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# **Summaries of Petitioner and *Amicus* Briefs**

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*“Having spent decades overseeing the cases of juvenile offenders and thus having witnessed first-hand their remarkable resilience, amici strongly believe that the criminal justice system cannot predict what kind of person a fifteen-year-old juvenile offender will be when he is 35, or 55, or 75. Rather, there should be some meaningful opportunity for the system to reassess whether incarceration remains necessary for these offenders after they have had the opportunity to grow, mature, and change.”*

**- Brief of Former Juvenile Court Judges**  
In Support of Petitioners *Jackson and Miller*

*“To deprive adolescents, who are neurologically less capable than adults of acting rationally and understanding consequences, who are substantially affected by the influence of peers and their surroundings, and who are virtually certain to mature and evolve with support and proper environmental influence, of ‘any opportunity to achieve maturity of judgment and self-recognition of human worth and potential’ is contrary to the standards of decency that define a just society.”*

**- Brief of Mental Health Experts**  
In Support of Petitioners *Jackson and Miller*

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# Petitioners' Briefs

*Jackson v. Hobbs*  
*Miller v. Alabama*

Summaries

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# ***Kuntrell Jackson v. Ray Hobbs, Director Arkansas Department of Correction***

## Summary of Brief for Petitioner

### **Summary**

*Graham v. Florida*, 130 S. Ct. 2011 (2010), and *Roper v. Simmons*, 543 U.S. 551 (2005), identified numerous features of adolescence that make teen offenders less culpable than adults: Biologically and psychologically, teens are given to impulsive, heedless, sensation-seeking behavior and excessive peer pressure. Through inexperience and neurological underdevelopment, they lack mature behavioral controls. They are shaped by environments they did not choose and cannot change or escape. Their youthful characters are transitory, their adult characters unpredictable.

These features are widely recognized by our legal and cultural institutions. Each bears centrally on the retributive, deterrent, and incapacitative justifications for life-without-parole sentences. *Graham*'s reasons for finding the justifications lacking apply no less to murder than other crimes. *Roper* so holds.

Life-without-parole homicide sentences for young teens are vanishingly rare. Homicides by young teens are themselves infrequent. No pragmatic difficulty – including the doctrinal problem of drawing an age line – warrants abandoning all *Graham*'s logic in murder cases.

### **Counsel of Record**

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# ***Evan Miller v. State of Alabama***

## Summary of Brief for Petitioner

### **Summary**

The constitutional logic of *Roper v. Simmons* and *Graham v. Florida* requires the invalidation of a mandatory sentence of life imprisonment without parole imposed on a 14-year-old child.

As a class, children 14 and younger are inherently characterized by internal attributes and external circumstances which preclude a finding of the degree of culpability that would make their consignment to life-long incarceration with no hope of release constitutionally permissible under Eighth Amendment excessiveness analysis. This is no less true in murder cases than in other cases of violent crimes by young teens.

The mandatory nature of the life-without-parole sentence imposed on Evan Miller provides an independently sufficient ground for its invalidation. The cornerstone of the Eighth Amendment analysis which informed this Court's *Roper* and *Graham* decisions is that youth and its attendant features have a critical role to play in determining an adolescent's culpability. To wholly disregard a 14-year-old offender's age and age-related characteristics in sentencing him to be imprisoned for the remainder of his existence makes a mockery of this fundamental precept.

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# *Amicus Curiae* Briefs

In Support of Petitioners  
Kuntrell Jackson and Evan Miller

*Jackson v. Hobbs*  
*Miller v. Alabama*

Summaries and Signatories

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# *Amicus Brief Summaries*

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## **Mental Health Experts**

### *Summary of Brief in Support of Petitioners Jackson and Miller*

#### **Summary**

The Court acknowledged in *Roper* and reaffirmed in *Graham* that adolescent offenders are inherently “not as morally reprehensible as . . . adult” offenders, relying in part upon scientific study demonstrating that adolescents’ neurological maturity and development are significantly different from those of adults. The body of scientific study has only deepened since those decisions and continues to confirm that compared with adults, the unique developmental characteristics of adolescents’ brains lead to more impulsive behavior, the failure to comprehend consequences, and an underdeveloped sense of self, all of which may cause poor decisions and reckless actions. Adolescents also are particularly susceptible to negative environmental influences, which in turn may influence brain biology in a way that compounds the characteristics associated with their unique developmental stage. This distinction between the adolescent brain and the adult brain means that adolescent offenders are less culpable than adults and “cannot with reliability be classified among the worst of offenders.” This is true regardless of the crime committed.

Based upon this immature capacity and “diminished culpability,” the Court has held that the death penalty cannot be imposed on adolescents, “no matter how heinous the crime.” For the same reasons, the Court has held that a sentence of life without parole, our “second most severe penalty,” is unconstitutionally disproportionate for adolescents who commit non-homicide crimes — without regard to their heinousness or depravity. The denial of all possibility of parole is particularly cruel in light of adolescents’ unique capacity for change and rehabilitation, because a sentence of life without parole “gives no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope.” Although Amici believe that adolescents can and should be held accountable for their actions, based on this logic, it is arbitrary and irrational to deny the possibility of parole solely to adolescent offenders whose crimes involved homicide.

This Brief focuses on the scientific and academic study post-*Graham* that confirms and extends our knowledge and understanding of adolescents’ neurological, physiological, and psychological development. First, research continues to confirm that the process of adolescent brain development leads to greater vulnerabilities to high-sensation seeking behavior and less ability to fully comprehend consequences in comparison to adults. Recent studies have reinforced the conclusion that adolescents have a higher tendency to engage in risky behavior when faced with emotional or stressful situations. Environmental factors such as exposure to violence, peer influences, and availability of illegal substances only compound these deficiencies.



Second, ongoing research confirms that adolescents are highly amenable to rehabilitation and change. The very immaturity and plasticity that create an increased propensity for wrongdoing in adolescents also provide an enormous capacity for learning, development, and growth. Most adults understand and believe that the persons they were at age fourteen or fifteen are not the persons they are today. A sentence of life imprisonment without possibility of parole eliminates that opportunity for change and “forfeits altogether the rehabilitative ideal.”

No penological goal is furthered by denying the possibility of parole to adolescents who receive life sentences. There is no retributive benefit to maximizing the punishment of the less culpable; and adolescents with underdeveloped rationality are unlikely to be deterred by losing the possibility of parole. At the same time, no legitimate interest is served by denying the prospect of rehabilitation to those most likely to respond to it, or by forever incapacitating those least likely to need it.

