satisfies the goal of rehabilitation. *See, e.g.,*
18 *People v. Dipiazza*, 778 N.W.2d 264, 273 (Mich. Ct. App. 2009) (“Determining
19 whether a punishment is cruel or unusual requires consideration of the gravity of
20 the offense, the harshness of the penalty, a comparison of the penalty to penalties
21 for other crimes in this state, a comparison of the penalty to penalties imposed for
22 the same offense in other states, and the goal of rehabilitation.”). In essence, the

24 ³Available at [https://statecourtreport.org/our-work/analysis-opinion/neglected-](https://statecourtreport.org/our-work/analysis-opinion/neglected-state-constitutional-protections-against-extreme-punishments)
25 [state-constitutional-protections-against-extreme-punishments](https://statecourtreport.org/our-work/analysis-opinion/neglected-state-constitutional-protections-against-extreme-punishments).

26 ⁴*See* Cal. Const. art. I, § 17; Mich. Const. art. I, § 16; Minn. Const. art. I, § 5;
27 N.C. Const. art. I, § 27; *State v. Kelliher*, 873 S.E.2d 366, 382 (N.C. 2022); *People v.*
Baker, 229 Cal. Rptr. 3d 431, 442-43 (Cal. Ct. App. 2018); *State v. Vang*, 847 N.W.2d
248, 263 (Minn. 2014); *People v. Benton*, 817 N.W.2d 599, 607-08 (Mich. Ct. App. 2011).

1 Michigan approach shadows the Eighth Amendment but incorporates the purposes
2 of punishment, particularly rehabilitation, into its analysis. As such, while
3 Michigan courts reject many state constitutional challenges, the courts have found
4 it possible for non-capital punishments to be cruel or unusual. *See, e.g., Parks*, 987
5 N.W.2d at 182 (holding “it is particularly antithetical to our Constitution’s professed
6 goal of rehabilitative sentences to uniformly deny this group of defendants the
7 chance to demonstrate their ability to rehabilitate themselves”); *People v. Lorentzen*,
8 194 N.W.2d 827, 834 (Mich. 1972).

9 Michigan is not alone. North Carolina’s Supreme Court determined that
10 sentencing “a juvenile who can be rehabilitated to life without parole is cruel
11 because it allows retribution to completely override the rehabilitative function of
12 criminal punishment.” *State v. Kelliher*, 873 S.E.2d 366, 386 (N.C. 2022). Under the
13 Alaska Constitution, “the principles of reformation and necessity of protecting the
14 public constitute the touchstones of penal administration.” *State v. Chaney*, 477
15 P.2d 441, 444 (Alaska 1970). In Washington, “we look to whether the penological
16 goals of retribution, deterrence, incapacitation, and rehabilitation are served by this
17 sentence.” *State v. Bassett*, 428 P.3d 343, 353 (Wash. 2018). Illinois courts, too, must
18 balance the goal of rehabilitation with the goal of retribution, making punishments
19 more likely to be seen as disproportionate. *See, e.g., People v. Pace*, 44 N.E.3d 378,
20 404-05 (Ill. App. Ct. 2015) (explaining that the proportionate penalties clause calls
21 for the balancing of the retributive and rehabilitative purposes of punishment; that
22 balancing, in turn, requires that the court engage in an inclusive, holistic
23 consideration of all the factors in aggravation and mitigation).

24 Massachusetts’ state constitution also uses the disjunctive phrasing. Mass.
25 Const. pt. 1, art. XXVI (“No magistrate or court of law, shall demand excessive bail
26 or sureties, impose excessive fines, or inflict cruel or unusual punishments.”).
27 Applying that provision, Massachusetts’ highest court looks “to precedent as well as

1 what contemporary standards of decency, as defined by objective indicia, require”
2 when evaluating “the proportionality of a mandatory life sentence imposed on a
3 category of offenders (here, emerging adults).” *Mattis*, 224 N.E.3d at 418. Applying
4 its state constitutional approach, that court held that sentencing late adolescents to
5 life-without-parole is categorically cruel or unusual.

6 Nevada should extend similar constitutional protections to late adolescents
7 within this state. Under the state constitution, courts should (1) assess whether a
8 sentence proportionately satisfies the goal not only of retribution, but also of
9 deterrence, incapacitation, and rehabilitation, and (2) analyze contemporary
10 standards of decency. That is especially needed when the category of defendants are
11 those whom contemporary science shows are overwhelmingly likely to be deterred,
12 incapacitated, and rehabilitated.

13 **2. Current scientific research on adolescent brain**
14 **development demonstrates that an absolute cutoff at**
15 **age 18 for constitutional scrutiny of life-without-**
parole sentences cannot be justified.

16 Looking at proportionality, a life-without-parole sentence is more severe, and
17 therefore more disproportionate, for late adolescents because the sentence will last
18 a greater portion of their life. They are also less culpable for criminal behavior than
19 adults due to their immature ability to exercise cognitive control. As for their future
20 prospects, due to their ongoing neurological development, late adolescents are in a
21 state of flux and expected to change for the better. And as for the minuscule number
22 of individuals who ultimately will not rehabilitate, contemporary science shows that
23 due to this developmental state of flux, it is impossible for courts to identify who
24 they will be. For all these reasons, a life-without-parole sentence allows
25 disproportionate retribution to completely override the rehabilitative function of
26 criminal punishment as applied to young people, contrary to the Nevada
27 Constitution’s prohibition on cruel or unusual punishments.

1 As discussed next, there is no justification for limiting constitutional
2 protections to those under 18. Neuroscience and developmental psychology show
3 that the hallmarks of adolescence—immaturity, impulsivity, and risk-taking—
4 extend into and intensify in late adolescence. Emotion and arousal disrupt parts of
5 the brain that regulate behavior. Late adolescents are also particularly responsive
6 to environmental factors, like home life, socio-economic status, substance abuse,
7 trauma, and peers. As shown by their responsiveness to environments, late
8 adolescents have significant brain plasticity and capacity for change. This
9 undermines any justification for life-without-parole sentences for those under 21.

10 **a. The hallmarks of adolescence—immaturity,**
11 **impulsivity, and risk-taking—extend into and**
12 **intensify in late adolescence.**

13 Insights from the fields of neuroscience and developmental psychology show
14 that late adolescents between ages 18 and 21 are significantly impaired in their
15 ability to exercise cognitive control. Under *Miller*, the “hallmark features” of
16 adolescence include immaturity, impulsivity, and heightened risk-taking. Ex. 8 at
17 14. These characteristics persist in the neural and psychosocial development of late
18 adolescents through at least age 21. *See* Ex. 17 at 3-6; Ex. 8 at 14-20.

19 As can be seen on a neural level, adolescents’ ongoing brain development
20 impacts decision-making and risk-taking in different ways in late adolescence.
21 Three functional brain networks peak in sensitivity during adolescence, including
22 late adolescence, then decline. These include the social brain network, related to
23 orientation toward social stimuli; the affective salience network, related to
24 sensitivity to pleasurable and aversive experiences; and the motivational relevance
25 network, or the reward network. 12/10/2025 at 18-19.

26 Regarding the latter, for example, the reward network “undergoes really
27 large changes during the adolescent period and is involved in this motivation to

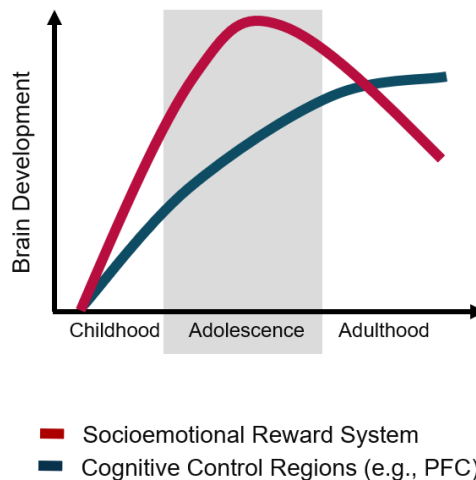
1 receive rewards. It feels so good to get a reward as an adolescent, particularly a
2 social reward from a peer. And so this partly explains this sensation seeking,
3 reward seeking behaviors that we see during adolescence.” 12/10/2025 Tr. at 18.
4 Late adolescents show peaks in reward sensitivity, meaning that rewards “are
5 much more salient and rewarding to an adolescent than they are to a child or to an
6 adult.” *Id.* at 21-22, 25 (explaining “this developmental age is characterized by the
7 heightened tendency to be very rewarded by and motivated by exciting and novel
8 experiences”). The “more an individual shows [a] heightened sensitivity to rewards,
9 the greater they are likely to engage in risky behavior.” *Id.* at 26.

10 Likewise, the threat-related regions of the brain, for example, the amygdala,
11 show “a similar pattern of functional brain development as the reward network
12 where it peaks in sensitivity in adolescents relative to both children and adults. So
13 adolescents, in other words, are more affected by, and it’s more salient to them
14 when there’s a threat in their environment.” 12/10/2025 Tr. at 28, 45 (late
15 adolescents are particularly sensitive to threats in the same ways as to rewards), 95
16 (describing curvilinear pattern of development of these networks of the brain).

17 Contrast this with the cognitive control circuitry, which is involved in
18 executive control, planning, impulse control, the ability to resist urges, and goal-
19 directed behavior. 12/10/2025 Tr. at 19, 26-28; Ex. 8 at 16. This circuitry matures
20 far slower than the reward circuitry, with development continuing into emerging
21 adulthood. 12/10/2025 Tr. at 19, 27, 32.

