NO. 92454-6

THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, RESPONDENT

v.

JOEL RODRIGUEZ RAMOS, APPELLANT

APPEAL FROM THE SUPERIOR COURT

OF SPOKANE COUNTY

STATE'S ANSWER TO BRIEF OF *AMICI CURIAE* AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON, WASHINGTON DEFENDER ASSOCIATION, WASHINGTON ASSOCIATION OF CRIMINAL DEFENSE LAWYERS, FRED T. KOREMATSU CENTER FOR LAW AND EQUALITY, AND COLUMBIA LEGAL SERVICES

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I. INTRODUCTION

The Respondent, State of Washington, submits this answer to the brief of Amici Curiae American Civil Liberties Union of Washington, Washington Defender Association, Washington Association of Criminal Defense Lawyers, Fred T. Korematsu Center for Law and Equality, and Columbia Legal Services.[1]

II. ARGUMENT

A. THE UNITED STATES SUPREME COURT HAS HELD THAT EIGHTH AMENDMENT ANALYSIS IS PERFORMED ON EACH *INDIVIDUAL* SENTENCE, NOT ON THE AGGREGATE SENTENCE IMPOSED.

The State has previously agreed that the 85-year sentence imposed on Mr. Ramos for his conviction for four counts of first degree murder (one by premeditation and three charged as felony murder) is a "de facto" life sentence. *See* Supplemental Br. of Resp't at 8; RP 141. This is due to the fact that the defendant potentially *may* spend most of his natural life in custody.

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[1] Amici Curiae Juvenile Law Center and TeamChild have also filed an amicus brief in support of Mr. Ramos. The State will not answer that brief as many of the concepts discussed by those Amici are also thoroughly covered by the Amici Curiae brief of the ACLU, et al., which will be addressed by the State in this answer.

However, while Amici urge that "life and *life equivalent* sentences" are *presumptively* invalid for crimes committed by youth, Br. of Amici Curiae ACLU, et al., at 4-7 (hereinafter "Br. of Amici"), Amici fail to provide any authority that would indicate that the constitutionality of an aggregate sentence is determined by the *total* amount of years imposed, rather than by the length of each individual sentence. *Roper, Graham, Miller* and *Montgomery*[2] did not involve the imposition of *aggregate* sentences, and the Supreme Court has made no declaration that its Eighth Amendment jurisprudence regarding aggregate sentences has been affected by these decisions.

Eighth Amendment analysis is performed on each individual sentence, not the aggregate sentence. *See*, *Lockyer v. Andrade*, 538 U.S. 63, 74 n. 1, 123 S. Ct. 1166, 155 L. Ed. 2d 144 (2003) (rejecting, in a federal habeas review, the dissent's argument that two consecutive sentences of twenty-five years to life for separate offenses were equivalent, for purposes of Eighth Amendment

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[2] *Roper v. Simmons*, 543 U.S. 551, 125 S. Ct. 1183, 161 L.Ed.2d 1 (2005); *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010); *Miller v. Alabama*, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012); *Montgomery v. Louisiana*, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016).

analysis, to one sentence of life without the possibility of parole for 37-year-old defendant); *see also Pearson v. Ramos*, 237 F.3d 881, 886 (7th Cir. 2001) ("it is wrong to treat stacked sanctions as a single sanction. To do so produces the ridiculous consequence of enabling a prisoner, simply by recidivating, to generate a colorable Eighth Amendment claim"); *United States v. Aiello*, 864 F.2d 257, 265 (2d Cir. 1988), *cert. denied*, 531 U.S. 830 (2000) ("Eighth amendment analysis focuses on the sentence imposed for each specific crime, not on the cumulative sentence"); *People v. Gay*, 960 N.E.2d 1272, 1279 (2011), *cert. denied*, 133 S.Ct. 270 (2012) ("The Eighth Amendment allows the State to punish a criminal for each crime he commits, regardless of the number of convictions or the duration of sentences he has already accrued").