Third, to the extent one believes that some individuals even as adolescents are simply beyond hope (and Amici do not), our legal system is ill-equipped to identify those individuals at the time of trial. “[I]t is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption.” Even if courts had that ability, adolescents are far less capable of participating effectively in proceedings designed for adults, including by communicating with authority figures such as the police, judges, and their own counsel. Fundamental fairness does not countenance requiring adolescent defendants to prove the impossible, years in advance, in the adult legal system. To the contrary, fairness and decency require an opportunity to demonstrate, at some point in their lives, that crimes committed as a child do not reflect their true, developed characters and should not doom them to die behind bars.

In sum, the imposition of a sentence of life without parole on adolescents is inconsistent with scientific understanding of human growth, does not further legitimate penological purposes, and is fundamentally unfair. The Court so held in *Graham* for the adolescent who commits any non-homicide crime, which may include depraved and despicable acts such as maiming, raping, and torturing. It is equally true for crimes involving homicide. For these reasons, Amici respectfully submit that the judgments of the courts below should be reversed.

### **Interest of Amici**

Amici Curiae are psychologists, social scientists, and neuroscientists who have devoted their careers to the study of adolescent behavior and development. In *Roper v. Simmons*, 543 U.S. 551 (2005), and *Graham v. Florida*, 130 S. Ct. 2011 (2009), the Court relied upon the substantial body of professional literature and scientific evidence confirming that adolescents are significantly different from adults in critical respects, which severely

undermine the rationale for imposing our most severe sentences on adolescents and increase the prospects for their rehabilitation. Amici respectfully submit this Brief to update and further address this literature and evidence, which continues to support the logic of Roper and Graham and the conclusion that a sentence of life without the possibility of parole is unconstitutionally cruel when imposed on adolescents, regardless of the crime committed.

The logic of Roper and Graham, which fundamentally depends upon the unique nature of adolescents, supports the arguments of Petitioners Evan Miller and Kuntrell Jackson. Although adolescents should be held responsible for their actions, compared to adults they are neurologically predisposed to engage in risk-seeking and poor decision-making, highly susceptible to negative peer influence, and less able to understand the nature of the legal proceedings against them and therefore less able to effectively aid in their own defense. Adolescents are highly malleable, however, and therefore responsive to rehabilitation and capable of profound change. To deprive adolescents, who are neurologically less capable than adults of acting rationally and understanding consequences, who are substantially affected by the influence of peers and their surroundings, and who are virtually certain to mature and evolve with support and proper environmental influence, of “any opportunity to achieve maturity of judgment and self-recognition of human worth and potential” is contrary to the standards of decency that define a just society.

### **Counsel of Record**

**Stephen M. Nickelsburg**  
Clifford Chance US LLP

### **Signatories**

**J. Lawrence Aber** is Distinguished Professor of Applied Psychology and Public Policy at New York University’s Steinhardt School of Culture, Education, and Human Development and Director of the Children’s Institute at the University of Cape Town, South Africa. He is an internationally recognized expert in child development and social policy and testifies frequently before Congress, state legislatures, and other deliberative bodies. Professor Aber’s research examines the influence of poverty and violence at the family and community levels on the social, behavioral, and cognitive development of children and youth. He also has designed and conducted evaluations of a variety of programs for children and youth, including violence prevention, literacy development, and antipoverty initiatives.

**Marc S. Atkins** is Professor of Psychology in Psychiatry and Director of Psychology Training at the Institute for Juvenile Research at the University of Illinois at Chicago. Professor Atkins is a leading researcher on the development of school-based mental

health services in urban and high-poverty communities. He has published extensively on children's mental health. He is a consultant to the Chicago Public Schools and the Illinois Department of Mental Health.

**Camilla P. Benbow** is Patricia and Rodes Hart Dean of Education and Human Development at Vanderbilt University's Peabody College. Dr. Benbow is a member of the Board of the American Psychological Association and is Co-Founder and Co-Chair of the committee of AAU College of Education Deans. Her scholarship focuses on developmental psychology, precocity, and educational policy. She has authored or co-authored more than 100 articles and thirty-five book chapters, and she is the editor of *Intellectual Talent: Psychometric and Social Issues* and *Academic Precocity: Aspects of its Development*. Dr. Benbow is Vice-Chair of the National Mathematics Advisory Panel and a member of the National Science Board.

**Mary M. Brabeck** is Gale and Ira Drukier Dean of New York University's Steinhardt School of Culture, Education, and Human Development; Professor of Applied Psychology; and Fellow of the American Psychological Association and the American Educational Research Association. Dr. Brabeck is a scholar and leader in the fields of applied and developmental psychology. Her research focuses on intellectual and ethical development, values and conceptions of the moral self, and professional ethics. She has published more than 100 journal articles, books, and book chapters. She has an honorary degree from St. Joseph University and several national awards and honors.

**Jane C. Conoley** is Professor and Dean at Gevirtz Graduate School of Education at the University of California, Santa Barbara, and the former Dean of Education at Texas A&M University. Her research focuses on psychological and educational measurement. Dr. Conoley is the author or editor of twenty-two books and over seventy articles and book chapters, and serves on ten editorial boards. She has received numerous research, teaching, and service honors, and has been recognized by the American Psychological Association for outstanding service to the profession.

**Kenneth A. Dodge** is William McDougall Professor of Public Policy, Professor of Psychology and Neuroscience, and Director of the Center for Child and Family Policy at Duke University. He has been recognized by the National Institutes of Health with the Senior Scientist Award and by the American Psychological Association with the Distinguished Scientific Award. His scholarship addresses the development and prevention of chronic violence in children and adolescents. He has published extensively on these topics, including more than 400 scientific articles on clinical and developmental psychology, and is one of the most cited scientists in his field. Professor Dodge created the Fast Track Program, a comprehensive effort that has been found to prevent serious and chronic violence in high-risk youth.

**Michelle Fine** is Distinguished Professor of Social Psychology, Women's Studies, and Urban Education at the Graduate Center at the City University of New York. She is the author of numerous award-winning books in the fields of education and psychology and

is Co-Editor of New York University Press' Qualitative Studies in Psychology Series. Professor Fine's research on urban youth in schools, communities, and prisons and social justice has been funded by the Spencer Foundation, Surdna Foundation, Ford Foundation, Open Society Foundation, and Carnegie Foundation.

**Adriana Galván** is Assistant Professor of Psychology, Faculty Member of the Brain Research Institute, and Director of the Galvan Laboratory for Developmental Neuroscience at University of California, Los Angeles. Her research examines the neurobiological changes that underlie characteristic adolescent behavior, including decision-making, reinforcement learning, and risky behavior. She has published widely and is currently examining how stress, peers, and ethnic culture influence adolescent development and behavior. Her work is funded through the National Institutes of Health, National Science Foundation, and the CA Tobacco-Related Disease Prevention Program.