22 Synthesized, this means that adolescence “is this developmental period where
23 there’s this imbalance, this mismatch. It’s this developmental period of
24 vulnerability where the prefrontal cortex is not yet fully mature enough to help
25 quiet down or down regulate [and] engage in cognitive control[,] when there’s this
26 peak reward sensitivity in the brain.” 12/10/2025 Tr. at 29.

1 Indeed, neuroimaging has shown that the processes allowing for efficient
2 communication between these networks of the brain are not mature in someone
3 under 21. Ex. 17 at 5. Thus, the prefrontal cortex’s ability to balance the active
4 reward circuitry and prevent impulsive behavior is not fully developed in late
5 adolescents, and it creates a “developmental window of vulnerability” where late
6 adolescents exhibit increased risk-taking and limited cognitive control. Ex. 17 at 5-6
7 & fig.2 (showing the “temporal gap” created between childhood and adulthood in
8 reward-related brain function and cognitive control).



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18 *Figure 2: Ex. 19, Slide 15*

19 These profound imbalances don’t just have theoretical consequences. Dr.
20 Kinscherff uses the age-crime curve and other studies to show how late adolescents
21 really do engage in more risky behavior and commit more crimes than adults.
22 “[I]ndividuals start engaging in all kinds of higher risk behaviors as they enter
23 puberty. And then there is an odd spike at about 16. And so you see this spike in all
24 kinds of risk-taking behavior, not only criminal misconduct, but also things like
25 poor driving . . . especially if there’s a peer in the car; substance misuse, unintended
26 pregnancies. They drown more often. They have all kinds of different risk-taking
27 behaviors that sort of peak at 18, 19, 20. And then starting at about 22, 23, 24,

1 precipitously begin to drop off, and this is largely because we think there’s a
2 combination of nervous system development as people begin to move out of
3 adolescent roles and to develop adult identities and take on more adult roles

4 “It is a quite striking diminishment of all kinds of risk-taking behavior across
5 that same time. For the criminal part, it’s called the age-crime curve, and,
6 ironically, violent crime desists more rapidly than property or drug crimes.”

7 12/10/2025 Tr. at 107-08.

8 This risky decision-making and lack of judgment may be attributed to late
9 adolescents’ psychological immaturity. 12/11/2025 Tr. at 17-18. Psychological
10 maturity encompasses three criteria: “temperance is that capacity for impulse
11 control and suppressing aggressive behaviors. Perspective is . . . considering other
12 people’s perspectives, thinking about what other people may want or not[,] and then
13 responsibility as well as [the ability to] resist peer influence, so not be unduly
14 influenced by others in your environment.” *Id.* Studies have shown that
15 “adolescents are less mature than adults in those categories, and that includes late
16 adolescents. So extending until 21 years old.” *Id.* at 18. As a result, much like the
17 temporal gap described by neuroscientists, an “immaturity gap” emerges, which
18 demonstrates how psychosocial development lags behind intellectual ability.

19 All told, because of the heightened activation of different functional brain
20 networks, late adolescents engage in increased sensation-seeking behavior,
21 unchecked by a still developing cognitive-control brain function. This peak in
22 impulsivity exists in mid-to-late adolescence, demonstrating the innately human
23 nature of development. Indeed, as a person matures into adulthood, scientists
24 expect to see decreases in risk-taking; impulsivity; sensation-seeking; the influence
25 of threats, rewards, and other emotional information; and the influence of peers and
26 social information. 12/10/2025 Tr. at 51-52. They expect executive function and
27 cognitive control to become more proficient, along with emotional regulation. *Id.*

1 General personality traits, such those having to do with emotional stability and
2 conscientiousness, are expected to change dramatically. 12/11/2025 Tr. at 34. And
3 these natural changes may be further enhanced by different kinds of interventions,
4 treatments, and environmental changes. 12/10/2025 Tr. at 49, 52.

5 As converging data from neuroscience, public health research, and
6 developmental psychology shows, the hallmarks of adolescence—immaturity,
7 impulsivity, and risk-taking—extend into and intensify in late adolescence. Then
8 they sharply drop off.

9 **b. Emotional arousal uniquely inhibits adult-like**
10 **judgment in late adolescents.**

11 Late adolescents exercise even less control and judgment when in states of
12 psychological arousal—a term defined by heightened emotions, positive or negative.
13 One defining characteristic of late adolescence is an impaired ability to control
14 immaturity and impulsivity in a state of arousal. *See* Ex. 8 at 17-18, 33-34. An
15 emotional state will “uniquely impair[]” a late adolescent in a way that an adult
16 would not be similarly impaired. *See* Ex. 17 at 6-7.

17 Because of the vulnerabilities demonstrated by the temporal and immaturity
18 gaps, emotional situations disrupt the ability to self-regulate and exercise cognitive
19 control. Ex. 17 at 6. This difference is described in the scientific community as “cold
20 cognition” versus “hot cognition,” where cold cognition describes decision-making in
21 calm, non-arousing environments and hot cognition is decision-making in the
22 context of emotion or motivationally important information. 12/11/2025 Tr. at 20.
23 “There is very well-documented research, including meta-analyses . . . that show
24 that hot executive function is *categorically deficient* in adolescents, including late
25 adolescents[,] compared to adults.” 12/11/2025 Tr. at 22 (emphasis added). This is
26 important because “this is often when decisions that have really bad consequences
27

1 are being made.” *Id.* at 21. Late adolescents also show deficits in cold executive
2 function when there is a lot of cognitive demand. *Id.* at 22.

3 Under this framework, studies demonstrate on a neural level that there is no
4 meaningful way to distinguish an under-18-year-old from an 18–21-year-old in
5 periods of hot cognition, even if the brain has continued to develop in other ways
6 past age 18. Describing the 2017 study “At Risk of Being Risky,” Dr. Telzer
7 explained it showed “that adolescents’ brain connectivity resembled that of younger
8 individuals. So this adolescent brain and late-adolescent brain in particular, the
9 connectivity patterns . . . in a very emotional context resembled that of younger
10 teens, and this immature connectivity was associated with greater risky
11 behaviors[,] especially pronounced in that 18 to 21-year-old age range.” 12/10/2025
12 Tr. at 34.

13 In addition, Dr. Telzer highlighted the 2016 Cohen study, finding that
14 negative emotional arousal impairs cognitive control in those aged 18–21 in a way
15 that it does not in adults. Ex. 17 at 6-7. The study measured participants’ ability to
16 exercise cognitive control in positive, negative, and neutral emotional cues.
17 12/10/2025 Tr. at 35-36. The study found that “when the context was manipulated
18 to be threatening, this higher emotional threat, [late adolescents’] cognitive control
19 is impaired and resembled that of the younger adolescents.” *Id.* at 36.

20 Even more interesting, the participants performed this cognitive control task
21 while their brains were being scanned. During the threatening cognitive control
22 context, the late adolescents showed “lower recruitment of the prefrontal cortex.”
23 12/10/2025 Tr. at 37-38. “So the late adolescent group resembles the younger
24 adolescent group in terms of how their prefrontal cortex is coming online during
25 that emotional context.” *Id.* at 38. They are “showing impaired decision-making
26 because their prefrontal cortex resembles that of younger adolescents and is not
27 helping them to engage in that better decision-making.” *Id.*

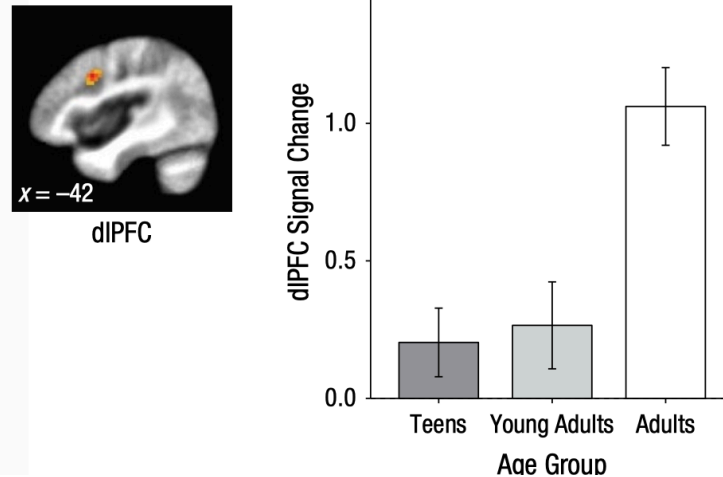


Figure 3: Ex. 19, Slide 24 (showing less effective recruitment of the prefrontal cortex in adolescents)

The takeaway here is, that while late adolescents may demonstrate some maturity and impulse control in calm, undemanding environments, they are much less equipped to make well-reasoned decisions in emotionally arousing ones. This allows the Court to understand “the constraints on someone’s decision-making through late adolescence,” informing their culpability. 12/11/2025 Tr. at 38-39, 47.

c. Environmental factors impact late-adolescent behavior, especially in the presence of peers.

Adolescents are shaped by and are responsive to their surroundings, including home life, socio-economic status, substance abuse, trauma, and peer influence. Ex. 8 at 21-30. These social environments can positively or adversely impact decision-making. See Ex. 17 at 8-9. Particularly notable is the influence of peers; studies have shown that peer influence, and even peer presence alone, will substantially increase risk-taking behavior in adolescents. See Ex. 8 at 29-30.

First, the experience of different adversities is high on the list of factors that affect or delay brain maturation. As Dr. Baskin-Sommers explained, “[O]ne of the really cool things about the . . . increase in using neuroscience and multiple methods to measure people’s experiences is that we’re able to see that early life adversity

1 really can get under the skin and change not only behavior, which we've been able
2 to see before, but actually change how the brain develops." 12/11/2025 Tr. at 23.

