IN THE
MICHIGAN SUPREME COURT
APPEAL FROM THE MICHIGAN COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v.

Supreme Court No. 162425
Court of Appeals No. 342440
Wayne CC: 92-0334-01-FC

MONTEZ STOVALL,
Defendant-Appellant.

BRIEF OF *AMICI CURIAE* JUVENILE LAW CENTER, JUVENILE SENTENCING PROJECT, AMERICAN CIVIL LIBERTIES UNION OF MICHIGAN, AND DEBORAH LABELLE IN SUPPORT OF DEFENDANT-APPELLANT MONTEZ STOVALL

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INTERESTS AND IDENTITIES OF *AMICI CURIAE*[1]

Juvenile Law Center advocates for rights, dignity, equity and opportunity for youth in the child welfare and justice systems through litigation, appellate advocacy and submission of *amicus* briefs, policy reform, public education, training, consulting, and strategic communications. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center strives to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are rooted in research, consistent with children's unique developmental characteristics, and reflective of international human rights values.

Juvenile Law Center has worked extensively on the issues of juvenile life without parole and de facto life sentences, serving as co-counsel for petitioner in the U.S. Supreme Court case *Montgomery v Louisiana*, 577 US 190, 208; 136 S Ct 718; 193 L Ed 2d 599 (2016), and filing *amicus* briefs in the U.S. Supreme Court in both *Graham v Florida*, 560 US 48; 130 S Ct 2011; 176 L Ed 2d 825 (2010), and *Miller v Alabama*, 567 US 460; 132 S Ct 2455; 183 L Ed 2d 407 (2012). Additionally, Juvenile Law Center has participated as *amicus curiae* in numerous juvenile life without parole and *de facto* life cases throughout the nation, including in the Michigan Supreme Court in *People v Carp*, 496 Mich 440; 852 NW2d 801 (2014), *vacated* 136 S Ct 1355; 194 L Ed 2d 339 (2016), and *People v Skinner*, 502 Mich 89; 917 NW2d 292 (2018).

The **Juvenile Sentencing Project** is a project of the Legal Clinic at Quinnipiac University School of Law. The Juvenile Sentencing Project focuses on issues relating to long prison sentences imposed on children. In particular, it researches and analyzes responses by courts and legislatures nationwide to the U.S. Supreme Court's decisions related to long sentences for juveniles and

[1] Pursuant to MCR 7.312(H)(4), *amici* state that no counsel for a party authored this brief in whole or in part, nor did anyone, other than *amici* or their counsel, make a monetary contribution intended to fund the preparation or submission of the brief.

produces reports and memoranda for use by policymakers, courts, scholars, and advocates. The Juvenile Sentencing Project focuses its research in particular on the "meaningful opportunity to obtain release" standard applicable to individuals who commit crimes as children. Because of its dedication to pursuing research in this area of the law, the Juvenile Sentencing Project has an interest in assisting courts to develop an accurate understanding of the legal issues surrounding the standard.

The **American Civil Liberties Union of Michigan** ("ACLU") is the Michigan affiliate of a nationwide, nonpartisan organization with over a million members dedicated to protecting the rights guaranteed by the United States Constitution. The ACLU has long advocated for an end to the practice of sentencing children in Michigan to life in prison, including through litigation, as amicus curiae, and through public education. See, e.g., *Hill v Snyder*, 900 F3d 260 (CA 6, 2018); *People v Carp*, 496 Mich 440; ACLU of Michigan, *Second Chances: Juveniles Serving Life Without Parole in Michigan Prisons* (2004).

Deborah LaBelle is a founder and board member of the national Campaign for Fair Sentencing of Youth, Director of the Juvenile Life Without Parole Initiative and civil rights attorney who has been and is lead counsel on multiple class actions challenging the treatment and punishment of youth in the criminal legal system in Michigan. She has contributed to multiple books and articles addressing human rights and youth justice and represented clients in the United States Supreme Court and the Inter American Court of Justice. Her recognition includes numerous awards for outstanding legal advocacy on behalf of defendants, youth, and communities.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

The United States Supreme Court has repeatedly admonished against the imposition of juvenile life sentences without consideration of the hallmark characteristics of youth. "The juvenile should not be deprived of the opportunity to achieve maturity of judgment and self-recognition of human worth and potential. . . . Life in prison without the possibility of parole gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope." *Graham v Florida*, 560 US 48, 79; 130 S Ct 2011; 176 L Ed 2d 825 (2010). See also *Miller v Alabama*, 567 US 460, 479; 132 S Ct 2455; 183 L Ed 2d 407 (2012). A sentence imposed on a child in a nonhomicide case, whether formally labeled life without parole or not, is unconstitutional if it fails to provide a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Graham*, 560 US at 75. This meaningful opportunity for release must also be provided to individuals who commit homicide crimes as children—except in the rarest of cases where the sentencer has determined, after giving mitigating effect to the circumstances and characteristics of youth, that a life without parole sentence is warranted. *Montgomery v Louisiana*, 577 US 190, 208; 136 S Ct 718; 193 L Ed 2d 599 (2016).

In light of these decisions, Michigan courts are now resentencing all youth who were unconstitutionally sentenced to life without any possibility of parole. See MCL 769.25; MCL 769.25a. The majority of youth initially sentenced to mandatory life without parole have been resentenced, with 248 of the 361 or 92.5% of the youth resentenced, receiving term-of-years sentences.[2] Retroactive correction of the sentence to die in prison is precisely what the Eighth Amendment requires. *Montgomery*, 577 US at 213.

[2] Data on file with the American Civil Liberties Union of Michigan (available upon request).

But individuals like Montez Stovall—who pled guilty to second-degree murder as a youth in order to avoid an (unconstitutional) life without parole sentence—continue to serve life sentences that deny the meaningful and realistic opportunity for release. No court has considered the mitigating circumstances of Mr. Stovall's youth at the time of his offense such that he may constitutionally serve a sentence of life without a meaningful opportunity for parole or its equivalent. Mr. Stovall is at the mercy of the Michigan Parole Board (the "Board"), which is not required to base its release decision on his youth at the time of the crime or his post-crime maturity and rehabilitation, but instead exercises unfettered discretion in deciding whether even to *consider* a person for release—a decision that may itself be overridden, for any reason, at the objection of the sentencing judge. Moreover, the Board's procedures fall short of ensuring robust, accurate review; the parole process for those serving life sentences fails to provide the protections required to guarantee a meaningful chance at life outside of prison walls.