**Margo Gardner** is Research Scientist at the National Center for Children & Families. Dr. Gardner's research addresses the contextual predictors of psychopathology, risk behavior, and social and academic competence during adolescence and young adulthood. Her scholarship includes research on risk-taking among adolescents, the development of juvenile offending, the influence of exposure to violence, and the protective role of afterschool and extracurricular activities. Dr. Gardner has published numerous articles, including Peer Influence on Risk-Taking, Risk Preference, and Risky Decision-Making in Adolescence and Adulthood: An Experimental Study. Her dissertation research on the etiology of juvenile offending was awarded the Hershel D. Thornburg Award by the Society for Research on Adolescence.

**Charles F. Geier** is Assistant Professor of Human Development at the College of Health and Human Development of Penn State University. Dr. Geier's research focuses on developmental changes in basic cognitive and affective brain systems in adolescents and young adults. He is the author of numerous articles in the field of neural development.

**Frances E. Jensen** is Professor of Neurology at Harvard Medical School's Department of Neurology and Director of Translational Neuroscience, Director of Epilepsy Research at Children's Hospital Boston, and Senior Associate Physician in Neurology at Children's Hospital Boston and Brigham and Women's Hospital. Dr. Jensen's research focuses on age-specific mechanisms in the developing brain related to stroke and epilepsy, as well as brain plasticity. In 2007, she received a Pioneer Award from the National Institute of Health to explore the interaction between epileptogenesis and cognitive dysfunction. Dr. Jensen has presented extensively on adolescent brain development. She is on the Governing Board of the American Epilepsy Society and the Governing Council for the Society for Neuroscience.

**Jacqueline Mattis** is Associate Professor of Applied Psychology and Department Chair at New York University's Steinhardt School of Culture, Education, and Human Development. Her work focuses on religiosity and spirituality in African American

culture, with emphasis on how religion and spirituality inform prosocial development. She has received numerous awards for her scholarship, including the 2001 Positive Psychology Young Scholars Award.

**Pedro Noguera** is Professor of Teaching and Learning at New York University's Steinhardt School of Culture, Education, and Human Development. Dr. Noguera has served as Executive Director of the Metropolitan Center for Urban Education and Co-Director of the Institute for the Study of Globalization and Education in Metropolitan Settings. His research focuses on the influence of social and economic conditions on schools. He also has conducted research into education and social conditions throughout the world. Professor Noguera has published over 100 works on youth violence, urban public schools, and race and ethnic relations in American society. He has served as a member of the U.S. Public Health Service Centers for Disease Control Taskforce on Youth Violence and many advisory boards.

**Bruce D. Perry** is Adjunct Professor of Psychiatry and Behavioral Sciences at Northwestern University's Feinberg School of Medicine and Senior Fellow of The Child Trauma Academy in Houston. He also serves as Senior Consultant to the Alberta Ministry of Children's Services in Canada. He is a clinician and researcher in children's mental health and the neurosciences, whose research and practice focuses on the long-term effects of trauma in children, adolescents, and adults. He is the author of two books, thirty book chapters, and over 300 scientific publications and is the recipient of a variety of professional awards. His Neurosequential Model of Therapeutics is used with high-risk children and youth, including those in the juvenile justice system, in over fifty settings in more than a dozen states in Canada, Australia, the United Kingdom, and the United States.

**Vincent Schmithorst** is Associate Professor at the University of Pittsburgh Medical Center's Department of Radiology. His research includes functional magnetic resonance imaging studies of pediatric subjects, white matter microstructure in the pediatric population, and novel image analysis techniques for use on neuroimaging data. He has published over sixty articles related to neuro and functional magnetic resonance imaging, including Functional Connectivity in the Brain and Human Intelligence and White Matter Development During Adolescence as Shown by Diffusion MRI. Dr. Schmithorst was awarded the "Editor's Choice Award" from the Organization for Human Brain Mapping.

## Former Juvenile Court Judges

### *Summary of Brief in Support of Petitioners Jackson and Miller*

#### **Summary**

The decisions of the courts below in both Miller and Jackson are wrong. They fail to sufficiently appreciate the dramatic differences between juvenile offenders, including those who commit homicide, and adult offenders, and they fail to recognize that the unique characteristics of juveniles make it impossible to predict at the time of initial sentencing whether a juvenile might one day be ready to leave prison. These distinguishing features of juveniles make the sentence of life without parole categorically inappropriate for juvenile homicide offenders, just as this Court has already recognized for all other juvenile offenders.

Amici emphasize four points. First, juveniles who commit homicide offenses are just like juveniles who commit other serious offenses. They are less mature than adult offenders; they are more vulnerable to negative influences; and their characters and reasoning capacities are less fully formed. They also have less control over and experience with their environment. For these and other reasons, juvenile homicide offenders, just like other juvenile offenders, are less culpable for their actions and more susceptible to change.

Second, as petitioners' cases illustrate, many of the characteristics that distinguish juveniles from adults—for example, their greater immaturity and susceptibility to negative influences and their lack of control over their environment—often contribute to their criminal conduct, even in cases of homicide.

Third, juvenile homicide offenders, like other juvenile offenders, are capable of rehabilitation. Indeed, amici have been repeatedly impressed by the ability of young people, even those who commit very serious offenses, to mature and grow as they become adults. Amici recognize, of course, that not every juvenile offender will reform, but amici's experiences as juvenile court judges convince them that it is impossible to accurately predict at the time of initial sentencing which juveniles are capable of change and which are not. The sentence of life without parole deprives the criminal justice system of the ability to make that assessment at a more appropriate time, viz., after the juvenile has had time to mature and reform. It also deprives the community of the skills and participation of the reformed offender.

Fourth, sentencing juveniles to life without parole unnecessarily hinders their otherwise unique capacities for rehabilitation. As an initial matter, it denies these youths any incentive to try to improve themselves and sends them a clear message that society has decided that they are beyond redemption. Moreover, even for those youths who want to try to better themselves, a sentence of life without parole will often make it more difficult

for them to take advantage of whatever educational, vocational, and other rehabilitative programs are available.

### **Interest of Amici**

This brief is submitted on behalf of a group of former juvenile court judges as amici curiae in support of petitioners in both *Miller v. Alabama*, No. 10- 9646, and *Jackson v. Hobbs*, No. 10-9647. Because of their experiences as juvenile court judges, amici are familiar with the impressionability and immaturity that generally characterize juvenile offenders, as well as their ability to grow and change over time.

Amici believe that sentencing juveniles, even those who commit homicide offenses, to life without parole ignores the substantial differences between juvenile and adult offenders and meaningfully hampers the ability of these young people, who are uniquely capable of maturation, growth, and change, to rehabilitate and reform.