3 "So what we tend to see across all late adolescents is this imbalance in
4 control and sensitivity to rewards and emotion[,] and that that is exacerbated in
5 young people who have early life adversity." 12/11/2025 Tr. at 24. This is relevant to
6 the categorical sentencing question because it shows that the cognitive imbalance
7 that exists for *all* late adolescents can become significantly worse for some.

8 Indeed, "individuals who have heightened early life adversity are showing
9 worse deficits in hot executive function. They're showing greater imbalance between
10 prefrontal regions that are more about controlling your behavior and reward-related
11 regions that are more about being sensitive or reactive to reward. So the kind of
12 typical adolescent development trajectory . . . is exaggerated in young people who
13 have early life experiences that are quite severe in terms of adversity." *Id.* at 23-24.

14 That reflects that when adolescents experience childhood adversity, studies
15 suggest that neural development is disrupted, which leads to greater risk-taking.
16 Ex. 17 at 8. Some common adverse experiences include instability in the home,
17 limited access to education or healthcare, trauma and violence, poverty, neglect,
18 and discrimination. Ex. 8 at 21-24. These experiences of deprivation and threat may
19 impact brain development, with deprivation (of resources, affection, support, etc.)
20 associated with limiting executive function, and threat (of physical, mental, or
21 emotional harms) with limiting emotional regulation. *Id.* at 23. But "the confluence
22 of these adversities, so the interplay between them, really confers substantial risk
23 for this exaggerated imbalance." 12/11/2025 Tr. at 24-25. Many of the adolescents
24 who end up in the legal system "have experienced multiple forms of adversity," and
25 it is this combination "that substantially undermine[s] all of the capacities we've
26 discussed, so emotion regulation and executive functioning." *Id.* at 25.

1 Adverse factors in the home and neighborhood include socio-economic status
 2 and exposure to violence in the community. Exposure to community violence was
 3 ignored by neuroscientists for a long time. 12/11/2025 Tr. at 26. But such exposure,
 4 which is quite pervasive and unavoidable for some young people, “really negatively
 5 impacts regulatory circuits in the brain, meaning that young people who are
 6 exposed to community violence often then continue to be kind of on guard and
 7 overreact to situations even when there’s not a threat and that that continues even
 8 decades later” 12/11/2025 Tr. at 26-27.

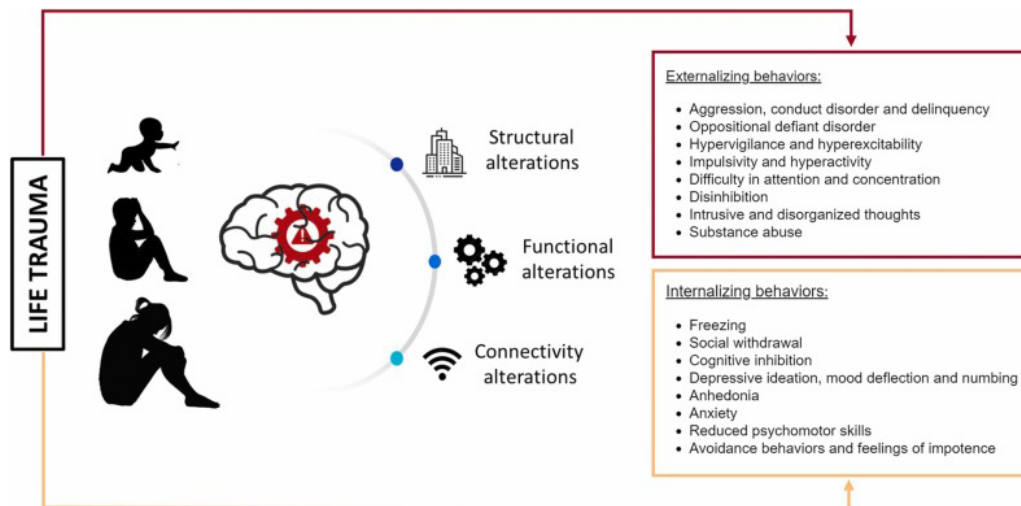


Figure 4: Ex. 19, Slide 29

18 Substance use is another factor that affects adolescent brain development by
 19 impairing executive function. Using substances “particularly during younger
 20 adolescence can also change the trajectory of someone’s not only behavioral
 21 development, but also brain development.” 12/11/2025 Tr. at 27. Adolescence is a
 22 “sensitive period where earlier substance use negatively impacts cognitive
 23 functioning.” *Id.* at 28. That reflects that adolescence is a “vulnerable state”—
 24 “[t]here’s just a lot in flux going on. And so it really just takes a little bit of . . . agita
 25 to change the trajectories for people during this period.” *Id.* at 33.

26 Finally, as has been extremely well-documented, a key outside influence on
 27 late-adolescent decision-making is peer influence. Many studies show that risk-

1 taking is heightened when adolescents are around peers, a phenomenon not
2 occurring in adults. Ex. 17 at 7; Ex. 8 at 28. “[O]ne of the most well-replicated
3 findings is that adolescents are influenced by their peers. The mere presence of a
4 peer is enough to increase [adolescent] risk-taking behaviors.” 12/10/2025 Tr. at 41.
5 Numerous studies have found that “mid-adolescents as well as late-adolescents are
6 engaging in higher rates of risk-taking, especially in the presence of peers.” *Id.* at
7 42. Recent neuroscience research has shown that peer influence is associated with
8 strong reward signals in the brain. *Id.* at 43. This means that peer influence is “so
9 important because it essentially changes and affects all aspects of adolescent
10 decision-making, [both] for good and for bad.” *Id.* at 43-44.

11 Unsurprisingly, when peers are not only present, but also endorse or egg on
12 their peers, there is an even greater increase in risky behavior. There is even a
13 phenomenon called “deviancy training”: “across time, when individuals who are not
14 necessarily engaging in any deviant behaviors are with peers who are being
15 encouraging or promoting or discussing positively deviant behaviors, this is what
16 they referred to as deviancy training, those adolescents whose peers are engaging in
17 that kind of talk are more likely a year later to increase their own deviant
18 behaviors.” 12/10/2025 Tr. at 44; *see also* 12/11/2025 Tr. at 46.

19 As both Dr. Baskin-Sommers and Dr. Telzer explained, environmental factors
20 impact late-adolescent behavior, especially in the presence of peers.

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1 d. **Brain plasticity in late adolescents allows for a**
2 **heightened capacity for change, even in those**
3 **with early signs of personality pathology.**

4 Brain plasticity supports two key conclusions about late adolescence: higher
5 neural sensitivity during periods of plasticity “enhances the vulnerabilities for risk-
6 taking, . . . but also creates a window of opportunity for prosocial learning and
7 adaptation.” Ex. 8 at 40. This means that the late-adolescent brain is primed for
8 rehabilitation despite past adversity. Ex. 17 at 9-10; Ex. 8 at 40-45.

9 The late-adolescent brain features significant neural plasticity, which is “the
10 brain’s ability to reorganize in response to experience.” Ex. 17 at 9-10 & fig.3.
11 Neuroplasticity peaks in early infancy and again in adolescence. 12/10/2025 Tr. at
12 50. Periods of development like these are times in which “the environment has the
13 greatest influence on how an individual is going to develop.” *Id.* at 48. This is meant
14 to be helpful: biologically, “[o]ur brains” have a protracted period of neuroplasticity
15 “because it’s developmentally adaptive. It allows a long period of learning, of
16 exploration, of growth.” *Id.* As a result, the adolescent brain is in flux; it is “not just
17 an immature version of an adult brain.” *Id.*; 12/11/2025 Tr. at 33.

18 In practice, this means that late adolescents are in a “state of vulnerability
19 because the brain is plastic and so sensitive to its environment. And so when a
20 developing adolescent is exposed to threat and trauma during these key periods, it
21 can have an undue influence on how their brain is developing and impact their
22 decision-making and other outcomes that are more negative.” 12/10/2025 Tr. at 49.
23 But similarly because of this “protracted period of plasticity in the brain, these
24 effects are not permanent, and brain changes can be reversed after changes in the
25 social environment.” *Id.* “Adolescents in particular have the capacity to change, and
26 these behaviors and patterns are absolutely not fixed.” *Id.* at 50-52.
27

1 Dr. Baskin-Sommers explained what this looks like from a developmental
2 psychology perspective. Adolescence is “a peak period for change, in
3 particular . . . behaviors or psychology related to emotional stability and
4 conscientiousness, so people’s ability to be self-controlled.” 12/11/2025 Tr. at 34.
5 These only stabilize *after* late adolescence. *Id.*

6 “[W]hat we see is the vast majority of young people, even with some of the
7 most extreme mental health problems we have[,] don’t show those mental health
8 problems later in adulthood. So the vast majority will show a decrease in their
9 symptoms, even without intervention to be clear.” 12/11/2025 Tr. at 33-34.

10 Even early signs of personality pathology are not deterministic in
11 adolescents. “[E]ven in young people who show elevated antisocial behavior and
12 difficulties with empathy[,] their behavior improves over time just through natural
13 development, and that’s the majority of young people [who] are showing these
14 elevations. So you don’t need targeted treatment, but for those who continue to
15 show these problems, targeted treatment is effective. So if you combine natural
16 desistance with targeted treatment, the vast majority of young people’s behavior
17 can change.” 12/11/2025 Tr. at 55, 68-69. In other words, many of the traits and
18 behaviors that may seem fixed are actually evolving characteristics in a late
19 adolescent. Ex. 8 at 44. Even “callous-unemotional/psychopathic traits decrease
20 with age in the majority of youth whether justice involved or not.” Ex. 7 at 14.