The same rule should also apply to claims that consecutive terms imposed upon a defendant for crimes committed as a juvenile violate the Eighth Amendment. *See, e.g., Demirdjian v. Gipson*, __ F.3d __, 2016 WL 4205938 (9th Cir. 2016) (in a federal habeas petition a "functional life equivalent" sentence of two consecutive 25 years-to-life does not equate to a sentence of life without parole, because the petitioner "actually retained the possibility of parole," and, therefore, *Miller's* requirements were not triggered);

Bunch v. Smith, 685 F.3d 546, 550 (6th Cir. 2012), *cert. denied*, 133 S. Ct. 1996 (2013) (upholding an Ohio state court's determination that an eighty-nine-year sentence for a juvenile nonhomicide offender did not violate the Eighth Amendment on the basis that *Graham* does not clearly apply to aggregate sentences that amount to the practical equivalent of life without parole); *State v. Kasic*, 265 P.3d 410, 415-16 (Ariz. 2011) (concurrent and consecutive prison terms totaling 139.75 years for a nonhomicide child offender furthered Arizona's penological goals and was not unconstitutional under *Graham*); *People v. Mendez*, 188 Cal. App. 4th 47, 63, 114 Cal. Rptr. 3d 870 (2010) ("We disagree with Mendez that his de facto LWOP sentence should be reversed pursuant to the holding in *Graham*"); *Walle v. State*, 99 So. 3d 967, 972-73 (Fla. Dist. Ct. App. 2012) (refusing to extend *Graham* to aggregate sentences totaling ninety-two years on reasoning that *Graham* applies only to single sentences).[3]

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[3] Other jurisdictions have reached the opposite conclusion and have held that lengthy term of years sentences amounting to functional life equivalent also implicate the Eighth Amendment. *See e.g., State v. Riley*, 110 A.3d 1205 (Conn. 2015) *reversing State v. Riley*, 598 A.3d 304 (Conn. 2013); *State v. Null*, 836 N.W.2d 41 (Iowa 2013); *People v. Caballero*, 282 P.3d 291 (Cal. 2012).

A determinate sentence that approaches a life sentence, when imposed on a juvenile offender who has committed *multiple* murders, is not presumptively unconstitutional when that juvenile defendant has been given a full *Miller* hearing and the trial court has exercised its discretion in imposing the sentence. The Court of Appeals recognized that Mr. Ramos is uniquely situated because of the number of murders he committed, and that his case is distinguishable from recent United States Supreme Court decisions involving sentencing proportionality for juvenile offenders:

> None of the United States Supreme Court's precedents under the Eighth Amendment suggest that consecutive sentencing for multiple murders constitutes cruel and unusual punishment. We cannot accept the proposition that a sentencing scheme that is valid under the Eighth Amendment for a juvenile offender who commits a single murder is invalid if an offender commits enough murders that, run consecutively, the sentences approach a lifetime. Youth matters. But so do the lives that were taken. As the Supreme Court reiterated in *Graham*, murder is incomparable in terms of its severity and irrevocability because "'[l]ife is over for the victim of the murderer.'" 560 U.S. at 69, 130 S.Ct. 2011 (quoting *Kennedy v Louisiana*, 554 U.S. 407, 449, 128 S.Ct. 2461, 171 L.Ed.2d 525 (2008)). As observed in *Miller*, it is "beyond question" that a juvenile who *commits even one murder* "deserve[s] severe punishment." 132 S.Ct. at 2469.

State v. Ramos, 189 Wn. App. 431, 458, 357 P.3d 680 (2015) (emphasis added).

The Court of Appeals did not err in determining:

> Nothing in *Miller* or the precedents on which it relies suggests that proportionality is not affected if the offender has committed multiple murders – and *Graham's* discussion of the incomparability of the crime of murder compels the conclusion that committing multiple murders *must affect the proportionality analysis*.

Id. at 459 (emphasis added).

That Mr. Ramos committed the murders of four individuals unknown to him, including the premeditated murder of a six-year-old child,[4] *must* be taken into account in determining (1) whether the trial court properly exercised its discretion in imposing the defendant's sentence and (2) whether the sentence imposed amounts