Having spent decades overseeing the cases of juvenile offenders and thus having witnessed first-hand their remarkable resilience, amici strongly believe that the criminal justice system cannot predict what kind of person a fifteen-year-old juvenile offender will be when he is 35, or 55, or 75. Rather, there should be some meaningful opportunity for the system to reassess whether incarceration remains necessary for these offenders after they have had the opportunity to grow, mature, and change.

### **Counsel of Record**

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### **Signatories**

**Judge Susan E. Block** (ret.) served as Administrative Judge of the Family Court of St. Louis County in Missouri from 2000-2004, after three years as the Juvenile Judge. After her retirement in 2004, she joined Paule Camazine & Blumenthal as a principal where she specializes in complex family law matters.

**Judge Michael A. Corriero** (ret.) served as a judge in the criminal courts of New York State for twenty-eight years. In the last fifteen years of his tenure, he presided over Manhattan's Youth Part, a special court established within the adult criminal court system where he was responsible for resolving the cases of thirteen-, fourteen-, and fifteen-year-olds who were charged with serious offenses and who were tried as adults pursuant to New York's Juvenile Offender Law. Judge Corriero is the Founder and

Executive Director of the New York Center for Juvenile Justice.

**Judge Margaret S. Fearey** (ret.) served as an Associate Justice in the Juvenile Court Department of the Trial Court of the Commonwealth of Massachusetts from 1996 until January 2012. In that capacity, she heard and decided numerous felony cases involving juveniles, including those involving adult sentencing options.

**Judge Gail Garinger** (ret.) served as an Associate Justice in the Juvenile Court Department of the Massachusetts Trial Court from 1995-2001 and as the First Justice of the Middlesex County Division of the Juvenile Court Department from 2001-2008. From 2008 to the present, she has served as The Child Advocate for the Commonwealth of Massachusetts.

**Judge Martha P. Grace** (ret.) served as Chief Justice of the Massachusetts Juvenile Court from 1998-2009 and as a Massachusetts Juvenile Court Judge for Worcester County from 1990-1998.

**Judge Julian Houston** (ret.) served as Presiding Justice of the Juvenile Session of the Roxbury (Massachusetts) District Court from 1979-1990 before being appointed to the Massachusetts Superior Court.

**Judge Gordon Martin** (ret.) served as a judge of the Massachusetts Trial Court from 1983-2004 where he heard both juvenile and adult cases. He was previously a Trial Attorney in the Civil Rights Division of the U.S. Department of Justice and First Assistant U.S. Attorney for the District of Massachusetts.

**Judge Chuck McGee** (ret.) served for over thirty years as a Nevada judge whose duties always included a juvenile law calendar. He was twice made Chief Judge and was President of the District Judges Association. He has a Masters Degree in Juvenile Law from the Judicial College at the University of Nevada, Reno; his thesis was on a balanced approach to Juvenile Justice.

**Judge Lillian Miranda** (ret.) served as First Justice of the Franklin-Hampshire Juvenile Court in Massachusetts from 1994-2011. Previously, she was Staff Counsel/Executive Director of Hampshire County Bar Advocates, where she was responsible for overseeing the assignment, training, and monitoring of private counsel who provided legal assistance to indigent adult and juvenile offenders charged with crimes carrying a potential jail sentence or commitment to juvenile detention.

**Judge H. Ted Rubin** (ret.) served as a judge on the Denver Juvenile Court for six years and then spent twenty-two years as Director for Juvenile Justice for the Institute for Court Management, National Center for State Courts. He has also served as a private consultant for juvenile courts and is the author of six books on juvenile justice, including *Juvenile Justice: Policies, Practices, and Programs*.



**Judge Irene Sullivan** (ret.) retired last year after nine years as a juvenile judge, handling abuse, neglect, and delinquency cases in Pinellas County, Florida. She teaches juvenile law at Stetson University College of Law, is the author of *Raised by the Courts: One Judge's Insight into Juvenile Justice*, and speaks around the country on juvenile justice issues.

**Judge Darlene A. Whitten** (ret.) served twenty years as a Judge on the Court at Law #1, Designated Juvenile Court for Denton County, Texas. Prior to going to law school, Judge Whitten taught junior high school.

# **Family Members of Victims Killed by Youths**

*Summary of Brief in Support of Petitioners Jackson and Miller*

## **Summary**

Despite their devastating losses, *amici* know from experience what science confirms: children are fundamentally redeemable. *Amici* therefore believe youthful offenders should be offered a legitimate chance through rehabilitation to lead productive, law-abiding lives. *Amici* agree – fully – with the Court: “A life without parole sentence improperly denies the juvenile offender a chance to demonstrate growth and maturity.” *Graham*, Slip Op. at 48.

“Juveniles are more capable of change than are adults,” *Graham*, Slip Op. at 39, and thus *amici* support a fair and balanced approach to sentencing youth for serious crimes such as murder. Such an approach should impose a sentence that offers the opportunity for the court to review and consider, even if many years later, whether individuals convicted of crimes as juveniles continue to pose a threat to the community, or whether they have shown signs of development, healing, rehabilitation, and the potential to become productive members of society.

*Graham*'s “meaningful opportunity for release based on demonstrated maturity and rehabilitation” is not a guarantee of release to youth offenders, just a review – the opportunity to demonstrate that they are capable of making responsible decisions and that they do not pose a threat to society. A life sentence without possibility of parole, for a crime committed at 14, does not provide that opportunity. Even when children commit the ultimate crime, they should have the opportunity to prove they are worthy of a second chance.

## **Interest of Amici**

*Amici*, some of whom submitted testimonials as amici in *Graham v. Florida*, 560 U.S. \_\_\_\_ (2010) (slip opinion), are individuals who have lost family members to murder committed by youth, yet are opposed to life sentences for youth without the possibility of parole. While each account and experience is different, *amici* are united in their belief that, if given the chance, individuals incarcerated as children can change and become positive contributors to society.

## **Counsel of Record**

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## **Signatories**

**Sharletta Evans** lost her three-year-old son in the crossfire of a drive-by shooting between three teens.

**Mona Schlautman** is a mother of four whose son was murdered by two juveniles.

**Linda White** lost her daughter who was murdered by two juveniles.

**Bill Pelke** is President of Journey of Hope, an organization for families of murder victims who oppose the death penalty, whose grandmother was killed by four juveniles.

**Aqeela Sherrills** is a violence prevention and community advocate whose son was killed by a juvenile.

**Mary Johnson** lost her son in a teenage gang fight but was able to forgive and build a close relationship with her son's murderer. She is the founder of "From Death to Life," an organization dedicated to ending violence through healing and reconciliation between families of victims and perpetrators.

**Melanie Washington** lost her son to a juvenile crime and is the founder of Mentoring – a Touch from Above ("MATFA"), which helps jailed youth to take responsibility for their actions.