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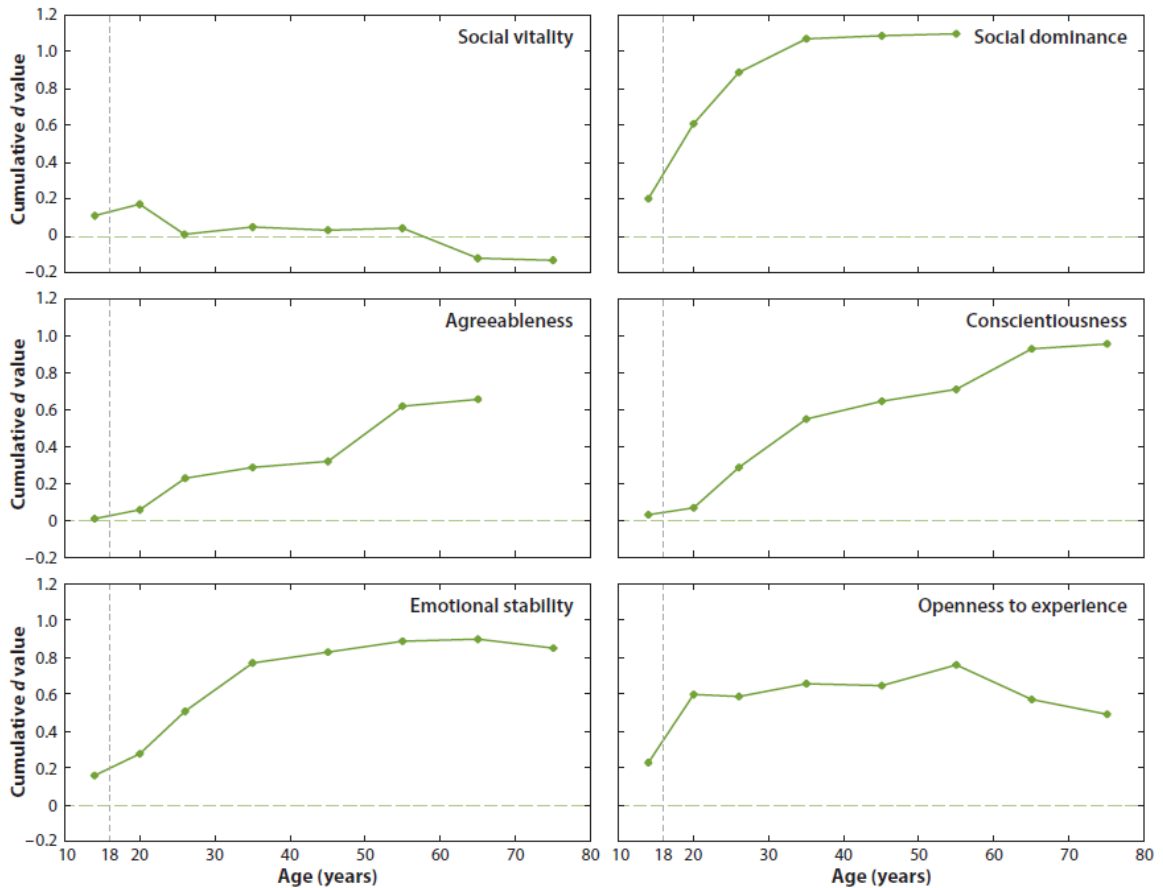


Figure 5: Exhibit 7 at 13

Putting all this together, to a much greater extent than adults, late adolescents' behaviors and personalities are malleable, shaped by continuing life experience. Ex. 8 at 41-42, 44. One implication of this is that poor decisions made by late adolescents are not reflective of their identity. Research shows that late adolescents are more likely to grow out of the risk-taking behaviors that put them in bad situations. *See id.* at 44. Science supports that most late adolescents will mature with increased self-regulation in the brain, and that most misconduct is reflective of the "transient immaturity" of adolescence. *Id.*

The other implication is that late adolescents are primed for rehabilitation. Most people who commit violent crimes in late adolescence will not continue to engage in criminal conduct as adults. 12/10/2025 Tr. at 108, 111. In fact, violent

1 crime desists more rapidly upon entering the 20s than does property and drug
2 possession crimes. *Id.* at 108. This means that, as a matter of predictive science,
3 there is no way to look at a late adolescent and reliably predict what they're going to
4 look like later in life. *Id.* at 110. Developmentally, they're "still a moving target." *Id.*
5 "We're trying to make an assessment of what they will look like when they're in the
6 phase of life when they're most likely to engage in the most risky behaviors. And
7 trying to predict what they're going to look like as the age-crime curve is dropping is
8 like trying to predict risk when the risk tide is already going out." *Id.*

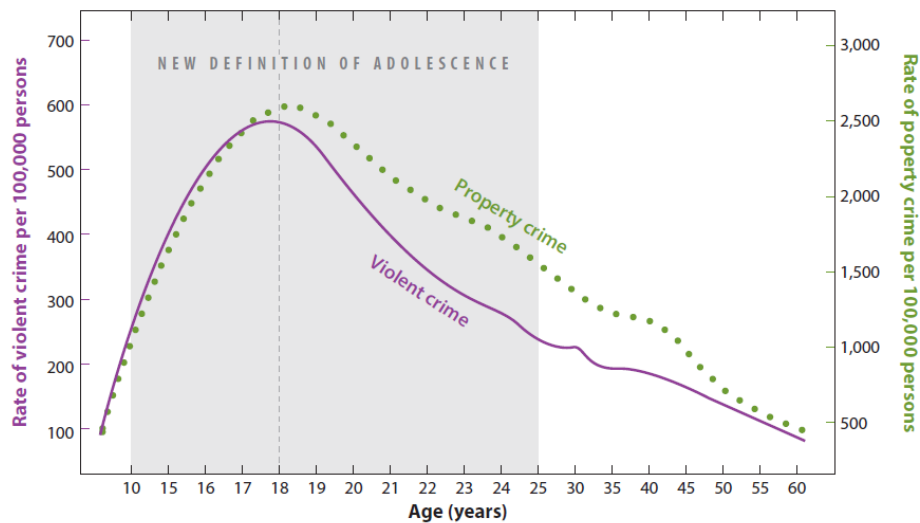


Figure 6: Exhibit 7 at 12

19 That has been shown concretely in the "Philadelphia Experience," a study of
20 recidivism published in 2020. In the aftermath of *Miller*, Philadelphia resentenced
21 269 "juvenile lifers"—people previously serving life-without-parole sentences
22 imposed for their adolescent criminal behavior. Ex. 6 at 2. All had been convicted of
23 murder. "Sixty-two percent of the juvenile lifers were convicted of 1st degree
24 murder and 38% were convicted of 2nd degree murder." *Id.* at 6. "The juvenile lifer
25 was the primary actor in 82% (n = 220) of the cases." *Id.* at 8.

26 Of this cohort, at the time of the paper's publication, 174 had been released.
27 The data showed something remarkable: only "[s]ix (3.5%) have been re-arrested.

1 Charges were dropped in four of the cases and two (1%) resulted in new convictions
2 (one for Contempt and the other for Robbery in the Third Degree). In comparison,
3 nationally, an estimated 30% of individuals convicted of homicide offenses are
4 rearrested within two years of release.” *Id.* at 2. In other words, if this cohort had
5 not been resentenced and released, all would have been serving perpetual prison
6 sentences that would not have increased public safety one iota.



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16 *Figure 7: Exhibit 6 at 11*

17 At the same time, it must be remembered that Americans don't bear the
18 brunt of these extreme sentences equally, likely because Black youth may be
19 perceived as older and more culpable than white youth. Ex. 12 at 4, 8-9. A shocking
20 “two thirds (66%) of people under 26 years old sentenced to LWOP are Black
21 compared with 51% of persons sentenced to LWOP beyond this age.” *Id.* “[B]eing
22 Black *and* young has produced a substantially larger share of LWOP sentences than
23 being Black alone. This fact reinforces the growing understanding that extreme
24 sentences disproportionately impact Black Americans.” *Id.*

25 The scientific evidence converges to show that late adolescents as a group
26 may be readily deterred, incapacitated, and rehabilitated through less extreme
27 measures than perpetual imprisonment. A life-without-parole sentence is more

1 severe, and therefore more disproportionate, for them because the sentence will last
2 a greater portion of their life, and they are less culpable for criminal behavior than
3 adults. They are also more capable of change and rehabilitation. This undermines
4 any justification for life-without-parole sentences for people under age 21.

5 **e. A surge of recent, reliable scientific findings,**
6 **culminating in the 2024 *Mattis* decision,**
7 **provides good cause for the Court to consider**
8 **Feazell’s claims on the merits.**

8 Scientists now have “a much better understanding of the constraints on
9 someone’s decision-making through late adolescence.” 12/11/2025 Tr. at 47.

10 As every expert explained, there has been a surge of recent, reliable scientific
11 findings regarding late adolescence. This surge culminated in translational science
12 papers like CLBB’s *White Paper*, Ex. 8, and ultimately the 2024 *Mattis* decision. Ex.
13 13. These new developments provide good cause for the Court to consider Feazell’s
14 claims on the merits. At the same time, the fact that research continues does not
15 undermine the valid, well-replicated conclusions discussed above. It is now a well-
16 established scientific fact that late adolescents are in a state of neurological flux
17 that renders them particularly vulnerable; new studies seek to refine that
18 understanding, not undermine it.

19 Drs. Telzer, Kinscherff, and Baskin-Sommers all discussed the significant
20 recent developments regarding the science of late adolescence. Due to an influx in
21 government funding, the field has grown remarkably in just the past decade.
22 12/10/2025 Tr. at 8, 12/11/2025 Tr. at 36-37. The new developments include:

- 23 • From a neuroscience perspective, the period of late adolescence has been
24 studied as a distinct period of development in only the last decade; previously
25 late adolescents were lost in a statistical fog.⁵

26
27 ⁵12/10/2025 Tr. at 35-36, 53-56, 114; 12/11/2025 Tr. at 42.