This Court must ensure that Mr. Stovall is not condemned to spend the rest of his life in prison because his current sentence fails to provide the realistic and meaningful opportunity for release to which he is constitutionally entitled. The Court should therefore grant relief from judgment and order Mr. Stovall to be resentenced to a term of years.

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The United States Supreme Court's directive that courts must consider youths' diminished culpability, heightened vulnerability, and increased capacity for reform before condemning them to die in prison applies equally regardless of the mechanism that threatens to keep them in prison for life. Where, as here, a defendant is sentenced to life in prison without adequate consideration of youth, he must have a "realistic" and "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Graham v Florida*, 560 US 48, 75, 82; 130 S Ct 2011;

176 L Ed 2d 825 (2010); *Miller v Alabama*, 567 US 460, 479; 132 S Ct 2455; 183 L Ed 2d 407 (2012). The Court recognized that "[t]he opportunity for release [must] be afforded to those who demonstrate the truth of *Miller's* central intuition—that children who commit even heinous crimes are capable of change." *Montgomery v Louisiana*, 577 US 190, 212; 136 S Ct 718; 193 L Ed 2d 599 (2016). Therefore, in order for his life sentence to pass constitutional muster, Mr. Stovall must be provided a meaningful and realistic opportunity for release by the Michigan Parole Board. The Board's current policies, practices, and governing standards do not pass this test. This Court should intervene, and grant relief here, to ensure that Michigan is not condemning youth to die in prison based on the combination of a life sentence and a constitutionally inadequate parole process that result in lifetime imprisonment without a meaningful opportunity for release.

I. THE FEDERAL AND STATE CONSTITUTIONS PROHIBIT LIFE SENTENCES FOR YOUTH ABSENT A PAROLE PROCESS THAT PROVIDES A MEANINGFUL AND REALISTIC OPPORTUNITY FOR RELEASE

To comply with the federal and state constitutions, Michigan's parole processes must account for Mr. Stovall's youth at the time of his crime. The Eighth Amendment requires that an individual serving a life sentence imposed without consideration of his youth and related circumstances have a realistic and meaningful opportunity for release based on demonstrated maturity and rehabilitation. See *Graham*, 560 US at 75, 82; *Montgomery*, 577 US at 207–08. Likewise, a parolable life sentence violates Michigan's prohibition on cruel or unusual punishment, see Const 1963, art 1, § 16, when it is imposed without the requisite consideration of youth, is disproportionately severe, increasingly rare, and fails to account for his rehabilitation.

A. To Comply With Constitutional Requirements, A Parole System Must Recognize The Constitutionally Significant Ways Children Are Different From Adults

The United States Supreme Court has long recognized that children are different from adults, and that these differences are constitutionally significant. *Graham,* 560 US at 68; *Miller,* 567 US at 471; *Montgomery*, 577 US at 208. Three significant differences distinguish youth from adults for culpability purposes:

> First, children have a "lack of maturity and an underdeveloped sense of responsibility," leading to recklessness, impulsivity, and heedless risk-taking. Second, children "are more vulnerable . . . to negative influences and outside pressures," including from their family and peers; they have limited "contro[l] over their own environment" and lack the ability to extricate themselves from horrific, crime-producing settings. And third, a child's character is not as "well formed" as an adult's; his traits are "less fixed" and his actions less likely to be "evidence of irretrievabl[e] deprav[ity]."

Miller, 567 US at 471 (alterations in original), first quoting *Graham*, 560 US at 68, then quoting *Roper v Simmons*, 543 US 551, 569-70; 125 S Ct 1183; 161 L Ed 2d 1 (2005). In reaching these conclusions about young people's reduced culpability, the Supreme Court has relied on an increasingly settled body of research confirming the distinct emotional, psychological, and neurological attributes of youth. *Graham*, 560 US at 68 (confirming that since *Roper v Simmons*, "developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds").

For example, adolescents "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them." *JDB v North Carolina*, 564 US 261, 272; 131 S Ct 2394; 180 L Ed 2d 310 (2011), quoting *Bellotti v Baird*, 443 US 622, 635; 99 S Ct 3035; 61 L Ed 2d 797 (1979). See also Scott & Steinberg, *Adolescent Development and the Regulation of Youth Crime*, 18 Future Child 15, 20 (2008) ("Considerable evidence supports the conclusion that children and adolescents are less capable decision makers than adults in ways that

are relevant to their criminal choices."). Although adolescents have the capacity to reason logically, they "are likely less capable than adults are in *using* these capacities in making real-world choices, partly because of lack of experience and partly because teens are less efficient than adults in processing information." Scott & Steinberg, *supra,* at 20. Because adolescents are less likely to perceive potential risks, they are less risk-averse than adults. *Id*. at 21. See also Steinberg, *The Science of Adolescent Brain Development and Its Implications for Adolescent Rights and Responsibilities*, in Bhabha, ed, *Human Rights and Adolescence* (Philadelphia: University of Pennsylvania Press, 2014), ch3, pp 59, 64–65 ("[A]dolescents' reward centers are activated more than children's or adults' when they expect something pleasurable to happen. . . . Heightened sensitivity to anticipated rewards motivates adolescents to engage in acts, even risky acts, when the potential for pleasure is high . . . .") (citation omitted).

Youths' diminished ability to perceive potential risks and make appropriate decisions is exacerbated by the challenges they face in thinking realistically about future events. See Brief for American Psychological Association et al. as *Amici Curiae* Supporting Petitioners, *Graham v Florida*, 560 US 48 (2010) (Nos 08-7412, 08-7621), pp 11–12. Their lack of future orientation means that adolescents are both less likely to think about potential long-term consequences and more likely to assign less weight to those that they *have* identified, especially when faced with the prospect of short-term rewards. Scott & Steinberg, *supra*, at 20; *Graham,* 560 US at 78. Because adolescents attach different values to rewards than adults do, they often exhibit sensation-seeking characteristics that reflect their need to seek "varied, novel, [and] complex . . . experiences [as well as a] willingness to take physical, social, *legal* and *financial* risks for the sake of such experience." Zuckerman, *Behavioral Expressions and Biosocial Bases of Sensation Seeking* (Cambridge: Cambridge University Press, 1994), p 27. Adolescents thus frequently engage in risky behaviors

and are less able to suppress action toward emotional stimulus; they have difficulty exhibiting self-control. Scott & Steinberg, *supra*, at 21–22. All of these attributes cause adolescents to make different calculations than adults, leading them to engage in behavior—including criminal conduct—that they would not participate in in adulthood.