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[4] Amici cite to *State v. Sweet*, 879 N.W.2d 811 (Iowa 2016), as additional authority supporting its conclusion that the Washington State Constitution compels the conclusion that Mr. Ramos' sentence is disproportionately cruel. However, the facts of *Sweet* are distinguishable from this case. First, Mr. Sweet murdered his abusive grandfather and his dying step-grandmother, *id.* at 812, which greatly differs from killing a household of unrelated victims, including two very young children, in order to effectuate a gang-related robbery. Second, for his crimes, Mr. Sweet was sentenced to *life without parole*, rather than a determinate sentence, as was Mr. Ramos. *Id.* at 816. Third, on appeal, Mr. Sweet asked the Iowa Supreme Court to adopt a categorical ban on life *without possibility of parole* sentences for juvenile offenders. *Id.* at 818. Again, Mr. Ramos' case is not a life without possibility of parole case, because he was not sentenced to life without the possibility of parole and is eligible to request early release by the Indeterminate Sentence Review Board, *see infra*.

to a cruel and unusual punishment under Eighth Amendment or Article 1, Section 14 of the Washington Constitution.[5] To hold otherwise would lead to the absurd result that a juvenile offender such as Mr. Ramos, may commit multiple murders but may only be punished as if he had committed one. This cannot be, for it would not only fail to exact justice for each individual victim whose life

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[5] Amici claim that the Washington Constitution independently requires this Court to reverse Mr. Ramos' sentence as a disproportionate punishment. Br. of Amici at 11. This Court has previously declined to engage in an analysis of independent state constitutional grounds where a *Gunwall* analysis is not properly briefed by the parties. *State v. Gunwall*, 106 Wn.2d 54, 720 P.2d 808 (1986); *State v. Wethered*, 110 Wn.2d 466, 472, 755 P.2d 797 (1988). And, even where a *Gunwall* analysis has been conducted to determine whether Article 1, Section 14 should be interpreted more broadly than the Eighth Amendment, this Court has previously found no requirement for a broader interpretation. *See*, *State v. Dodd*, 120 Wn.2d 1, 838 P.2d 86 (1992).

While Amici mention *State v. Fain*, 94 Wn.2d 387, 617 P.2d 720 (1980), a pre-*Gunwall* opinion in which this Court outlined the considerations used in analyzing whether punishment is independently "cruel" under the Washington State Constitution, this issue has not fully been developed by Amici or the parties.

This Court does not address arguments raised for the first time in the Supreme Court and not originally made by the petitioner or respondent within the petition for review or the response to the petition. *Cummins v. Lewis Cnty.*, 156 Wn.2d 844, 851, 133 P.3d 458 (2006). The Court generally follows RAP 13.7(b) which states "the Supreme Court will only review the questions raised in the motion for discretionary review." Mr. Ramos has never raised the issue of whether his sentence, while constitutional under the Eighth Amendment, would fail to pass muster under an independent State constitutional analysis.

was taken, but would also render similar-in-length sentences for juvenile offenders convicted of a single homicide disproportionate in light of the single crime they committed. The sentencing court must be allowed to exercise its sound discretion when imposing discretionary determinate sentences on juvenile offenders depending on the crimes for which the juvenile has been convicted, so long as the court also meaningfully considers the mitigating *Miller* facts presented at the sentencing hearing in light of the crimes committed by the juvenile, and how those facts bear on each defendant's culpability for the crimes he or she committed.

B. AMICI MISCHARACTERIZE THE SUPREME COURT'S HOLDINGS AS REQUIRING A SENTENCING COURT *GUARANTEE* OR *ASSURE* THAT A JUVENILE CONVICTED OF MURDER WILL BE RELEASED FROM PRISON.

In *Miller*, the Supreme Court stated:

> We therefore hold that the Eighth Amendment forbids a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders. Cf. *Graham*, 560 U.S., at ——, 130 S.Ct. at 2030 ("*A State is not required to guarantee eventual freedom,*" *but must provide "some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation*"). By making youth (and all that accompanies it) irrelevant to imposition of that

> harshest prison sentence, such a scheme poses too great a risk of disproportionate punishment.

132 S.Ct. at 2469.

However, the position advocated by Amici is that "neither gubernatorial clemency nor Washington's newly-enacted parole statute, RCW 9.94A.730 ... provide[] any *assurance* that Mr. Ramos will ever be released from prison. The Constitution requires more, and Mr. Ramos's sentence should be reversed." Br. of Amici at 19 (emphasis added). Amici therefore request this Court to hold that, not only must a juvenile be given a "meaningful *opportunity* for release," but also the *guarantee* or *assurance* that he will be released no matter how incorrigible or threatening he or she may be. Br. of Amici at 2, 11, 18-19. While the United States Supreme Court has declared that life sentences imposed on juvenile offenders will become increasingly more uncommon, and should be reserved for the worst offenders, the Court has not, to date, mandated that *all* juvenile offenders, regardless of their crimes, be *guaranteed* release at some future point in time.