- Studies have used much larger sample sizes, with meaningful differences in the kinds of conclusions that scientists could draw from them.⁶ They have also studied adolescents around the world.⁷
- Studies have increasingly used fMRI scans that show brain function, as opposed to structural MRI scans that do not.⁸ This means that scientists now understand the neural underpinnings of late-adolescent decision-making in hot versus cold cognition circumstances,⁹ under prolonged negative emotional arousal,¹⁰ in the presence of antisocial peers,¹¹ and more.
- Studies have increasingly used dynamic functional connectivity, which allows researchers to see how different networks of the brain interact.¹²
- Studies have increasingly used machine learning technologies that predict participants' brain age, allowing researchers to make inferences about developmental trajectories.¹³
- Studies have increasingly featured longitudinal structures, as opposed to cross-sectional ones, that provide more fine-grained information about individual development.¹⁴
- Technology has meaningfully improved,¹⁵ as have study designs.¹⁶

⁶12/10/2025 Tr. at 59-60; 12/11/2025 Tr. at 38, 41.

⁷12/10/2025 Tr. at 60-61.

⁸12/10/2025 Tr. at 27, 68; 12/11/2025 Tr. at 37, 39.

⁹12/10/2025 Tr. at 120; 12/11/2025 Tr. at 19.

¹⁰12/11/2025 Tr. at 43-44.

¹¹12/11/2025 Tr. at 45-47.

¹²12/10/2025 Tr. at 63-64.

¹³12/10/2025 Tr. at 62-63.

¹⁴12/10/2025 Tr. at 56-57; 12/11/2025 Tr. at 40.

¹⁵12/10/2025 Tr. at 62; 12/11/2025 Tr. at 38, 41.

¹⁶12/11/2025 Tr. at 44-45.

- 1 • Neuroscientists have studied samples of adolescents who are engaging in
2 high rates of misconduct, not just convenient community samples.¹⁷
- 3 • Neuroscientists have shown how different adverse factors, including
4 environmental factors, affect brain development.¹⁸
- 5 • Scientists have shown that early signs of personality pathology are not
6 deterministic.¹⁹ They now know significantly more about the neural
7 underpinnings of late adolescents’ potential for rehabilitation.²⁰
- 8 • Scientists have synthesized findings across different fields, such as
9 neuroscience and behavioral science, to provide unified conclusions.²¹
- 10 • Since *Miller* and *Montgomery*, studies like “The Philadelphia Experience”
11 have shown that even adolescents who committed murder have essentially
12 negligible recidivism rates.²²

13 All these changes have allowed scientists to make conclusions that were
14 impossible to make before. *E.g.*, 12/10/2025 Tr. at 67-68; 12/11/2025 Tr. at 51-54. As
15 a result, “what we currently have is a very reliable and repeated, meaning that
16 [these are] well-replicated estimates of the types of concepts and findings” that are
17 discussed in the preceding sections. 12/11/2025 Tr. at 62. There is “much stronger
18 evidence than we’ve ever had because of the quality of the science and the type of
19 science that’s being done.” *Id.* at 63. Indeed, it was the strength of the science that
20 led Harvard’s Center for Law, Brain, and Behavior to publish its *White Paper* in
21 2022. 12/10/2025 Tr. at 128-29. The Center waited to publish until there was

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23 ¹⁷12/10/2025 Tr. at 58, 64-67.

24 ¹⁸12/10/2025 Tr. at 56-57, 67; 12/11/2025 Tr. at 23-25, 46-48, 53.

25 ¹⁹12/11/2025 Tr. at 55; Ex. 7 at 14.

26 ²⁰12/10/2025 Tr. at 117.

27 ²¹12/11/2025 Tr. at 12; *see* Ex. 7.

²²12/10/2025 Tr. at 106; Ex. 6.

1 enough convergent data, meaning “many sources of data” all converging on the
2 same description of a behavioral and neurodevelopmental trajectory. *Id.* at 128-29.

3 This surge of recent research culminated in the *Mattis* decision issuing in
4 2024. Other state supreme courts have also made constitutional decisions based on
5 similar scientific information. No court has found the science to be unreliable.

6 True, the Adolescent Brain Cognitive Development Study (“ABCD Study”) is
7 not complete. This study is the largest longitudinal study of adolescent
8 development, funded for at least ten years, and currently in its eighth year.
9 12/11/2025 Tr. at 14-15. Because the study releases its data sets every year, there
10 have been thousands of publications using the existing ABCD data set, which
11 already inform the conclusions that the experts provided. *See id.* at 60; 12/10/2025
12 Tr. at 112-13. The main goal of the ABCD Study is to examine different
13 combinations of risk factors across different experiences to determine how these
14 undermine regulated behavior. 12/11/2025 Tr. at 47; *see* 12/10/2025 Tr. at 59.
15 Therefore, while the ABCD Study will surely provide greater specificity about the
16 effects of different combinations of risk factors, it will not undermine the broad,
17 well-replicated findings about late adolescents generally. 12/11/2025 Tr. at 47-48,
18 62.

19 As Dr. Telzer explained, “larger is not necessarily better, per se, but large
20 enough is important for our understanding representative patterns that describe
21 adolescents.” 12/10/2025 Tr. at 59. And as all the experts testified, studies in
22 addition to the ABCD Study have used longitudinal designs with many hundreds of
23 participants. *E.g.*, 12/11/2025 Tr. at 42-43 (describing a 2018 study of 700
24 participants regarding reward sensitivity). In other words, the ABCD Study “won’t
25 undermine” the conclusions discussed above. 12/11/2025 Tr. at 62.

26 In sum, a surge of recent, reliable scientific findings, culminating in the 2024
27 *Mattis* decision, provides good cause for the Court to consider Feazell’s claims.

1 **3. Many Nevada laws today, in a wide range of relevant**
2 **domains, draw the line between child and adult at 21.**

3 While the *Roper* Court was correct that age 18 is “where society draws the
4 line for many purposes between childhood and adulthood,” *Roper*, 543 U.S. at 574,
5 18 is not society’s—or Nevada’s—sole age of majority.

6 In fact, it is not even the historic age of majority. As the Washington
7 Supreme Court recognized, “[t]wenty-one had been the ‘near universal’ age of
8 majority in the United States from its founding until 1942 when ‘wartime needs
9 prompted Congress to lower the age of conscription from twenty-one to eighteen, a
10 change that would eventually lead to the lowering of the age of majority generally.”
11 *Monschke*, 482 P.3d at 281 (citing Vivian E. Hamilton, *Adulthood in Law and*
12 *Culture*, 91 Tulane L. Rev. 55, 57 (2016)); *see also Horsley v. Trame*, 808 F.3d 1126,
13 1130 (7th Cir. 2015) (explaining that “[d]uring the founding era, persons under 21
14 were considered minors;” “[t]he age of majority was 21 until the 1970s”). “[S]etting
15 the age of majority at eighteen was an ill-conceived move set in motion by the
16 wartime need to lower the draft age and facilitated by what was a subsequent
17 historical aberration—the rapid transition to adulthood that occurred during a
18 postwar industrial economy that enabled young people with few skills to earn high
19 wages, thereby enabling them to marry and establish households at young ages.”
20 Hamilton, *supra*, at 60. That contrasts with “young people today,” who “come of age
21 in a cultural and economic milieu that prolongs their attainment of the traditional
22 markers of adulthood.” *Id.* at 55.

23 Thus, in Nevada, even while 18 establishes the presumptive age of majority,
24 21 remains the age cutoff for many privileges and responsibilities of adulthood. In
25 some instances, the age has been raised from 18 to 21 as our scientific and real-
26 world understanding of late adolescence has grown, especially for the kinds of
27 activities that require good judgment under conditions of hot cognition. Below are

1 some specific areas implicating conditions of hot cognition, where Nevada draws the
2 line—or redrew the line—at 21:

- 3 • **Alcohol:** Nevada has a minimum drinking age of 21. NRS 202.020. The
4 National Minimum Drinking Age Act of 1984 reduced the amount of federal
5 highway funding to states that did not have a minimum purchasing age of 21.
6 *See South Dakota v. Dole*, 483 U.S. 203, 205 (1987). This Act was passed on
7 the recommendations of a presidential commission formed to study the
8 causes of alcohol-related highway accidents and fatalities. *Id.* at 209.
9 However, Nevada’s legal drinking age has been 21 long before the Act was
10 passed. Nev. Compiled Laws § 10594.02 (1943); *see also* Nev. Assembly Bill
11 26, 56th Leg., Reg. Sess. (Nev. 1969).
- 12 • **Firearm:** To be issued a permit to carry a concealed handgun, a person must
13 typically be at least 21 years of age. NRS 202.3657. Under the Gun Control
14 Act of 1968, those under 21 cannot purchase handguns. Nineteenth-century
15 Nevada prohibited those under 21 from even “wear[ing] or carry[ing] . . .
16 dangerous or deadly weapons[],” including pistols. 1885 Nev. Stat. 51.
- 17 • **Police officer:** NRS 289.510 and NAC 289.100 require a person to be at
18 least 21 at the time of appointment to become a peace officer.
- 19 • **Tobacco:** Initially, the legal age to purchase tobacco was 18, but Nevada
20 raised the age to 21 to align with federal law. *See Nevada Tobacco 21 Fact*
21 *Sheet*, Nev. Div. of Public and Behavioral Health.²³ Businesses are prohibited
22 from distributing or even offering to sell tobacco and nicotine products to any
23 person under the age of 21. NRS 370.521. The statute shifts the burden from
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26
27 ²³Available at <https://gethealthyclarkcounty.org/wp-content/uploads/2024/04/Tobacco-21-FAQs-Fact-Sheet.2.pdf>.