Significantly, the United States Supreme Court has recognized that "'[f]or most teens, [risky or antisocial] behaviors are fleeting; they cease with maturity as individual identity becomes settled. Only a relatively small proportion of adolescents who experiment in risky or illegal activities develop entrenched patterns of problem behavior that persist into adulthood.'" *Roper*, 543 US at 570 (second alteration in original), quoting Steinberg & Scott, *Less Guilty by Reason of Adolescence: Development Immaturity, Diminished Responsibility, and the Juveniles Death Penalty*, 58 Am Psychologist 1009, 1014 (2003). In a study of over 1,300 people who committed juvenile offenses, "even among those individuals who were high-frequency offenders at the beginning of the study, the majority had stopped these behaviors by the time they were 25." Steinberg, *Give Adolescents the Time and Skills to Mature, and Most Offenders Will Stop* (2014), pp 1, 3 <http://www.pathwaysstudy.pitt.edu/documents/MacArthur%20Brief%20Give%20Adolescents%20Time.pdf>.

Most people who commit offenses in childhood are no longer a public safety risk once they reach their mid-twenties, let alone later in life. See, e.g., Models for Change, *Research on Pathways to Desistance: December 2012 Update* (2012), p 4 <https://www.modelsforchange.net/publications/357/Research_on_Pathways_to_Desistance_December_2012_Update.pdf> (finding that, of more than 1,300 serious offenders studied for seven years, only approximately 10 percent reported continued high levels of antisocial acts, and noting that "it is hard to determine who will continue or escalate their antisocial acts and who will desist," as "the original offense . .

. has little relation to the path the youth follows over the next seven years"). In light of this research, "incorrigibility is inconsistent with youth." *Graham*, 560 US at 72–73, quoting *Workman v Commonwealth*, 429 SW2d 374, 378 (Ky, 1968). The penological justification of a life sentence—incapacitation—is fundamentally at odds with what we know of children's capacity for change. See *id.* at 74.

B. Life Sentences Imposed On Youth That Provide Only A Remote Chance Of Meaningful Life Outside Of Prison Violate The Eighth Amendment

Recognizing the constitutionally significant differences between children and adults, the Eighth Amendment requires that juvenile sentences provide a "realistic" and "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Graham*, 560 US at 75, 82; *Miller*, 567 US at 479. Life without parole sentences, lengthy term-of-years sentences, and aggregate sentences all violate the Eighth Amendment if they do not provide a realistic opportunity for release at a meaningful time in an individual's life. See *State v Moore*, 149 Ohio St 3d 557, 572; 2016-Ohio-8288; 76 NE3d 1127 (2016) ("Certainly, the [*Graham*] court envisioned that any nonhomicide juvenile offender would gain an opportunity to obtain release sooner than after three-quarters of a century in prison."); *Casiano v Comm'r of Correction*, 317 Conn 52, 79; 115 A3d 1031 (2015) ("[A] fifty year term and its grim prospects for any future outside of prison effectively provide a juvenile offender with 'no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope.'"), quoting *Graham*, 560 US at 79; *State v Null*, 836 NW2d 41, 71 (Iowa, 2013) ("The prospect of geriatric release . . . does not provide a 'meaningful opportunity' to demonstrate the 'maturity and rehabilitation' required to obtain release and reenter society as required by *Graham*."), quoting *Graham*, 560 US at 75; *State v Comer*, opinion of the Supreme Court of New Jersey, issued January 10, 2022 (Docket Nos. 084509, 084516), 2022 WL 90226, at *22–23 (holding that a 30-year parole bar does not comport

with contemporary standards of decency and may be grossly disproportionate to the underlying offense in light of the diminished culpability of juvenile offenders). The Supreme Court envisioned that a meaningful opportunity for release would mean more than the mere act of release or a *de minimis* quantum of time lived outside prison. When articulating what the opportunity encompassed, the Court spoke of the chance to rejoin society in qualitative terms.

In addition, for life sentences that carry the possibility of parole, the Eighth Amendment requires parole boards to account for youth and base release decisions on an assessment of an individual's maturity and rehabilitation. See, e.g., *Flores v Stanford*, unpublished order of the United States District Court for the Southern District of New York, issued September 20, 2019 (Docket No. 18 CV 2468-VB), 2019 WL 4572703, at *9 (denying motion to dismiss Eighth Amendment challenge to New York's parole system based on allegations that "[i]nstead of basing parole determinations on juvenile lifers' demonstrated maturity and rehabilitation, defendants allegedly 'have denied, and continue to deny, juvenile lifers release to parole supervision based *only* on the crime committed or juvenile criminal history' and '*despite* clear evidence of rehabilitation and maturity'"), quoting Second Amended Complaint at ¶ 153, *Flores v. Stanford* (2018) (Docket No. 18 CV 2468-VB); *Maryland Restorative Justice Initiative v Hogan*, memorandum opinion of the United States District Court for the District of Maryland, issued February 3, 2017 (Docket No. ELH-16-1021), 2017 WL 467731, at *25–27 (denying in part motion to dismiss challenge to parole system, noting inadequate governing standards, no consideration of maturity and rehabilitation, and alleged denials based on status as lifers and offense); *Greiman v Hodges*, 79 F Supp 3d 933, 944 (SD Iowa, 2015) (finding plausible claim that parole system was constitutionally deficient because it failed adequately to account for youth, maturity, and rehabilitation and focused instead on the seriousness of the offense).

C. To Meet Constitutional Requirements, Parole Procedures Must Support A Meaningful Opportunity For Release Based On Full And Accurate Information

Parole boards must employ procedures that ensure the constitutionally required realistic and meaningful opportunity for release based on robust and accurate consideration of youth, maturity, and rehabilitation. See, e.g., *Greimen*, 79 F Supp 3d at 945 (recognizing due process rights for juveniles in parole proceedings post-*Graham*); *Howard v Coonrod*, unpublished order of the United States District Court for the Middle District of Florida, issued June 25, 2021 (Case No. 6:21-cv-62-PGB-EJK), 2021 WL 2603580, at *7 (citing, in denying motion to dismiss challenge to Florida's parole process for lifers, allegations that prospective parolees are not able to effectively challenge erroneous or detrimental evidence at parole hearings).