Montgomery makes this clear:

> Perhaps it can be established that due to exceptional circumstances, [Mr. Montgomery's sentence to life in prison] was a just and proportionate punishment for the crime he committed as a 17-year-old boy. In

> light of what this court has said in *Roper*, *Graham*, and *Miller* about how children are constitutionally different from adults in their level of culpability, however, prisoners like Montgomery must be given the *opportunity* to show their crime did not reflect irreparable corruption; and, *if it did not*, their *hope for some years of life outside of prison* walls must be restored.

136 S.Ct. at 736-737 (emphasis added).

None of the Supreme Court's cases require that a defendant be assured or guaranteed release during his natural life. Rather, the defendant must be given a "meaningful opportunity to obtain release," or, in other words, "the opportunity to show [his] crime[s] did not reflect irreparable corruption." *Miller*, 132 S.Ct. at 2469; *Montgomery*, 136 S.Ct. at 736. This *opportunity* equates to *hope* for a juvenile convicted of a heinous crime, for the imposition of a life sentence must simply not be irrevocable. A *life without parole* sentence "means the denial of hope; it means that good behavior and moral improvement are immaterial; it means that whatever the future might hold in store for the mind and spirit of the convict, he will remain in prison for the rest of his days." *Graham*, 560 U.S. at 70 (internal citations omitted). Therefore, a sentence need not *guarantee* a defendant release, but must provide the juvenile

offender the potential that, through reform and improvement of character, he will one day be released.

Therefore, even assuming that this Court decides that consecutive determinate sentences approaching the natural life expectancy of a juvenile convicted of multiple murders violates *Miller*,[6] the legislative enactment effective June 1, 2014 (after Mr. Ramos was resentenced), RCW 9.94A.730, providing that the Indeterminate Sentence Review Board must hear and consider any petition for early release by *any* person sentenced before his or her eighteenth birthday (after the individual has served twenty years of his or her sentence), resolves any issues with regards to the proportionality of Mr. Ramos' sentence because it provides the "meaningful opportunity for release" that is required by the Eighth Amendment. *Montgomery* expressly held that States do not need to resentence juvenile offenders who have been sentenced in violation of *Miller* and the Eighth Amendment. 136 S.Ct. at 736 ("Allowing those offenders to be considered for parole ensures that juveniles whose crimes reflected only transient immaturity – and who have

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6 The State does not concede this point.

since matured – will not be forced to serve a disproportionate sentence in violation of the Eighth Amendment").

Amici's position that RCW 9.94A.730 does not remedy the alleged *Miller* violation because it does not "assure" that Mr. Ramos will ever be released from prison is incorrect. It therefore fails because (1) the defendant is not entitled to such an "assurance" as discussed above and (2) because the Supreme Court has held that consideration for early release complies with Eighth Amendment principles in juvenile sentencing, even where the juvenile's original sentence violates *Miller*.

C. AMICI OVEREMPHASIZE JUVENILE BRAIN SCIENCE LEAVING NO ROOM FOR INDEPENDENT LEGAL JUDGEMENT.

The State agrees that juvenile brain science has played an integral role in the development of Eighth Amendment jurisprudence on the proportionality of juvenile sentencing. The State agrees that these scientific concepts are not novel, but are common-sensical and something "any parent knows" as a product of child-rearing. *Miller*, 132 S.Ct. at 2464. However, while scientific authority (and common sense) inform that children *are different*, it is important that this distinguishing factor is not overemphasized, as Amici do in their brief.

A significant number of authorities criticize the overemphasis of juvenile neuroscience as it bears on juvenile criminal culpability. For instance, law professor Stephen Morse has argued that "[t]he neuroscience evidence in no way independently confirms that adolescents are less responsible than adults." *See*, Francis X. Shen, Legislating Neuroscience: The Case of Juvenile Justice, 46 Loy. L.A. L. Rev. 985, 994 (2013) citing Stephen J. Morse, Moral and Legal Responsibility and the New Neuroscience, in Neuroethics: Defining the Issues in Theory, Practice, and Policy 33, 48 (Judy Illes ed., 2005).