1 the person purchasing the products to the business providing it, absolving
2 those under 21 from any liability under the statute.

- 3 • **Marijuana:** Those over 21 have several liberties when it comes to marijuana
4 in Nevada. They can possess, deliver, produce, as well as help another in the
5 possession, delivery, and production of marijuana. NRS 678D.200. Those
6 under 21, however, are prohibited from doing so.
- 7 • **Gambling:** NRS 463.350 prohibits people under the age of 21 from gambling
8 and loitering where gambling takes place. A limited exception exists for
9 employees.
- 10 • **Holding a government position:** Under NRS 218A.200, a person is not
11 eligible to be elected or appointed to office as a legislator unless they reached
12 age 21 by the time of election or appointment. To run for Governor in Nevada,
13 the minimum age is 25. NRS 223.010.
- 14 • **Foster care:** In Nevada, youth who leave foster care after age 18 but under
15 21 and all youth who exit foster care after age 16 and do not reunify with
16 their parents are eligible for referral to independent living services until age
17 26. *Extension of Foster Care Beyond Age 18—Nevada*, Child Welfare
18 Information Gateway (March 2022).²⁴ Those 18 and above may remain under
19 the jurisdiction of the court up to age 21 and remain eligible for financial
20 support and other services to assist them with their transition to self-
21 sufficiency. Additionally, all youth who age out of foster care are covered by
22 Nevada’s Aged-Out Medicaid program. Those who exited care in another
23 state prior to coming to Nevada are eligible until age 21, while those who
24 exited care in Nevada are eligible up to age 26.

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27 ²⁴Available at <https://www.childwelfare.gov/resources/extension-foster-care-beyond-age-18-nevada/>.

1 These examples show that Nevada has set the line at 21 for many adult
2 privileges and obligations—especially those that require sound judgment under
3 conditions of hot cognition. The State takes a far more paternalistic approach to
4 regulating the conduct of late adolescents than it does to regulating the conduct of
5 adults, and it grants late adolescents benefits that it does not to adults.

6 **4. The Court should consider developments in other**
7 **jurisdictions and countries because they reflect**
8 **evolving standards of decency.**

9 Other jurisdictions are increasingly providing sentencing protections for late
10 adolescents and young adults, recognizing that key differences in their psychology
11 support a rehabilitation-focused approach. These developments should inform the
12 Court’s analysis of evolving standards of decency.

13 For example, second-look acts, such as the one in Washington, D.C., provide
14 opportunities for incarcerated people who were under 25 when they committed an
15 offense to have their sentence reduced. Ex. 12 at 12; *see also Mattis*, 224 N.E.3d at
16 231 (describing developments in other states, including Illinois, which ended life-
17 without-parole for most people under 21); Conn. Gen. Stat. Ann. § 54-125a(g)
18 (providing that people under 21 who were sentenced to extreme sentences before
19 2005 must be eligible for parole); Becky Feldman, *The Second Look Movement: A*
20 *Review of the Nation’s Sentence Review Laws*, Sentencing Project (May 15, 2024).²⁵
21 Jurisdictions in at least three states (Illinois, California, and New York) have
22 created emerging adult specialty courts, and others (Mississippi, Wisconsin, and
23 California) have established emerging adult units in their prison systems. Karen
24 Lindell & Katrina Goodjoint, *Rethinking Justice for Emerging Adults: Spotlight on*

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26
27 ²⁵Available at <https://www.sentencingproject.org/reports/the-second-look-movement-a-review-of-the-nations-sentence-review-laws/>.

1 *the Great Lakes Region*, Juvenile Law Center, at 16-17 (Sept. 2, 2020).²⁶ At least
2 thirteen states (Alabama, California, Colorado, Florida, Georgia, Illinois, Indiana,
3 Michigan, New Jersey, New York, South Carolina, Vermont, and Virginia) have
4 created a separate legal category of “youthful offender”—criminal defendants in
5 their late teens or early twenties who, depending on the state, are eligible for more
6 lenient sentencing options, potential expungement of criminal records, and/or
7 developmentally appropriate treatment services. *Id.* at 88-92.

8 A defendant’s age, even after 18, is now widely considered relevant to
9 sentencing. Since 2017, for example, the Massachusetts Sentencing Guidelines have
10 instructed judges to consider the developmental characteristics of “emerging
11 adults,” ages 18 through 21, “when sentencing such individuals[,] even if the
12 individuals are subject to the jurisdiction of adult court.” Massachusetts Sentencing
13 Commission, *Advisory Sentencing Guidelines*, at 4 (Nov. 2017). United States
14 Supreme Court and state supreme court decisions have recognized the relevance of
15 young people’s stage of development, even after they turn 18. *See, e.g., Gall v.*
16 *United States*, 552 U.S. 38, 57-58 (2007) (holding that judge properly gave below-
17 guidelines sentence based in part on fact that defendant was 21 and “[r]ecent
18 studies . . . conclude that human brain development may not become complete until
19 the age of twenty-five”); *State v. O’Dell*, 358 P.3d 359, 368 (Wash. 2017) (en banc)
20 (holding that 18-year-old “defendant’s youthfulness [could] support an exceptional
21 sentence below the standard [sentencing] range applicable to an adult felony
22 defendant,” and that contrary earlier decision had “been thoroughly undermined by
23 subsequent scientific developments”).

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27 ²⁶Available at <https://jlc.org/sites/default/files/attachments/2020-09/JLC-Emerging-Adults-9-2.pdf>.

1 Looking abroad, in Europe, there is “both a history and widespread practice
2 of providing more developmentally appropriate responses to emerging adults
3 involved in the justice system, with 28 out of 35 European countries having special
4 legal provisions for youth over age 18.” Sibella Matthews et al., *Youth Justice in*
5 *Europe*, *Justice Evaluation Journal* 3 (July 2018).²⁷ In some countries, these
6 provisions allow for the mitigation of otherwise applicable adult sentences, while in
7 others, they permit defendants over the age of 18 to be sanctioned in the same
8 manner as juveniles under the age of 18. *Id.*

9 In Victoria, Australia, under the Sentencing Act of 1991, an offender under
10 21 cannot be sentenced to life-without-parole. Sentencing Act 1991, § 18A.
11 Offenders over 15 but under 21 on the day of sentencing may be detained in a youth
12 justice center rather than adult prisons. Children, Youth, and Families Act 2005,
13 Div. 8, § 397. Meanwhile in Canada, no one may be sentenced to LWOP, because it
14 is incompatible with human dignity and therefore unconstitutional. *R. v.*
15 *Bissonnette*, 2022 SCC 23. In the United Kingdom, such a sentence may be imposed
16 on someone under 21 only when the severity of the offense is “exceptionally high
17 even by the standard of offences which would normally result in a whole life order.”
18 Police, Crime, Sentencing and Courts Act 2022, § 126.

19 All these developmentally informed approaches in other jurisdictions
20 underscore the need for courts in Nevada to take a hard look at sentences that have
21 been imposed on young people that provide no potential for their rehabilitation.
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25 ²⁷Available at
26 [https://justicelab.columbia.edu/sites/default/files/content/Youth%20Justice%20in%20Eu](https://justicelab.columbia.edu/sites/default/files/content/Youth%20Justice%20in%20Europe%20Experience%20of%20Germany%20the%20Netherlands%20and%20Croatia%20in%20Providing%20Developmentally%20Appropriate%20Responses%20to%20Emerging%20Adults%20in_0.pdf)
27 [rope%20Experience%20of%20Germany%20the%20Netherlands%20and%20Croatia%20i](https://justicelab.columbia.edu/sites/default/files/content/Youth%20Justice%20in%20Europe%20Experience%20of%20Germany%20the%20Netherlands%20and%20Croatia%20in%20Providing%20Developmentally%20Appropriate%20Responses%20to%20Emerging%20Adults%20in_0.pdf)
[n%20Providing%20Developmentally%20Appropriate%20Responses%20to%20Emerging](https://justicelab.columbia.edu/sites/default/files/content/Youth%20Justice%20in%20Europe%20Experience%20of%20Germany%20the%20Netherlands%20and%20Croatia%20in%20Providing%20Developmentally%20Appropriate%20Responses%20to%20Emerging%20Adults%20in_0.pdf)
[%20Adults%20in_0.pdf](https://justicelab.columbia.edu/sites/default/files/content/Youth%20Justice%20in%20Europe%20Experience%20of%20Germany%20the%20Netherlands%20and%20Croatia%20in%20Providing%20Developmentally%20Appropriate%20Responses%20to%20Emerging%20Adults%20in_0.pdf).

1 **5. Nevada state history supports that LWOP sentences**
2 **are unconstitutional for individuals who committed**
3 **their offenses when under 21.**

4 Early state history also supports the Court taking a closer look at harsh
5 sentences for late adolescents. At common law, the phrase “cruel and unusual”
6 encompassed the concept of being contrary to long usage or immemorial usage,
7 which necessarily requires historical analysis. *See Bucklew v. Precythe*, 587 U.S.
8 119, 130 (2019); John F. Stinneford, *The Original Meaning of “Unusual”: The*
9 *Eighth Amendment as a Bar to Cruel Innovation*, 102 Nw. U. L. Rev. 1739, 1745,
10 1814-15 (Fall 2008) (explaining “courts of the first half of the nineteenth century
11 shared the Framers’ understanding that the word ‘unusual’ in the Cruel and
12 Unusual Punishments Clause meant ‘contrary to long usage.’ They generally upheld
13 punishments that were consonant with common law precedent and were willing to
14 strike down those that were not . . .”).