People sentenced to crimes committed as children remain an especially vulnerable population. They are more likely than adult offenders to have experienced abuse and trauma, to require psychological and other professional services, to experience educational gaps or deficits, and to lack connections and support outside prison, among other vulnerabilities. See, e.g., Nellis, The Sentencing Project, *The Lives of Juvenile Lifers*: *Findings from a National Survey* (2012), pp 2–3 <https://sentencingproject.org/wp-content/uploads/2016/01/The-Lives-of-Juvenile-Lifers.pdf>; American Civil Liberties Union, *False Hope: How Parole Systems Fail Youth Serving Extreme Sentences* (2016), p 26 <https://www.aclu.org/sites/default/files/field_document/121416-aclu-parolereportonlinesingle.pdf>. Therefore, parole procedures must account for the differences between individuals sentenced as adults and those sentenced as youth, even though the parole-eligible individual is now an adult. A meaningful opportunity for release must include procedural protections that prepare individuals to navigate the parole process, provide opportunities to adequately address their individual characteristics, and ensure mechanisms for review.

Moreover, because most youth outgrow their antisocial and criminal behavior as they mature, review of their maturation and rehabilitation should begin relatively early in their sentences, and their progress should be assessed regularly. Although *Miller* requires that courts consider a youth's chances of becoming rehabilitated, that decision is difficult to make at the outset. See *Roper*, 543 US at 573 ("It is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile whose crime reflects irreparable corruption."), citing Steinberg & Scott, *supra*, at 1014. For youth serving sentences of life *with* the possibility of parole, the decision has never been made at all, and their youth is neither considered at the time of sentencing nor throughout their sentence. Given the difficulty of determining whether a person is irreparably corrupt and the extremely high stakes of a decision to keep a youth detained for life, parole boards must grant regular review to youth serving life with parole sentences. Early and regular assessments of juveniles enable timely evaluation of the individual's maturation, progress, and performance, as well as provide an opportunity to confirm that the person is receiving vocational training, programming, and treatment opportunities that foster growth and rehabilitation. See, e.g., *Graham*, 560 US at 74 (noting the importance of "rehabilitative opportunities or treatment" to "juvenile offenders, who are most in need of and receptive to rehabilitation"); see also *Bonilla v Iowa Bd of Parole*, 930 NW2d 751, 786 (Iowa, 2019) (holding that if the state, through the parole board, wishes to condition release upon completion of certain programming, the department of corrections cannot unreasonably withhold such programming from a juvenile offender).

D. A Parolable Life Sentence Imposed For A Childhood Crime That Fails To Provide A Meaningful Opportunity For Release Also Violates the Michigan Constitution's Ban On "Cruel Or Unusual Punishment"

This Court, applying the Michigan Constitution, may be in a preferential position to apply the scientific findings and rationale from *Graham* and *Miller* to the present case to find that parolable life sentences for youth in Michigan fail to provide the requisite meaningful opportunity for release and are therefore invalid under state law. State courts are the appropriate venue to recognize broader protections under state law because their decisions do not confront issues of federalism. See Frase, *Limiting Excessive Prison Sentences Under Federal and State Constitutions*, 11 U Pa J Const L 39, 63 (2008). Because state court judges are either directly elected or appointed by locally elected officials, it is widely acknowledged that their decisions invalidating excessive legislative and executive actions under state law raise fewer issues of democratic legitimacy than federal constitutional review. *Id*. Moreover, while only the U.S. Supreme Court can alter its own clear holding, *Rodriguez de Quijas v Shearson/American Express, Inc*, 490 US 477, 484; 109 S Ct 1917; 104 L Ed 2d 526 (1989), this Court faces no such constraint with respect to interpreting its own state constitution. See *People v Bullock*, 440 Mich 15, 27–28; 485 NW2d 866 (1992). In line with evolving standards of law, the Court should recognize state constitutional protections for children facing life sentences who confront a lack of meaningful and realistic opportunities for release in their lifetime.

Whereas the Eighth Amendment proscribes the imposition of "cruel *and* unusual punishments," US Const, Am VIII (emphasis added), Michigan's Constitution provides that "cruel *or* unusual punishment shall not be inflicted," Const 1963, art 1, § 16 (emphasis added). Since 1850, Michigan's Constitution has prohibited the imposition of "cruel or unusual

punishment," a broader interpretation than the U.S. Constitution's ban on "cruel and unusual punishment." Const 1850, art 6, § 31. Michigan has adopted four constitutions since 1835. The first prohibited the imposition of "cruel and unjust punishments," but every constitution thereafter adopted the broader, more expansive "cruel or unusual punishment" language. Const 1835, art 1, § 18; Const 1908, art 2, § 15; Const 1963, art 1, § 16. The "cruel or unusual" phrase dates back to the Northwest Ordinance of 1787, which the Continental Congress passed weeks prior to the ratification of the U.S. Constitution. Bessler, *Cruel & Unusual: The American Death Penalty and the Founders' Eighth Amendment* (Boston: Northeastern University Press, 2012), pp 118–19. The decision to include the more expansive language in Michigan's Constitution was not accidental or inadvertent. *Bullock*, 440 Mich at 30 n 11.

This Court has long recognized the textual difference between the Eighth Amendment and article 1, § 16 of Michigan's Constitution and interprets the latter provision to provide more extensive protection than the former. *Bullock*, 440 Mich at 27–36 (declining to follow the U.S. Supreme Court's Eighth Amendment interpretation); *People v Carp*, 496 Mich 440, 519; 852 NW2d 801 (2014), judgment vacated on other grounds 577 US 1186 (2016); *People v Lorentzen,* 387 Mich 167, 172; 194 NW2d 827 (1972); *People v Hallak*, 310 Mich App 555, 569; 873 NW2d 811 (2015) ("Because of its broader language the Michigan prohibition potentially covers a larger group of punishments."), rev'd on other grounds 499 Mich 879 (2016); *Carlton v Dep't of Corrections*, 215 Mich App 490, 505; 546 NW2d 671 (1996) ("In an appropriate case, the Michigan Constitution's prohibition against 'cruel or unusual' punishment may be interpreted more broadly than the Eighth Amendment's prohibition against 'cruel and unusual' punishment."). This is, in part, because the text of the Michigan provision protects against cruel *or* unusual punishment while the text of the U.S. provision protects only against cruel *and* unusual

punishment. *Bullock*, 440 Mich at 30. Therefore, a punishment need not be both cruel and unusual to violate the Michigan Constitution. *Id*. at 31. "The prohibition of punishment that is unusual but not necessarily cruel carries an implication that unusually excessive imprisonment is included in that prohibition." *Lorentzen*, 387 Mich at 172.