**Azim Khamisa** is a published author and violence prevention advocate whose son was murdered by a juvenile gang member.

**Tammi Smith** was a teenager when her half-brother was murdered by two juveniles.

**Robert Hoelscher**, former Executive Director of the Innocence Project of New Orleans, was seven when his father was murdered by a juvenile.

# **American Psychological Association, American Psychiatric Association, and National Association of Social Workers**

## *Summary of Brief in Support of Petitioners Jackson and Miller*

### **Summary**

In *Graham v. Florida*, 130 S. Ct. 2011 (2010), this Court held that the Eighth Amendment prohibited life sentences without the possibility of parole for juveniles convicted of non-homicide offenses. The special characteristics of juveniles that this Court identified in *Graham*—and that are supported by a large and growing body of research—apply equally to juveniles convicted of homicide offenses.

In *Graham*, this Court reiterated the critical differences between juveniles and adults that it set out in *Roper v. Simmons*, 543 U.S. 551 (2005)—differences that do not absolve juveniles of responsibility for their crimes, but that do reduce their culpability and undermine any justification for definitively ending their free lives. The Court noted that juveniles lack adults’ capacity for mature judgment; that they are more vulnerable to negative external influences; and that their characters are not yet fully formed. *Graham*, 130 S. Ct. at 2026-2027; *Roper*, 543 U.S. at 569-570, 573. “The susceptibility of juveniles to immature and irresponsible behavior means ‘their irresponsible conduct is not as morally reprehensible as that of an adult.’” *Roper*, 543 U.S. at 570. Juveniles’ vulnerability and lack of control over their surroundings “mean juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their ... environment.” *Id.* And “[j]uveniles are more capable of change than are adults,” meaning that “their actions are less likely to be evidence of ‘irretrievably depraved character,’” even in the case of very serious crimes. *Graham*, 130 S. Ct. at 2026-2027; see *Roper*, 543 U.S. at 570. Accordingly, “[t]he juvenile should not be deprived of the opportunity to achieve maturity of judgment and self-recognition of human worth and potential”—with “no chance to leave prison before life’s end”—because “[m]aturity can lead to that considered reflection which is the foundation for remorse, renewal, and rehabilitation.” *Graham*, 130 S. Ct. at 2032.

As was true in *Graham*, “[n]o recent data provide reason to reconsider the Court’s observations in *Roper* about the nature of juveniles.” 130 S. Ct. at 2026. Rather, “developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds.” *Id.* In fact, an ever-growing body of research in developmental psychology and neuroscience continues to confirm and strengthen the Court’s conclusions. Compared to adults, juveniles are less able to restrain their impulses and exercise self-control; less capable of considering alternative courses of action and avoiding unduly risky behaviors; and less oriented to the future and thus less attentive to the consequences of their often-impulsive actions. Research also continues to demonstrate that “juveniles are more vulnerable or susceptible to negative influences and

outside pressures, including peer pressure,” while at the same time they lack the freedom and autonomy that adults possess to escape such pressures. *Roper*, 543 U.S. at 569. Thus, even after their general cognitive abilities approximate those of adults, juveniles are less capable than adults of mature judgment and decision-making, especially in the social contexts in which criminal behavior is most likely to arise.

Moreover, because juveniles are still in the process of forming coherent identities, adolescent crime often reflects the “signature”—and transient—“qualities of youth” itself, *Roper*, 543 U.S. at 570, rather than an entrenched bad character. Research into adolescent development continues to confirm the law’s intuition that “‘incorrigibility is inconsistent with youth.’” *Graham*, 130 S. Ct. at 2029. And although some youthful offenders will develop into criminal adults, it remains essentially impossible “even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption.” *Roper*, 543 U.S. at 573. As *Roper* recognized, that is true even of juvenile offenders who have committed the most serious crimes.

Recent neuroscience research suggests a possible physiological basis for these recognized developmental characteristics of adolescence. It is increasingly clear that adolescent brains are not yet fully mature in regions and systems related to higher-order executive functions such as impulse control, planning ahead, and risk avoidance. That anatomical and functional immaturity is consonant with juveniles’ demonstrated psychosocial (that is, social and emotional) immaturity. During puberty, juveniles evince a rapid increase in reward- and sensation-seeking behavior that declines progressively throughout late adolescence and young adulthood. This effect is amplified by exposure to peers, and it corresponds with significant changes in certain elements of the brain’s “incentive processing system”—especially the parts that process rewards and social cues. By contrast, the ability to resist emotional impulses and regulate behavior develops gradually throughout adolescence, and that behavioral development corresponds with gradual development of the brain structures and systems most involved in executive function and impulse control. The disjunction between these developmental processes— which is greatest in early and middle adolescence and narrows as individuals mature into young adulthood—is consistent with the familiar features of adolescence that this Court recognized in *Roper* and *Graham*.

In short, research continues to confirm and expand upon the fundamental insight underlying this Court’s previous decisions: Juveniles’ profound differences from adults undermine the possible penological justifications for punishing a juvenile offender with a sentence that “guarantees he will die in prison without any meaningful opportunity to obtain release.” *Graham*, 130 S. Ct. at 2033. Nor does the scientific literature provide any reason to distinguish between homicide and non-homicide convictions in this regard. In either case, the signature qualities of adolescence reduce juveniles’ culpability and increase their capacity for change. Condemning an immature, vulnerable, and not-yet-fully-formed adolescent to live every remaining day of his life in prison—whatever his crime—is thus a constitutionally disproportionate punishment.

## **Counsel of Record**

**Danielle Spinelli**

Wilmer Cutler Pickering Hale and Dorr LLP

## **Signatories**

The **American Psychological Association** is a voluntary nonprofit scientific and professional organization with more than 150,000 members and affiliates. Since 1892, the Association has been the principal organization of psychologists in the United States. Its membership includes the vast majority of U.S. psychologists holding doctoral degrees from accredited universities. An integral part of the Association's mission is to increase and disseminate knowledge regarding human behavior and to advance psychology as a science, profession, and means of promoting health, education, and human welfare. Based on the well-developed body of research distinguishing the developmental characteristics of juveniles from those of adults, the Association has endorsed the policy reflected in the United Nations Convention on the Rights of the Child, which rejects life imprisonment without possibility of parole for offenses committed by individuals under 18 years of age.

The **American Psychiatric Association**, with roughly 35,000 members, is the principal association of physicians who specialize in psychiatry. It has an interest in this Court's understanding of the lessons of scientific study and professional experience as the Court applies constitutional principles to individuals who often are patients of the organization's members.