15 True life sentences for young people were unheard of in 19th-century Nevada.
16 Rather, they are a cruel modern innovation. In Nevada as in the broader United
17 States, the true life sentence “stands among the most prominent penal
18 developments of the late twentieth century.” Christopher Seeds, *Life Sentences and*
19 *Perpetual Confinement*, 4 Annual Rev. Criminology 287, 291 (2021).

20 Scholarship on the use of life sentences in the 19th century has revealed it to
21 be a rare occurrence, and when used it was often accompanied by clemency and
22 other actions that offered mercy and undercut a true life-in-prison sentence. *See id.*
23 at 290-91 (“At a pivotal juncture for US punishment around 1870, penal reformers
24 presented data on life sentencing from a half dozen jurisdictions[, showing, for
25 example, that] life sentences often amounted to approximately 6 years in prison,
26 less time than many fixed terms; in addition, release decisions depended on
27 executive clemency . . .”). It was not a perpetual prison sentence. *Id.* at 291.

1 As applied to young people, such a punishment would have been wholly
2 inappropriate, going against the progressive attitudes toward youth that animate
3 the Nevada Constitution. At Nevada’s founding, 21 was the age of majority.
4 Hamilton, *supra*, at 64. “At the time of the Nevada Constitutional Convention, life
5 sentences were a rarity in Nevada, and even more so for youth. . . . [N]o life
6 sentences used on youth under the age of 21 were found in the 19th or early 20th
7 century [Nevada].” P.Ex. 13 at 10 (Rueda Report).

8 Instead, the Nevada Constitution explains that the law may provide “for the
9 establishment and maintenance of a House of Refuge [as opposed to a State Prison]
10 for Juvenile Offenders.” Nev. Const. art. 13, § 2. “A house of refuge was to be the
11 youths’ escape from the corruption of the outside world. As such, refuges were
12 portrayed to be as vital to a delinquent’s education as the public school.” Daniel
13 Macallair, *The San Francisco Industrial School and the Origins of Juvenile Justice*
14 *in California: A Glance at the Great Reformation*, 7 UC Davis J. of Juvenile L. &
15 Pol. 1, 3 (2003). Indeed, the Framers did not even debate the wisdom of establishing
16 a House of Refuge for juvenile offenders—it was a given.

17 When the Elko School for Boys was established in 1915, it housed adolescents
18 who were as old as 18 until they reached age 21. P.Ex. 13 at 9-11. But the very idea
19 of age at this time was different than it is today, because “chronological age was not
20 necessarily simple to establish. Other factors such as size, mental capacity, and
21 alleged evidence of potential for rehabilitation was used by law enforcement to
22 determine if a youth would be treated as a child or an adult. These factors were
23 almost always subjective and relied on local law enforcement’s attitude toward the
24 youth in question.” *Id.* at 9. As a result, “evidence in Nevada demonstrates that
25 youth over the age of 18 were regularly treated by the court as children, rather than
26 adults, with the Elko School being used as a temporary rehabilitative holding space
27 for juvenile offenders until they reached twenty-one years of age.” *Id.*

1 For example, Joseph Bell was an 18-year-old convicted of manslaughter in
2 1919. *Id.* at 9-10 (citing *White Pine News Weekly Mining Review* (Aug. 22, 1920)).
3 His judge and prosecutor “were merciful and allowed him to be sent up to Elko
4 Reform School until he reached his majority.” *Id.* at 10-11 (citing same). Ultimately,
5 scholar Rueda finds that the “history of Nevada’s relationship to the punishment
6 and incarceration of youth offenders is complex and often contradictory, yet it
7 reveals an attitude of hope towards the rehabilitation of youth.” *Id.* at 11.

8 This historical context supports that today’s true life-without-parole sentence
9 imposed on youth under the age of 21 is cruel or unusual. It is contrary to long
10 usage as embodied in the Nevada Constitution because in 19th-century Nevada,
11 youth were not punished this way. Rather, the Nevada Constitution contemplated
12 progressive measures to address adolescent criminality.

13 **D. A categorical bar is necessary because sentencing judges**
14 **cannot reliably predict which late adolescents are among the**
15 **rare few who are beyond redemption.**

16 Because it is not possible to reliably determine which late adolescents are
17 beyond redemption, this Court should hold that any imposition of LWOP on late
18 adolescents under the age of 21 violates the state constitution. Any other outcome
19 will result in courts sentencing late adolescents to life-without-parole when the
20 passage of time would have corrected the behavioral issues informing their crime.

21 It is impossible to determine with integrity or with any reasonable degree of
22 certainty if an offender, at age 18, 19, or 20, is the rare person who must be kept out
23 of society for the remainder of his life. Population-level data allows the Court to
24 make inferences about late adolescents as a category. That data explains that
25 “[v]iolent crime peaks at ages 17–19 and decreases in the early twenties. While
26 counterintuitive, a robust body of research indicates that committing a violent
27 crime before age 20 is not a strong predictor of a persistent criminal trajectory.” Ex.

1 8 at 42. “Most chronic and repeat offenders in youth do not persist into adulthood.”
2 *Id.* Even “committing a homicide in adolescence is not itself a predictor of either
3 future violent or non-violent recidivism.” *Id.*

4 Thus, as “a matter of predictive science,” Dr. Kinscherff explained, “it’s not
5 possible to reliably look at somebody at that age range and say this is somebody
6 who’s permanently incorrigible.” 12/10/2025 Tr. at 110. “[T]here’s no reasonable
7 basis upon which you can make that kind of lifetime prediction with a person that
8 young sitting in front of you.” *Id.* at 111. Even Deputy District Attorney Pesci
9 agreed: “I don’t think it’s possible. I agree with you.” *Id.* at 154.

10 That reflects the brain’s plasticity and amenability to change in late
11 adolescence. Science now shows that, as a result of the imbalances discussed in
12 *supra* Part I.C.2., aggressiveness, impulsivity, and risk-taking peak in late
13 adolescence and then precipitously decline; and even for the most extreme traits,
14 like antisocial traits, these too will decrease over time in the vast majority of late
15 adolescents. 12/11/2025 Tr. at 55. That’s the case even without intervention. *Id.* As
16 a result, sentencing judges should not be saddled with the impossibly speculative
17 task of identifying the negligible number of late adolescents who will never reform.
18 To do so would inevitably result in the imprisonment of people for life who will not
19 ultimately deserve or require permanent incapacitation. 12/10/2025 Tr. at 126.

20 Because life-without-parole is barred for all late adolescents, Feazell’s life-
21 without-parole sentence for crimes he was accused of committing when he was 18 is
22 cruel or unusual.

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1 **E. In the alternative, even if not categorically barred, then LWOP**
2 **sentences should be limited to cases where the sentencing**
3 **judge has determined, after considering the mitigating effects**
4 **of youth, that the defendant is the rare adolescent offender**
5 **whose crime reflects irreparable corruption.**

6 If the Court disagrees and finds that it is constitutional for life-without-
7 parole to be a sentencing option, then the Court should find that under the Nevada
8 Constitution, there still must be a limit on how and when it is imposed.

9 In *Miller*, the Supreme Court did not prohibit all life-without-parole
10 sentences imposed on juveniles. Instead, the Court held that “mandatory life
11 without parole for those under the age of 18 at the time of their crimes violates the
12 Eighth Amendment’s prohibition on ‘cruel and unusual punishments.’” *Miller*, 567
13 U.S. at 465. The decision did not “categorically bar a penalty for a class of offenders
14 or type of crime” but, rather, mandated “that a sentencer follow a certain process—
15 considering an offender’s youth and attendant characteristics—before imposing a
16 particular penalty.” *Id.* at 460. The Court specified several youth-related factors
17 (now known as “*Miller* factors”) that a sentencing judge must consider before
18 imposing a life-without-parole sentence on a juvenile. *Id.* at 477-78. These include
19 “immaturity, impetuosity, and failure to appreciate risks and consequences,” “the
20 family and home environment that surrounds him,” “the way . . . peer pressures
21 may have affected him,” and “the possibility of rehabilitation.” *Id.*

22 In *Montgomery*, the Court clarified its holding in *Miller*, explaining that
23 *Miller* did not merely create a procedural requirement that a “sentencer . . .
24 consider a juvenile offender’s youth before imposing life without parole.” 577 U.S. at
25 208. Instead, *Miller* established that, as a matter of substantive law, “the
26 penological justifications for life without parole collapse in light of the distinctive
27 attributes of youth.” *Id.* (cleaned up). The purpose of a *Miller* hearing, the Court
28 explained, is to determine whether the specific defendant before the court is an

1 exception to the rule—“the rare juvenile offender who exhibits such irretrievable
2 depravity that rehabilitation is impossible and life without parole is justified.” *Id.*
3 The Court emphasized that “[e]ven if a court considers a child’s age before
4 sentencing him or her to a lifetime in prison, that sentence still violates the Eighth
5 Amendment for a child whose crime reflects unfortunate yet transient immaturity.”
6 *Id.* (cleaned up). As *Miller* explained, the “appropriate occasions for sentencing
7 juveniles to this harshest possible penalty will be uncommon.” 567 U.S. at 479.

8 Even if this Court declines to adopt a categorical bar to imposing LWOP on
9 late adolescents, it should nonetheless hold that enhanced protections apply to
10 defendants who committed their crimes before age 21. Under these, a court must
11 “affirmatively consider the [offender’s] youth and its attendant characteristics” and
12 “provide an on-the-record sentencing explanation that explicitly or implicitly finds”
13 that he is one of the “rare” late adolescent offenders “whose crime reflects
14 irreparable corruption.” *Fletcher v. State*, 532 P.3d 286, 308 (Alaska Ct. App. 2023).