Bullock is an example of a case in which the Michigan Supreme Court, guided by the analysis of the U.S. Supreme Court, interpreted Michigan's cruel or unusual prohibition more broadly than the Eighth Amendment and granted relief from a life without parole sentence under the Michigan Constitution. In *Harmelin v Michigan*, the U.S. Supreme Court rejected, by a vote of 5-4, an Eighth Amendment challenge to Michigan's mandatory sentence of life without parole possessing 650 grams or more of a mixture containing cocaine. 501 US 957, 961, 994; 111 S Ct 2680; 115 L Ed 2d 836 (1991). One year later in *Bullock*, however, the Michigan Supreme Court found the dissenting opinion in *Harmelin* more persuasive for purposes of interpreting the Michigan Constitution. *Bullock*, 440 Mich at 28, 37. The very sentencing practice upheld by the Supreme Court in *Harmelin* was struck down by this court in *Bullock*.

Michigan courts subsequently reinforced this Court's broader interpretation of Const 1963, art 1, § 16. See *Carlton*, 215 Mich App at 505; *People v Nunez*, 242 Mich App 610, 618 n 2; 619 NW2d 550 (2000) (stating that the Eighth Amendment provides "*lesser* protection" than Const 1963, art 1, § 16 and that, if a punishment "passes muster under the state constitution, then it necessarily passes muster under the federal constitution"); *People v Benton*, 294 Mich App 191, 204; 817 NW2d 599 (2011); *People v Bosca*, 310 Mich App 1, 71–72 n 24; 871 NW2d 307 (2015) ("[Const 1963, art 1, § 16] has been interpreted as providing broader protection than its federal counterpart."); *People v Tucker*, 312 Mich App 645, 654 n 5; 879 NW2d 906 (2015).

Michigan is joined by 18 other states prohibiting cruel *or* unusual punishment. Berry III, *Cruel State Punishments*, 98 NC L Rev 1201, 1227-39 (2020). By departing from the federal language in their state constitutions, they make explicitly clear that the "cruel or unusual punishment" standard found in their state constitutions offer broader protections than the Eighth Amendment. Other states have reached results seemingly more generous than Eighth Amendment jurisprudence would allow, but unlike Michigan, do not expressly hold that the state constitution grants additional protection. See, e.g., *Humphrey v Wilson*, 282 Ga 520; 652 SE2d 501 (2007).

Michigan courts consider four factors in evaluating challenges to sentences under the "cruel or unusual punishment" clause of the Michigan Constitution: (1) the severity of the sentence relative to the gravity of the offense; (2) sentences imposed in the same jurisdiction for other offenses; (3) sentences imposed in other jurisdictions for the same offense; and (4) the goal of rehabilitation. *Bullock*, 440 Mich at 33–34, citing *Lorentzen*, 387 Mich at 176–81. These factors prohibit parolable life sentences imposed on youth absent a meaningful and realistic opportunity to obtain release based on a demonstration of maturity and rehabilitation.

First, a life sentence imposed on a child is disproportionately severe in light of the gravity of the offense. The gravity of the offense must include the background and culpability of the offender. See *Bullock*, 440 Mich at 37–38. Under Michigan's Constitution, youth is a factor in the constitutional analysis. See *Lorentzen*, 387 Mich at 176, 181 (finding 20-year sentence unconstitutional as applied to first-offender high school student convicted of selling marijuana). Consideration of a child's youthfulness at the time of the offense is wholly consistent with Michigan's long-established sentencing aims. The objectives generally relevant to sentencing were first articulated by this Court in *People v Snow*. 386 Mich 586, 592; 194 NW2d 314 (1972). In *Snow*, the Court explained that in imposing sentence, the court should balance the following

objectives: (1) reformation of the offender, (2) protection of society, (3) punishment of the offender, and (4) deterrence of others from committing like offenses. *Id.*, citing *Williams v. New York*, 337 US 241; 69 S Ct 1079; 93 L Ed 1337 (1949). As the Court of Appeals has explained, "[t]he process of properly balancing these objectives in the case of a minor defendant necessitates consideration of the distinctive attributes of youth." *People v Wines*, 323 Mich App 343, 351; 916 NW2d 855 (2018), rev'd on other grounds 506 Mich 954 (2020).

Second, life sentences for children are disproportionate within the jurisdiction. Michigan has now resentenced the vast majority of children who were previously subjected to mandatory life without parole sentences in homicide crimes based on their youth at the time of their offense, demonstrated maturity and rehabilitation. Under Michigan's resentencing regime, see MCL 769.25; MCL 769.25a, except for individuals who qualify as the "rare" case under *Miller* in which life without parole is permissible, all resentenced youth must receive a term-of-years sentence, not life.

Third, sentences for children without realistic and meaningful opportunities for release are also disproportionate nationwide. As of January 2020, fewer than 100 of the individuals resentenced after *Miller* have been resentenced to life without parole. Campaign for the Fair Sentencing of Youth, *Montgomery v. Louisiana Anniversary: Four Years Since the U.S. Supreme Court Decision in Montgomery v. Louisiana* (2020), p 2 <http://www.fairsentencing ofyouth.org/wp-content/uploads/Montgomery-Anniversary-1.24.pdf>. Twenty-two states and the District of Columbia have banned life without parole sentences for children. *Id*. Moreover, an increasing number of states, including New York, Maryland, and Iowa, are examining their parole systems and finding that parole procedures that do not account for youth, maturity, and rehabilitation raise serious Eighth Amendment concerns post-*Miller. Flores*, unpub order at *9;

Maryland Restorative Justice Initiative, memorandum op at *25–27; *Greiman*, 79 F Supp 3d at 944. Several state supreme courts have also relied on their state constitutions to extend protections related to juvenile sentencing and parole.[3]

Finally, a sentence that fails to provide a realistic chance for release or fails to ground the release decision in meaningful demonstration and consideration of post-crime maturity and rehabilitation undermines the goal of rehabilitation. Regardless of whether a life sentence is formally parolable or non-parolable as a matter of law, the goal of rehabilitation cannot be advanced unless the opportunity to obtain release is realistically tied to an individual's ability to meaningfully demonstrate maturity and rehabilitation.