Additionally, scholars have criticized overemphasis of juvenile brain science as precluding independent legal judgment:

> [L]egal scholar Emily Buss argues that "there is nothing inherent about an adolescent's blameworthiness however well we understand the progress of their development, and *it is up to the law, not developmental science, to assign that blame*." When authors or advocates suggest that neuroscience shows adolescents are less blameworthy, this "improperly suggests that adolescents' developmental status dictates their level of culpability and leaves no room for independent legal (or moral) judgment."

Shen, *supra*, at 995, citing Emily Buss, Rethinking the Connection Between Developmental Science and Juvenile Justice, 76 U. Chi. L. Rev. 493, 510 (2009)(emphasis added).

Other authorities criticize the "Supreme Court's inference that evidence of brain abnormalities corresponding to adolescents' diminished moral capacities *should automatically be equated* to the legal—and deeply moral—finding of reduced blameworthiness." Jamie D. Brooks, "What Any Parent Knows" but the Supreme Court Misunderstands: Reassessing Neuroscience's Role in Diminished Capacity Jurisprudence, 17 New Crim. L. Rev. 442, 444 (2014) (emphasis added); *but see*, Br. of Amici ACLU, et al., at 12-16 (arguing that brain science supports the conclusion that life sentences are presumptively, if not *always*, unconstitutional.) This criticism is due, in part, to the fact that current science can inform about the *average* differences between the brains of juveniles and adults, but cannot reliably indicate the individual cognitive ability of a particular juvenile in the criminal justice system. Shen, *supra*, citing David L. Faigman et al., Group to Individual (G2i) Inference in Scientific Expert Testimony, 81 U. Chi. L. Rev. 417 (2014).

The sentencing court noted this very fact at Mr. Ramos' sentencing:

> We heard from Dr. Lee in the sentencing hearing. He discussed the advances made in science revealing that brains are still developing in adolescents and don't become fully mature or adult until age 25. His discussions, as well as those referenced by the United

> States Supreme Court, were general in nature and intended to apply to the population of adolescents.
>
> Dr. Lee acknowledged in his presentation that individuals mature at different rates. And, if you recall, he had an individualized slide of a group of young people who were reportedly 14 but each at obvious stages of maturity.
>
> Dr. Lee did not render an opinion nor provide testimony individualized to Mr. Ramos. Instead he made a presentation on the science of adolescent brain maturity for the population in general.

RP 172-173.

The Supreme Court has also acknowledged the difficulty in differentiating between those individuals whose crime reflects "unfortunate yet transient immaturity" and those juveniles whose "crime reflects irreparable corruption." *Graham,* 560 U.S. at 68.[7] Yet, in sentencing a juvenile, the court must be allowed to exercise its independent judgment by "consideration of the culpability of the offenders at issue in light of their crimes and characteristics along with the severity of the punishment in question." *Id.* at 67 (internal citations omitted).

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[7] Amici also recognize the difficulty for psychologists, prosecutors and judges to determine when a youth's crimes are the result of irreparable corruption, but argue this difficulty should persuade this Court to rule that life and life equivalent sentences are unconstitutional. Br. of Amici at 16-17.

Amici's overemphasis on juvenile brain science and the difficulties it may pose to sentencing courts should not lead this Court to remove discretion from the sentencing court to impose particular sentences after thoroughly studying the individual facts relating to each juvenile defendant, their crimes, their social histories, and how their social histories may have (or may not have) affected their participation in the crime(s) for which they were convicted. Removal of discretion from sentencing courts is certainly not what was intended by the Supreme Court – in fact, the Supreme Court intended just the opposite – that sentencing courts must exercise this individualized discretion in sentencing juveniles. "[A] sentencer need[s] to examine all these circumstances [including, substance abuse, history of physical abuse, mental health history, criminal history, etc.] before concluding that life without any possibility of parole was the appropriate penalty." *Miller*, 132 S.Ct. at 2469.

The sentencing court provided Mr. Ramos such an individualized hearing, and considered all of the *Miller* factors before imposing punishment, but, in its sound judgment, determined that juvenile brain science and the defendant's social history did not substantially mitigate the defendant's participation in the murder of

four innocents. This exercise of the court's discretion complied with *Miller* and the Eighth Amendment.