The **National Association of Social Workers** (NASW) is the largest association of professional social workers in the world, with nearly 145,000 members and 56 chapters throughout the United States and abroad. NASW conducts research, publishes books and studies, promulgates professional criteria, and develops policy statements on relevant issues of importance. NASW opposes any legislation or prosecutorial discretion permitting children to be charged and punished under adult standards.

# **American Medical Association and the American Academy of Child and Adolescent Psychiatry**

## *Summary of Brief in Support of Neither Party*

### **Summary**

The adolescent's mind works differently from ours. Parents know it. This Court has said it. Legislatures all over the world have presumed it for decades or more. And scientific evidence now sheds light on how and why adolescent behavior differs from adult behavior.

The differences in behavior have been documented by scientists along several dimensions. Scientists have found that adolescents as a group, even at later stages of adolescence, are more likely than adults to engage in risky, impulsive, and sensation-seeking behavior. This is in part, because they overvalue short-term benefits and rewards, and are less capable of controlling their impulses making them susceptible to acting in a reflexive rather than a planned voluntary manner. Adolescents are also more emotionally volatile and susceptible to stress and peer influences. In short, the average adolescent cannot be expected to act with the same control or foresight as a mature adult.

Behavioral scientists have observed these differences for some time, but only recently have studies provided an understanding of the neurological underpinnings for why adolescents act the way they do. For example, brain imaging studies reveal that adolescents generally exhibit more neural reactivity than adults or children in areas of the brain that promote risky and reward-based behavior. These studies also demonstrate that the brain continues to mature, both structurally and functionally, throughout adolescence in regions of the brain responsible for controlling thoughts, actions, and emotions. Together, these studies indicate that the adolescent period poses vulnerabilities to risk taking behavior but, importantly, that this is a temporary stage.

While science cannot gauge moral culpability, scientists can shed light on some of the measurable attributes that the law has long treated as highly relevant to culpability and the appropriateness of punishment. This brief focuses on what science can tell us about the neurological, physiological, psychological, emotional, and behavioral development of adolescents from the perspective of researchers and medical professionals.

### **Interest of Amici**

*Amici* are committed to the advancement of science. While not taking a formal position on whether sentencing a juvenile to a term of imprisonment of life without the possibility of parole violates the protections provided by the Eighth Amendment of the U.S. Constitution, *amici* submit this brief to describe the scientific findings of medical, psychiatric, and psychological research relevant to this issue.

## **Counsel of Record**

**E. Joshua Rosenkranz**

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## **Signatories**

**The American Medical Association** is the largest professional association of physicians, residents and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all U.S. physicians, residents, and medical students are represented in AMA's policy making process. Founded in 1847, the objects of the AMA are to promote the science and art of medicine and the betterment of public health.

**The American Academy of Child and Adolescent Psychiatry**, founded in 1953, is comprised of over 7,500 child and adolescent psychiatrists and other interested physicians. Consistent with the focus of the juvenile court system on rehabilitation rather than retribution and multiple international treaties, including the UN Convention of Rights of the Child, the AACAP has adopted a policy statement strongly opposing the imposition of a sentence of life without the possibility of parole for crimes committed as juveniles. AACAP Policy Statement, June 2009, available at [http://www.aacap.org/cs/root/policy\\_statements/life\\_without\\_parole\\_for\\_juvenile\\_offenders](http://www.aacap.org/cs/root/policy_statements/life_without_parole_for_juvenile_offenders).



**American Probation and Parole Association, the Children's  
Defense Fund, the Child Welfare League of America, the  
Council of Juvenile Correctional Administrators, and the  
National Partnership for Juvenile Services**

*Summary of Brief in Support of Petitioners Jackson and Miller*

**Summary**

In *Graham v. Florida*, 130 S. Ct. 2011 (2010), this Court held that sentencing juvenile offenders who did not commit homicide to life-without-parole (“LWOP”) is disproportionate to the culpability of juvenile offenders and therefore constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. In doing so, this Court affirmed the simple yet profound distinction that juveniles are different from adults. This insight remains fully applicable in the context of juvenile offenders who commit homicide. Juveniles – even those convicted of homicide – are different.

*Amici* agree with the legal arguments set forth in Petitioners’ brief. For the benefit of this Court, and based on *amici*’s own experience, *amici* present empirical data supporting three important points. First, juveniles have lessened ability to understand the consequences of their conduct, diminishing their culpability and competence. Second, juveniles are vulnerable to outside influences and pressure, and ill equipped to control their immediate surroundings or escape negative influences. Third, far from being irretrievably depraved and lost to society, juveniles possess significant capacity for development and rehabilitation.

In addition, in each section, *amici* include facts about individual juveniles involved in homicide or attempted homicide illustrating these distinctive characteristics. With regard to each of these individuals, a system of life-without-parole for juveniles would have prevented the development of dedicated, committed, productive citizens, and foreclosed the possibility of genuine rehabilitation.

Juveniles who commit homicide are different from adults in the same fundamental ways that this Court has recognized in other contexts. As the Court held in *Roper v. Simmons*, 543 U.S. 551 (2005), and *Graham v. Florida*, punishment must be proportionate to juvenile offenders’ culpability. Accordingly, in light of the distinctive characteristics of juveniles, sentences of life without the possibility of parole for juveniles violate the prohibition on cruel and unusual punishment in the Eighth and Fourteenth Amendments.

**Interest of Amici**

The organizations submitting this brief work with, and on behalf of, juveniles in a variety of settings, including inside and outside the criminal justice system. Based on this

experience, *amici* know that the differences between juveniles and adults – including impulsiveness, susceptibility to negative influences, and the capacity for rehabilitation – are profound. While juvenile offenders must be accountable for their actions, they cannot be held to the same standards of blameworthiness and culpability as adults.

## **Counsel of Record**

**Clifford M. Sloan**

Skadden, Arps, Slate, Meagher & Flom LLP

## **Signatories**

The **American Probation and Parole Association** (“APPA”) is an international organization, representing approximately 35,000 probation and parole professionals in juvenile and adult corrections. The APPA works to develop a system of probation and parole services that provides public safety by ensuring humane, effective and individualized sentences for offenders, and support and protection for victims.

The **Children’s Defense Fund** (“CDF”) is a non-profit child advocacy organization dedicated to ensuring a level playing field for all children and to championing policies and programs that lift children out of poverty, protect them from abuse and neglect, and ensure their access to health care, quality education, and a moral and spiritual foundation. CDF advocates nationwide on behalf of children to ensure that children are always a priority.

The **Child Welfare League of America** (“CWLA”) is a coalition of hundreds of private and public agencies serving vulnerable children and families by advancing policies, best practices and collaborative strategies in support of every child growing up in a safe, loving, stable family. CWLA’s focus is on children and youth who may have experienced abuse, neglect, family disruption, or a range of other factors that jeopardize their safety, permanence, or well-being.