[3] Three state supreme courts have abolished juvenile life without parole on the grounds that the penalty violates state constitutional cruel and/or unusual punishment provisions or is otherwise disproportionate under the state constitution. See *Diatchenko v Dist. Attorney for Suffolk Dist.,* 466 Mass. 655, 670-72; 1 NE3d 270 (2013) (holding that mandatory and discretionary life without parole for juveniles violated the state constitution's "cruel or unusual punishments" clause); *State v Sweet*, 879 NW2d 811, 832, 839 (Iowa, 2016) (adopting a categorical rule that life without parole for juveniles violates article 1, § 17 of the Iowa Constitution, noting that "the rulings of the United States Supreme Court create a floor, but not a ceiling, when we are called upon to interpret parallel provisions of the Iowa Constitution"); *State v Bassett*, 192 Wash 2d 67, 91; 428 P3d 343 (2018) (rejecting the reimposition of a life without parole sentence at a *Miller* resentencing proceeding, pursuant to the state's *Miller* "fix" statute, concluding that juvenile life without parole violates the state's constitutional provision against cruel punishment); see also, e.g., *In re Monschke*, 197 Wash 2d 305, 306-07, 329; 482 P3d 276 (2021) (holding that the cruel punishment provision of the state constitution prohibits mandatory life without parole sentences for 18, 19, and 20 year olds); *State v Lyle,* 854 NW2d 378, 400 (Iowa, 2014) (holding that mandatory minimum penalties violate the cruel and unusual punishment clause of the Iowa constitution). And the New Jersey Supreme Court recently held that a sentencing statute requiring a minimum 30-year prison term, as applied to juveniles, violated the state constitution's prohibition on cruel and unusual punishment; as a remedy, it permitted juvenile offenders convicted under the law to petition for review of their sentence after serving 20 years in prison. *Comer*, unpub op at *7, *25.

II. MICHIGAN'S PAROLE PROCESS FAILS TO PROVIDE A MEANINGFUL AND REALISTIC OPPORTUNITY FOR RELEASE FOR INDIVIDUALS SERVING PAROLABLE LIFE SENTENCES FOR CHILDHOOD OFFENSES

The diminished culpability of youth and their heightened capacity for change, as recognized by the Supreme Court and grounded in well-settled scientific research, means "children are constitutionally different from adults for purposes of sentencing." *Miller*, 567 US at 471. The U.S. and Michigan Constitutions require that a person serving a sentence imposed without consideration of youth must have a "realistic" and "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Graham*, 560 US at 75, 82. See also *Miller* at 479. For parolable life sentences such as Mr. Stovall's, this constitutional obligation falls to the Michigan Parole Board. The Board's current policies, practices and governing standards however, fail to meet that obligation, rendering the ensuing punishment unconstitutional.

A. Michigan's Parole Process Lacks The Procedures And Protections Necessary To Ensure A Meaningful Opportunity To Present Accurate Information For Full Consideration By The Parole Board

The rules governing parole release for individuals serving life with the possibility of parole, like Mr. Stovall, appear in statutes as well as in Michigan Department of Corrections policy directives. See generally MCL 791.233; MCL 791.234; MCL 791.235; MDOC Policy Directives 06.05.100, 06.05.103, & 06.05.104. Parole may be granted or denied only after a public hearing. MCL 791.234(8)(c). But there are multiple hurdles a lifer such as Mr. Stovall must clear in order to even reach the public-hearing stage, each of which is decided at the unfettered discretion of the Board—or a single Board member. See generally (Appellant's Suppl Br at 9–13). Most critically, parole-eligible individuals have no right to a public hearing at all. Rather, Michigan's parole system operates by affording parole-eligible individuals an interview with a single member of the Board. MCL 791.234(8)(a); MDOC Policy Directive 06.05.104(M). The Board member does not

consider whether to grant parole, but rather whether to recommend that the rest of the Board hold a public hearing. MCL 791.234(8)(a), (c); MCL 791.234(9); MDOC Policy Directive 06.05.104 (M), (O). In other words, the Board member considers *whether to consider* granting parole. This Byzantine process is unconstitutional as applied to youth for several reasons.

First, individuals serving parolable life are guaranteed only *one* chance to meet in person with even a single member of the Board. MCL 791.234(8)(a); MDOC Policy Directive 06.05.104(M). This interview is scheduled 10 years into a life sentence, meaning that individuals serving life with the possibility of parole may be relegated to only written communications after they have matured and may be better able to demonstrate rehabilitation. Denying regular, in-person review is inconsistent with what science shows about people who offend as youth: they are highly likely to reform as they mature. Moreover, persons serving lengthy sentences for crimes committed as children "will often 'lack the educational attainment necessary to write effectively' and are likely to be much more capable of expressing themselves orally." Russell, *Review for Release: Juvenile Offenders, State Parole Practices, and the Eighth Amendment*, 89 Ind LJ 373, 423 (2014), quoting *Goldberg v. Kelly*, 397 US 254, 269; 90 S Ct 1011; 25 L Ed 2d 287 (1970) ; see also Nellis, *supra*, at p 3 (noting that two in five respondents had been enrolled in special education classes and that fewer than half had been attending school at all at the time of the offense). In-person hearings permit efficient, real-time exchange between prospective parolees and decisionmakers and help the Board to more fully assess an individual's level of insight and maturity and to ensure that the information it has before it is accurate.