D. A FORMAL FINDING OF IRREPARABLE CORRUPTION WAS NOT REQUIRED TO SENTENCE MR. RAMOS TO STANDARD RANGE SENTENCES.

Amici argue that "only a finding of irreparable corruption could justify Mr. Ramos' life sentence, and that finding was neither made nor could it be on this record." Br. of Amici at 19.

No formal finding of irreparable corruption is required by *Miller*. *Montgomery*, 136 S.Ct. at 735 ("That *Miller* did not impose a formal factfinding requirement does not leave States free to sentence a child whose crime reflects transient immaturity to life without parole").

Contrary to Amici's assertion that irreparable corruption could not be found by the sentencing court on this record, the record reflects that the sentencing court made this precise finding, supported by the evidence before it, and after having considered the *Miller* mitigating factors presented at sentencing. The sentencing court was not satisfied, however, that Mr. Ramos' crimes did not reflect irreparable corruption or that the evidence presented by the defendant of his rehabilitation, personal growth, was sufficiently mitigating to warrant a departure from a standard range sentence.

> The question hinges on whether or not under former RCW 9.94A.120 I find a substantial and compelling reason to justify the exceptional sentence requested by Mr. Ramos. To determine this I am guided by RCW 9.94A.390(1), and that's the former statute applicable at the time in question which sets forth the mitigating circumstances. I am also taking into account the adolescent brain science considerations set forth in Miller versus Alabama, Graham versus Florida, and Roper versus Simmons ... as well as considerations under the Eighth Amendment of the United States Constitution and the above-mentioned cases, and the corresponding State Constitutional Protections.

RP 169.

The trial court rejected as inapplicable to Mr. Ramos' case the three "gaps" between juvenile and adult brains as discussed in *Miller v. Alabama*. RP 173-175.[8] Because the sentencing court was clearly convinced, from the facts and expert testimony, that defendant's actions were not reflective of "unfortunate yet transient

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[8] The sentencing court rejected that the defendant's actions resulted from a lack of maturity or an underdeveloped sense of responsibility leading to recklessness, impulsivity and heedless risk taking because the court determined the defendant's acts were planned and systematically executed. RP 173. The sentencing court rejected the proposition that the defendant's actions were indicative of an inability to appreciate the future consequences of current actions, but rather evidenced a clear, cold, calculating decision of a mind fully cognizant of future consequences. RP 174. Lastly, the sentencing court rejected the notion that Mr. Ramos' actions were "less likely to be evidence of irretrievable depravity," finding instead that his actions were "monstrous." RP 174.

immaturity"[9] of youth, the sentencing court did not err in sentencing the defendant within the standard range for each of the four murders he committed. In instances such as this, where the sentencing court finds that the multiple murders committed by a juvenile defendant *are* not reflective of the attributes attendant with youth, the Eighth Amendment does not bar a lengthy or life sentence without parole. And, in any event, the defendant will be able to present the same and additional evidence, when he is considered for parole by the indeterminate sentence review board.

III. CONCLUSION

The State respectfully requests that this Court affirm the defendant's sentence. The trial court fully complied with the Eighth Amendment requirements of the Supreme Court before it sentenced Mr. Ramos. While the trial court was unsatisfied that Mr. Ramos' crimes of murdering four people were characteristic of youth after it fully considered the facts of the case, Mr. Ramos' history, and juvenile brain science, Mr. Ramos nonetheless enjoys the hope that he will be eligible for early release based on additional

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9 *Miller*, 132 S.Ct. at 2469 (quoting *Roper*, 543 U.S. at 573).

demonstration of maturity and growth in the future. This is precisely what is required by *Miller* and *Montgomery*, and should be affirmed.

Dated this 5 day of October, 2016.

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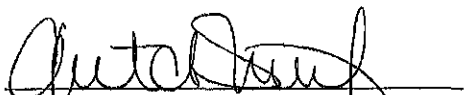

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I certify under penalty of perjury under the laws of the State of Washington, that on October 5, 2016, I e-mailed a copy of the State's Answer to Brief of Amici Curiae American Civil Liberties Union Of Washington, Washington Defender Association, Washington Association of Criminal Defense Lawyers, Fred T. Korematsu Center for Law and Equality, and Columbia Legal Services in this matter, pursuant to the parties' agreement, to:

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