The **Council of Juvenile Correctional Administrators** (“CJCA”) represents the youth correctional CEOs in fifty states, Puerto Rico, Washington, D.C. and some major metropolitan counties. Through the collaborative efforts of its members, CJCA has developed expertise in designing and implementing the most effective practices for the treatment of juveniles within their care.

The **National Partnership for Juvenile Services** (“NPJS”) was formed in 2001 and is comprised of four partner organizations: the National Association of Juvenile Correction Agencies, the National Juvenile Detention Association, the Juvenile Justice Trainers Association, and the Council of Educators for At-Risk and Delinquent Youth. NPJS

provides professional development and technical assistance in the field of juvenile justice and delinquency prevention – promoting best-practices and standards – to positively affect youth, families and communities

# **Criminologists**

## *Summary of Brief in Support of Petitioners Jackson and Miller*

### **Summary**

The spike in violent crime by juveniles in the late 1980s and early 1990s triggered widespread fears about the causes and extent of juvenile violence. Many states changed their laws regarding the transfer of juveniles to the adult criminal system in response to this increase in juvenile crime, subjecting juvenile offenders to sentencing regimes that were originally conceived for adults, including sentences of life without parole.

The fears of a juvenile crime wave that prompted these changes became embodied in the notion of a “juvenile superpredator,” which was reflected in academic and political discourse. Juvenile superpredators were characterized as ruthless sociopaths who lacked a moral conscience and were unconcerned about the consequences of their actions and undeterred by punishment.

However, the fear of an impending generation of superpredators proved to be unfounded. Empirical research that has analyzed the increase in violent crime during the early- to mid-1990s and its subsequent decline demonstrates that the juvenile superpredator was a myth and the predictions of future youth violence were baseless. Amici have been unable to identify any scholarly research published in the last decade that provides support for the notion of the juvenile superpredator, and the scholar credited with originating that term has acknowledged that his characterizations and predictions were wrong; he is one of the amici who submit this brief.

In addition, prison sentences of life without parole, whether discretionary or mandatory, have not been shown to have a deterrent effect on juvenile crime, and the incarceration rates of juveniles pursuant to such sentencing policies demonstrate no causal relationship to the significant reduction in juvenile violent crime since the mid-1990s. There is no empirical basis for any concern that declaring unconstitutional sentences of life without parole for juvenile offenders would result in an increase in violent juvenile crime.

### **Interest of Amici**

Amici curiae are forty-six academics who submit this Brief in support of Petitioners Evan Miller and Kuntrell Jackson. All amici have an interest in, teach classes on, and/or have published peer-reviewed research in the fields of criminology and/or juvenile crime trends in the United States.

Amici write in support of the Petitioners in order to bring to the Court’s attention certain data and other information relating to what proved to be a short-lived increase in juvenile crime that led to changes in the treatment of juveniles (i.e. persons under the age of 18) in

many states' criminal justice systems. These changes resulted in increased exposure of juvenile offenders to the possibility of sentences of life without parole.

This Court held unconstitutional the execution of juvenile offenders in *Roper v. Simmons*, 543 U.S. 551 (2005), and prohibited sentences of life without parole for juveniles convicted of non-homicide offenses in *Graham v. Florida*, 130 S. Ct. 2011, 560 U.S. \_\_\_\_ (2010). The Court, however, has not ruled on the issues presented in these cases, the constitutionality of sentences of life without parole for juveniles convicted of homicide offenses, including felony homicide.

### **Counsel of Record**

#### **Carl Micarelli**

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### **Signatories**

**Jeffrey Fagan** is the Isidor and Seville Sulzbacher Professor of Law and Professor of Epidemiology at Columbia University.

**Deborah Baskin** is Professor and Chairperson of the Department of Criminal Justice & Criminology at Loyola University–Chicago.

**Frank R. Baumgartner** is the Richard J. Richardson Distinguished Professor of Political Science at the University of North Carolina at Chapel Hill.

**Katherine Beckett** is a Professor of Sociology and Law, Societies and Justice at the University of Washington.

**Donna Bishop** is a Professor of Criminal Justice at Northeastern University.

**Alfred Blumstein** is the J. Erik Jonsson University Professor of Urban Systems and Operations Research at the Heinz College, Carnegie Mellon University. He is a past President of the American Society of Criminology.

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**Todd R. Clear** is Dean of the School of Criminal Justice at Rutgers University. He is a past President of the American Society of Criminology.

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**David Greenberg** is a Professor of Sociology at New York University.

**Craig Haney** is the Director of the Graduate Program in Social Psychology, and the Director of the Program in Legal Studies at the University of California Santa Cruz.

**Bernard E. Harcourt** is the Julius Kreeger Professor of Law and Professor and Chair of the Political Science Department at the University of Chicago.

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**Lauren J. Krivo** is a Professor of Sociology at Rutgers University.

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University of California, Irvine.

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**Terry A. Maroney** is an Associate Professor of Law at Vanderbilt Law School.

**Tracey L. Meares** is the Walton Hale Hamilton Professor at Yale Law School.

**Edward P. Mulvey** is a Professor of Psychiatry at the Western Psychiatric Institute and Clinic, University of Pittsburgh School of Medicine.

**Daniel Nagin** is the Teresa and H. John Heinz III University Professor of Public Policy and Statistics at Carnegie Mellon University.

**Andrew Papachristos** is a Robert Wood Johnson Health & Society Scholar at Harvard University and an Assistant Professor of Sociology at the University of Massachusetts Amherst.

**Raymond Paternoster** is a Professor in the Department of Criminology and Criminal Justice at the University of Maryland.

**John Pfaff** is an Associate Professor of Law at Fordham University School of Law.

**Michael L. Radelet** is a Professor in the Department of Sociology at the University of Colorado.

**Richard Rosenfeld** is a past President of the American Society of Criminology, and Curators Professor in the Department of Criminology and Criminal Justice at the University of Missouri–St. Louis.

**Robert J. Sampson** is Henry Ford II Professor of the Social Sciences at Harvard University. He is President of the American Society of Criminology.

**Carla Shedd** is an Assistant Professor of Sociology at Columbia University.

**Simon I. Singer** is a Professor in the School of Criminology and Criminal Justice at Northeastern University.

**Jonathan Simon** is the Adrian A. Kragen Professor of Law at UC Berkeley School of Law.

**Michael Tonry** is the Russell M. and Elizabeth M. Bennett Chair in Excellence at the University of Minnesota Law School. He is a past President of the American Society of Criminology.

**Valerie West** is an Assistant Professor at John Jay College of Criminal Justice.

**James Q. Wilson** is an Emeritus Professor of Public Policy at UCLA and former Chairman of the Committee on Law and Justice of the National /National Academies.