Second, Michigan affords parole-eligible individuals only 30 days to prepare for their interview, and without the assistance of counsel. MCL 791.234(9)(a), (b); MDOC Policy Directive 06.05.104(P). But meeting the constitutional demands of the Eighth Amendment and article 1,

§ 16, requires time to prepare, and assistance of counsel. As the Massachusetts Supreme Judicial Court has emphasized, individuals serving lengthy sentences for crimes committed as children "will likely lack the skills and resources to gather, analyze, and present [relevant] evidence adequately." *Diatchenko v Dist Attorney for Suffolk Dist*, 471 Mass 12, 23; 27 NE3d 349 (2015). See also Russell, *supra*, at 419–28 (detailing that individuals incarcerated since childhood may be lacking skills, access to information about their childhoods, and connections or support within the community); Human Rights Watch, *Against All Odds: Prison Conditions for Young Offenders Serving Life Without Parole Sentences in the United States* (2012), p 41-42 <https://www.hrw.org/reports/us0112ForUpload_1.pdf> (noting that many people serving long sentences for crimes committed as children lose social support and family connections). In contrast to the would-be parolee's likely skill level, a meaningful opportunity for release necessitates review of a "potentially massive amount of information . . . including legal, medical, disciplinary, education, and work-related evidence." *Diatchenko*, 471 Mass at 23. Courts and legislatures across the country have recognized that placing constitutionally required information before a parole board requires assistance of counsel. See, e.g., *id.* at 361 ("[G]iven the challenges involved . . . and in light of the fact that the offender's opportunity for release is critical to the constitutionality of the sentence, we conclude that this opportunity is not likely to be 'meaningful' . . . without access to counsel."); *Howard*, unpub order at *7 (rejecting motion to dismiss Eighth Amendment and due process challenge to Florida's parole process for persons serving life sentences for crimes committed as children, citing, *inter alia*, alleged denial of right to effective counsel, experts, and investigators); Conn Gen Stat Ann 54-125a(f)(3)(providing counsel for juvenile parole hearings); Fla Stat Ann 921.1402(5) (providing counsel for juvenile parole hearings); Ohio Rev Code Ann 2967.132(E)(1) (providing counsel for juvenile parole hearings); Ore Rev Stat Ann 144.397(12)

(providing counsel for juvenile parole hearings); Cal Penal Code 3041.7 (providing counsel for persons serving parolable life); Haw Rev Stat Ann 706-670(3)(c) (providing counsel for all parole hearings); see also *Office of the Prosecuting Attorney for St. Louis Co v Precythe*, 14 F4th 808, 818-19 (CA 8, 2021) (recognizing that prospective parolees and their representatives "are the ones most likely to have information about the constitutionally relevant factors of maturity and rehabilitation," and must be able to review parole files, identify potential factual errors, adequately respond to adverse evidence, and present evidence), reh'g en banc granted, opinion vacated (November 18, 2021). Without adequate time and legal support to prepare for parole consideration, the opportunity for release is not sufficiently meaningful—a 30-day notice period, and without counsel, falls far short of the constitutional minimum. Compare, e.g., Conn Gen Stat 54-125a(f)(3) (providing for notice and appointment of counsel at least 12 months in advance of juvenile parole hearing).

Finally, the Board's limitless discretion to deny even the *opportunity* for parole goes unchecked by the judiciary. MCL 791.234(11) (providing for judicial review only after a public hearing, and only if requested by prosecutors or victims). In fact, the only role for the judiciary is to veto parole release. MCL 791.234(8)(c). But meaningful review of parole release decisions is essential to a constitutionally adequate parole process. See, e.g., *Diatchenko*, 471 Mass at 29 ("[J]udicial review of a parole decision is available solely to ensure that the board exercises its discretionary authority to make a parole decision for a juvenile homicide offender in a constitutional manner, meaning that the [state constitutional] right . . . to a constitutionally proportionate sentence is not violated."). Direct review of parole board decisions helps guarantee a meaningful opportunity for release, permitting review and reversal of decisions made based on inaccurate, incomplete, or improper information. Moreover, judicial review promotes consistency

in release decisions and provides further opportunity to define the contours of the "meaningful opportunity" requirement. Absent a mechanism to redress Board decisions, including a decision by the Board not to even hold a hearing, Michigan risks condemning youth to life in prison without giving due weight—or any weight at all—to the mitigating factors of youth or maturity and rehabilitation as required. That intolerable risk of disproportionate punishment is precisely what *Miller* and *Montgomery* prohibit. *Miller*, 567 US at 479; *Montgomery*, 577 US at 195.

B. Michigan's Lifer Parole System Does Not Adequately Ground The Release Decision In The Mitigating Circumstances Of Youth And Post-Crime Maturity And Rehabilitation

The MDOC policy directive governing the parole process was recently modified to require that the Board "consider . . . as mitigating . . . [t]he diminished culpability of youth," [t]he hallmark features of youth including immaturity, impetuosity, a failure to appreciate risks and consequences, and susceptibility to peer and familial pressures," and "[g]rowth and maturity since the time of the commission of the offense(s)." MDOC Policy Directive 06.05.104(N). But this policy change—which may be revoked at any time—has yet to result in consideration of youth, maturity, or rehabilitation for Mr. Stovall during his nearly three decades of incarceration. Moreover, the new requirement, though a step in the right direction, fails to adequately ensure that the release decision is *based on* consideration of youth at the time of the offense and subsequent maturity and rehabilitation, as required, and that such considerations are not outweighed by, for example, the seriousness of the crime. Finally, parole cannot be granted if the sentencing judge objects, which may be for apparently any reason at all, MCL 791.234(8)(c), further enabling denial of parole consideration for reasons possibly untethered from youth, maturity, or rehabilitation. Considering—and placing determinative weight on—the mitigating circumstances of youth, however, is non-optional. See *Montgomery*, 577 US at 208 ("[T]he penological justifications for

life without parole collapse in light of 'the distinctive attributes of youth.'"), quoting *Miller*, 567 US at 472.

Under *Miller*, the release decision must be based on maturity and rehabilitation, rather than on the seriousness of the offense or victim impact. See, e.g., *Flores*, unpub order at *9; *Greiman*, 79 F Supp 3d at 944 (denying defendants' motion to dismiss based in part on plaintiff's allegation that the parole board denied parole based solely on the seriousness of the offense, thus depriving him of a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation). The nature of the crime should be irrelevant to the Board's decision, except to the extent that the circumstances of the crime provide a baseline for assessing how an individual has matured and changed since the time of the crime. Under the federal and state constitutions, if the severity of the crime is deemed to trump a demonstration of rehabilitation, then the sentence denies a meaningful opportunity for release *based on demonstrated maturity and rehabilitation* and cannot stand. Michigan's parole process—which continues to permit the Board to deny parole for any reason and grants the sentencing judge unfettered discretion to veto parole—impermissibly permits denial of parole based on seriousness of the crime. Absent criteria mandating a decision based on youth and post-crime growth and change, Michigan's current process is inadequate because it cannot guarantee that the Board base its decision on "demonstrated maturity and rehabilitation" as required. *Graham*, 560 US at 75.