15 In light of the psychological and neuroscientific findings, courts cannot
16 justifiably treat a defendant’s 18th birthday as an absolute cutoff for constitutional
17 protections at sentencing. By applying the modified *Miller/Montgomery* rule to a
18 broader class of defendants, courts can account for the essential differences between
19 late adolescent defendants and older adults, while also leaving open the possibility
20 that there may be some rare 18-, 19-, or 20-year-olds who, in light of their
21 individual characteristics, can constitutionally be sentenced to life imprisonment
22 without the possibility of parole.

23 Under this approach, life-without-parole is barred for all except the rarest
24 individual who also received the appropriate process under an expanded
25 *Miller/Montgomery* approach. Fezell did not. His sentencing judge acknowledged
26 that Fezell had changed. 3/5/2009 Tr. at 6. Yet for her, “the underlying issue that
27 we have, which was a young man was killed, that doesn’t change, and your client

1 takes really no responsibility for any of those actions. . . . and I appreciate the fact
2 that he's made changes and is helping others, but to me the original crime, he needs
3 to be responsible. And, so here's my sentence." *Id.* In other words, instead of
4 considering Feazell's lesser culpability and heightened capacity for reform due to
5 his age, the judge relied on an invalid factor (failure to take responsibility) to justify
6 sentencing Feazell to die in prison. *See Brake v. State*, 113 Nev. 579, 585, 939 P.2d
7 1029, 1033 (1997); *Brown v. State*, 113 Nev. 275, 291, 934 P.2d 235, 245-46 (1997).

8 The sentencing court failed to consider that late adolescents in general are
9 highly likely to be deterred, incapacitated, and rehabilitated. Her explanation of
10 sentence is a mere 117 words, all about Feazell's failure to take responsibility. The
11 explanation shows that she failed to "affirmatively consider [Feazell's] youth and its
12 attendant characteristics" and "provide an on-the-record sentencing explanation
13 that explicitly or implicitly finds" that he is one of the "rare" late adolescent
14 offenders "whose crime reflects irreparable corruption." *Fletcher*, 532 P.3d at 308. It
15 follows that Feazell is serving a cruel or unusual sentence.

16 **II. If the Court declines to grant relief as to Claim 1, the Court should still**
17 **grant relief as to Claims 2 or 3.**

18 The evidentiary hearing testimony and evidence also supports this Court
19 granting relief as to Claims 2 and 3. Claim 2 is an as-applied challenge to Feazell's
20 sentence: "Petitioner's life-without-parole sentence is invalid because it violates art.
21 1, § 6 of the Nevada Constitution and the Eighth Amendment *as applied* to the facts
22 and circumstances of his offense." Claim 3 presents a novel statutory argument:
23 "Petitioner's life-without-parole sentence is invalid because the statutory guarantee
24 of parole eligibility for juveniles must be extended to late adolescents under
25 Nevada's equality of rights provision. Nev. Const. art. 1, § 24." Both are meritorious
26 claims, under which Feazell should be resentenced or found to be parole eligible.

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A. The evidentiary hearing evidence shows that a life-without-parole sentence is excessive as applied to Feazell.

Petitioner incorporates by reference the facts and arguments made in his petition in favor of this claim. *See* Pet. at 39-45.

A petitioner can bring an “as-applied challenge,” contesting the length of a sentence as being disproportionate “given all the circumstances in a *particular case.*” *United States v. Rheingold*, 731 F.3d 204, 211 (2d Cir. 2013). Even if this Court rejects petitioner’s categorical challenge to life-without-parole sentences imposed for offenses committed by 18-to-20-year-olds, it should hold that this life-without-parole sentence violates art. 1, § 6 and the Eighth Amendment in light of the particular facts and circumstances of petitioner’s case. *See Graham*, 560 U.S. at 91 (Roberts, C.J., concurring) (noting that he would find the juvenile’s life-without-parole sentence violated the Eighth Amendment in light of “the particular facts of this case,” without joining the majority’s categorical ruling).

For this claim, it is especially useful to consider the experts’ discussion of the environmental risk factors affecting late-adolescent behavior on a neural level. Dr. Baskin-Sommers, for example, reviewed the testimony of Dr. Cunningham, who testified at Feazell’s 2009 penalty phase trial (which did not lead to a verdict). She explained that he identified that Feazell experienced risk factors across multiple environmental and contextual domains. 12/11/2025 Tr. at 52. Feazell experienced adversity not just within the family, but also in his neighborhood, with peers, and in school. *Id.* But what Dr. Cunningham “couldn’t have possibly reviewed at the time because the science didn’t exist is how the combination of those risk factors really get under the skin of someone and impacts brain development, and that’s the science that I’ve been talking about, that . . . the experience of all of these risk factors and early in life really negatively impacts brain development in this kind of

1 imbalanced structure that we've been talking about, the sensitivity to emotions and
2 motivation and the difficulty controlling behavior." *Id.* at 52-53.

3 Asked if Dr. Cunningham could have been able to reliably testify about
4 Feazell's ability to make controlled decisions, Dr. Baskin-Sommers explained no.
5 "Not based on the neuroscience. We didn't have studies that showed these types of
6 risk factors combined negatively [to] impact brain development." *Id.* at 53. She
7 highlighted that all the classic adolescent factors that impact decision-making—
8 threats, rewards, delinquent peers—were present in Feazell's case. *Id.*

9 Dr. Baskin-Sommers also explained that for the risk factors described (early
10 antisocial behavior, deviant peers, family dysfunction), there are now many studies
11 showing that there are effective treatments that could improve the individual's
12 behavior. *Id.* at 54. In fact, the data shows "if you combine natural desistance with
13 targeted treatment, the vast majority of young people's behavior can change,"
14 including the behavior of a person like Feazell. *Id.* at 54-55.

15 Feazell's extreme sentence is undermined by all the new scholarship about
16 the environmental risk factors that delay brain development, and the contextual
17 factors that are now known to impair decision-making. As developed at his 2009
18 penalty phase trial, he endured a horrific childhood, replete with all the risk factors
19 that affect and delay brain development. In 1992, when this crime occurred, he was
20 only 18 years old. According to the State, he was with an older peer, trying to steal a
21 car at four in the morning, when he ultimately shot and killed the driver. He then
22 did not take the car, did not shoot the passenger, and fled with his peer. *If Feazell*
23 *had been just three months younger, he would have had a parole hearing in 2013.*
24 *See NRS 213.12135(1)(b).* He likely would have been granted parole by now.

25 Sentencing him to die in prison instead is cruel or unusual.
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1 **B. The statutory guarantee of parole eligibility for juveniles must**
2 **extend to late-adolescent petitioners like Feazell.**

3 Petitioner incorporates by reference the facts and arguments made in his
4 petition in favor of this claim. *See* Pet. at 45-50.

5 Petitioner is serving a life-without-parole sentence, but that sentence is
6 invalid because it fails to account for the ameliorative effect of NRS 213.12135. In
7 2015, the Legislature determined that prisoners convicted of an offense or offenses
8 that resulted in the death of one victim must be eligible for parole after serving 20
9 years of incarceration, if the homicide occurred when they were under 18. NRS
10 213.12135(1)(b). This law distinguishes between those who were under 18 when
11 they committed an offense or offenses, and those who were over 18, and that is an
12 age-based distinction that is subject to strict scrutiny under Nevada law.

13 The Nevada Constitution provides, “Equality of rights under the law shall
14 not be denied or abridged by this State or any of its political subdivisions on account
15 of race, color, creed, sex, sexual orientation, gender identity or expression, *age*,
16 disability, ancestry or national origin.” Nev. Const. art. 1, § 24 (emphasis added).
17 On its face, section 24 prohibits government discrimination on the basis of any of
18 the protected categories, without gradation. This is broad language, distinct from
19 any provision in the federal constitution. This means that laws that discriminate on
20 the basis of any category, including age, must withstand strict scrutiny.

21 Because NRS 213.12135 discriminates between late adolescents and
22 juveniles, even though late adolescents are no different than juveniles with respect
23 to their diminished culpability and capacity for change, it violates Nevada’s
24 constitutional guarantee of equality of rights. Nev. Const. art. 1, § 24. For the law to
25 withstand strict scrutiny, it must provide relief to late adolescents too.

26 The post-conviction rules barring untimely and successive claims do not bar
27 this claim. That is because this is not the kind of claim that must be raised in an

1 initial post-conviction petition for a petitioner to receive relief. A petitioner should
2 only seek relief of this kind once his statutory right to a parole hearing has been
3 denied. *Martinez-Garcia v. State*, 141 Nev. Adv. Op. 16, 566 P.3d 1112, 1115 (2025).
4 If a petitioner were to raise a claim that he will be improperly denied a parole
5 hearing in the future—before the parole hearing has been denied—“such harm
6 [would be considered] speculative and thus not a basis on which relief may be
7 afforded.” *Id.* Instead, a petitioner “may seek recourse when that harm is actual and
8 not hypothetical.” *Id.* Here, every year that Feazell is denied the parole hearing that
9 he is entitled to, he suffers actual harm, which allows him to litigate this claim now.
10 In other words, there is no “too late” when it comes to a petitioner asserting his
11 statutory right to a parole hearing. *See id.* This Court should grant relief.

12 CONCLUSION

13 For all the above reasons, this Court should grant Doneale Feazell a
14 resentencing hearing, so that he may be considered for a parole-eligible sentence, or
15 other appropriate relief.

16 Dated February 12, 2026.

17 Respectfully submitted,

18
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21 /s/ Shelly Richter
22 Shelly Richter
23 Assistant Federal Public Defender

24 /s/ Martin Novillo
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