C. Michigan's Lifer Parole System Insufficiently Limits Discretion And Lacks Procedural Safeguards Necessary For Full And Accurate Review

Few standards govern the interview or the Board member's ultimate decision whether to recommend a parole hearing. The relevant policy directive requires the Board, in deciding whether to grant or deny parole, to consider all the factors set forth in Administrative Rule 791.7715, which include, *inter alia*, "any crime victim's statement," "[t]he nature and seriousness of the offenses

for which the prisoner is currently serving," and the "number and frequency of prior criminal convictions." Mich Admin Code, R 791.7715; MDOC Policy Directive 06.05.104(W). Only recently, per a modification to the policy directive (but not the administrative rule) that took effect in October 2021, did the Board receive *any* guidance for its consideration of individuals who were under 18 at the time of the crime. MDOC Policy Directive 06.05.104 now provides that, prospectively, the Board "shall consider . . . as mitigating" "[t]he diminished culpability of youth," "[t]he hallmark features of youth including immaturity, impetuosity, a failure to appreciate risks and consequences, and susceptibility to peer and familial pressures," and "[g]rowth and maturity since the time of the commission of the offense(s)." MDOC Policy Directive 06.05.104(N), (Y). But the Board is not instructed about how to balance these youth-related considerations against other considerations such as the severity of the crime. Moreover, individuals like Mr. Stovall, who were interviewed *before* this modification took effect, may never have an opportunity for in-person presentation or evaluation of youth, maturity, or rehabilitation.

Related procedures similarly fall short. The Board has complete discretion to deny a parole hearing following the interview, and it is not clearly required to provide any explanation for its decision to do so. MDOC Policy Directive 06.05.104(M), (O). The individual denied a hearing has no right to judicial review of the Board's "decision." MCL 791.234(11). Finally, even if the full Board were to recommend parole, the original sentencing judge may unilaterally veto parole release, for any reason, without any consideration of youth, maturity, or rehabilitation or any other factors guiding the decision. MCL 791.234(8)(c).

After the initial interview, there is no right to another interview. MDOC Policy Directive 06.05.104(M). Rather, the individual is entitled only to "file review" of the case every five years. *Id.* As of October 2021, upon determining not to interview a parolable lifer, the Board *is* required

to provide a Notice of Decision "set[ting] forth the factors considered for that decision and what corrective action the prisoner may take to improve the probability of being granted a parole in the future." MDOC Policy Directive 06.05.104(M). However, there remains no judicial recourse or appeal of an unfavorable determination after file review. See MDOC Policy Directive 06.05.104(M), (O).

The process is also flawed for individuals who make it to the public hearing stage. Although, as of very recently, the Board is now required to consider youth at the time of the crime and subsequent growth and maturity, MDOC Policy Directive 06.05.104(Y), it is not required to ground its release decision in consideration of these factors. Moreover, although prosecutors or victims may appeal a decision to grant parole, the would-be parolee has no right to any sort of review of a denial. MCL 791.234(11).

State and federal courts regularly recognize the need for articulated criteria in the parole system when individuals sentenced as youth face a parolable life sentence. Where a parole system vests unfettered discretion in one or more deciders, it cannot meet the mandate of *Graham, Miller*, and *Montgomery*. In Maryland, for example, the federal district court found that persons serving life sentences for crimes committed as children had sufficiently alleged that the parole system violated the Eighth Amendment by operating as a system of executive clemency. See *Maryland Restorative Justice Initiative*, memorandum op, at *25. There, the "unfettered discretion" afforded to the governor "to deny every parole recommendation for *any* reason whatsoever or for no reason at all," resulted in denial of every parole recommendation for two decades. *Id.* Similarly, the North Carolina Supreme Court rejected the adequacy of the state's statutory sentence review because "the possibility of alteration or commutation . . . is deeply uncertain and rooted in essentially unguided discretion." *State v Young*, 369 NC 118, 125-26; 794 SE2d 274 (2016). Further, as

discussed above, courts have held that an effective system of judicial review is essential to a meaningful opportunity for release. See, e.g., *Diatchenko*, 27 NE3d at 365.

In Michigan, the Board's use of open-ended criteria—at the file review, interview, and public hearing stages—combined with the power of the sentencing judge to effectively veto parole, and the absence of judicial review, necessarily deprives youth of a meaningful opportunity for release. In this case, Mr. Stovall is now 29 years into his incarceration and has never had a public hearing with the Board. At his prior file reviews and interviews, there has never been a requirement that the Board consider his youth at the time of the crime, nor his subsequent maturity and rehabilitation. He will be nearly 50 years old before any member of the Board reviews his file again, and he may never have an opportunity to demonstrate, in person, his growth and rehabilitation since the time of the crime. As demonstrated by his situation, Michigan's parole process does not pass constitutional muster as applied to youth, rendering life sentences such as Mr. Stovall's invalid.

CONCLUSION

Mr. Stovall's case exemplifies the constitutional deficiencies in Michigan's sentencing and parole scheme as applied to individuals sentenced to parolable life for offenses they committed as children. The Parole Board is not required to base its decision on youth, maturity, and rehabilitation, and, 29 years into his sentence, it has never been required to consider these factors in relation to Mr. Stovall. It further lacks adequate procedures to ensure that its decision is based on full and accurate consideration of these constitutionally mandated criteria. The U.S. and Michigan Constitutions reserve a life sentence—whether in name or practice—for only the rarest child. Without the necessary procedures in place to ensure meaningful, robust, and accurate parole board determinations and judicial review, individuals serving parolable life for childhood crimes

will continue to be unconstitutionally condemned to die in prison. Under these circumstances, Mr. Stovall's parolable life sentence for a childhood offense violates the federal and state constitutions. For all of the reasons set forth herein, *amici* respectfully urge this Court to order that Montez Stovall be granted relief from judgment and resentenced.

Respectfully submitted,

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