**Christopher Winship** is the Diker-Tishman Professor of Sociology at Harvard University.

**Franklin E. Zimring** is the William G. Simon Professor of Law and Wolfen Distinguished Scholar at UC Berkeley School of Law.



**NAACP Legal Defense & Educational Fund, Inc., Charles  
Hamilton Houston Institute for Race & Justice,  
LatinoJustice PRLDEF, Asian American Legal Defense and  
Education Fund, and Leadership Conference on Civil and  
Human Rights**

*Summary of Brief in Support of Petitioners Jackson and Miller*

**Summary**

The question presented by these cases is whether the imposition of a life without parole sentence on a fourteen-year-old child convicted of a homicide offense violates the Eighth and Fourteenth Amendments' prohibition against cruel and unusual punishments. As detailed by the submissions of the Petitioners and their amici curiae, the answer is "yes." As this amicus brief explains, the improper influence of race impairs the culpability analyses of children subject to life without parole sentences, which is further evidence of the unconstitutionality of this sentencing practice. Although a proper evaluation of culpability is fundamental under the Eighth and Fourteenth Amendments, history shows that racial stereotypes propelled the implementation of the laws that led to juvenile life without parole sentences, and research establishes that children of color are sentenced to life without parole at markedly disproportionate rates. This Court declared, in *Graham v. Florida*, 560 U.S. \_\_\_, 130 S. Ct. 2011 (2010), that youth are less culpable than adults and, therefore, less deserving of life without parole sentences. Yet, it is clear that race critically and inappropriately influences the assessment of blameworthiness in the context of juvenile life without parole sentencing. Given this constitutional infirmity, as well as the severity and finality of a death-in-prison sentence, this Court should categorically exempt youth from life without parole sentences.

**Interest of Amici**

Amici curiae NAACP Legal Defense and Educational Fund, Inc., Charles Hamilton Houston Institute for Race and Justice, LatinoJustice PRLDEF, Asian American Legal Defense and Education Fund, and Leadership Conference on Civil and Human Rights are non-profit organizations dedicated to, among other goals, eradicating the impact of race in the administration of justice. More details about individual amici are included in the Addendum.

**Counsel of Record**

**Vincent M. Southerland**

NAACP Legal Defense and Educational Fund, Inc.

## **Signatories**

The **NAACP Legal Defense & Educational Fund, Inc.** (LDF), is a non-profit corporation formed to assist African Americans and others who are unable, on account of poverty, to employ legal counsel to secure their rights to equal protection under the law. LDF has a long-standing concern with the impact of racial discrimination on the criminal justice system. It has served as counsel of record and/or as amicus curiae in this Court in, inter alia, *Graham v. Florida*, 560 U.S. \_\_\_, 130 S.Ct. 2011 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005); *Kimbrough v. United States*, 552 U.S. 85 (2007); *Miller-El v. Cockrell*, 537 U.S. 322 (2003); *Batson v. Kentucky*, 476 U.S. 79 (1986); *McClesky v. Kemp*, 481 U.S. 279 (1987); *Ham v. South Carolina*, 409 U.S. 524 (1973); *Alexander v. Louisiana*, 405 U.S. 625 (1972); *Furman v. Georgia*, 408 U.S. 238 (1972); and *Swain v. Alabama*, 380 U.S. 202 (1965).

The **Charles Hamilton Houston Institute for Race and Justice** at Harvard Law School (CHHIRJ) continues the unfinished work of Charles Hamilton Houston, one of the Twentieth Century's most talented legal scholars and litigators. The CHHIRJ marshals resources to advance Houston's dreams for a more equitable and just society. It brings together students, faculty, practitioners, civil rights and business leaders, community advocates, litigators, and policymakers to focus on, among other things, reforming criminal justice policies.

**LatinoJustice PRLDEF** was founded in 1972 as the Puerto Rican Legal Defense and Education Fund and is one of the nation's leading civil rights public interest law offices that represents Latinas and Latinos throughout the Eastern seaboard and works to increase their entry into the legal profession. LatinoJustice PRLDEF has a strong interest in addressing civil rights and human rights violations within the Latino communities of the United States and uses the courts to rectify these abuses. Accordingly, it has an interest in the juvenile justice matters presented in this litigation and their effects on Latino youth.

The **Asian American Legal Defense and Education Fund** (AALDEF), founded in 1974, is a national organization that protects and promotes the civil rights of Asian Americans. By combining litigation, advocacy, education, and organizing, AALDEF works with Asian American communities across the country to secure human rights for all. The racially discriminatory and barbaric treatment of juveniles by the criminal justice system threatens the rights of Asian Americans and all Americans.

The **Leadership Conference on Civil and Human Rights** is a diverse coalition of more than 200 national organizations charged with promoting and protecting the

rights of all persons in the United States. The Leadership Conference was founded in 1950 by A. Philip Randolph, head of the Brotherhood of Sleeping Car Porters; Roy Wilkins of the NAACP; and Arnold Aronson, a leader of the National Jewish Community Relations Advisory Council. The Leadership Conference works to build an America that is as good as its ideals, and towards this end, opposes the sentencing of juveniles to life without parole, a practice in violation of the Eighth Amendment's bar against cruel and unusual punishment. Fairness and equality in the administration of justice is a fundamental civil and human right, but the extreme racial disparities that exist within the criminal justice system denies this right to the most vulnerable segments of society, including minorities and youth. In order to advance its mission, The Leadership Conference is dedicated to eliminating all forms of discrimination from our criminal justice system, and as such, has a vital interest in the outcome of this case.

## **Juvenile Law Center, et al.**

### *Summary of Brief in Support of Petitioners Jackson and Miller*

#### **Summary**

The imposition of life without parole sentences on juveniles violates the Cruel and Unusual Punishments Clause of the Eighth Amendment. As the Supreme Court has held, juvenile offenders are categorically different from adult offenders in constitutionally relevant ways. According to settled research, juveniles are immature in their judgment and decision-making capacities, they are especially susceptible to negative peer pressures, and they are uniquely capable of transformation and rehabilitation. As found in *Roper v. Simmons* and *Graham v. Florida*, juveniles as a class are less culpable for their criminal conduct than adults.

Culpability is a cornerstone of our criminal justice system, and it is central to ensuring that sentences are rational and proportional under the Eighth Amendment. Traditionally, the Court has looked primarily to the nature of the offense to assess proportionality. In the case of juveniles, this Court has modified its traditional Eighth Amendment analysis to focus specifically on the unique attributes and characteristics of the juvenile offender in reviewing the constitutionality of sentences. The reduced culpability of juveniles renders life without parole sentences inherently disproportionate under the Eighth Amendment and thus categorically impermissible.

In the instant cases, the sentencing schemes in Alabama and Arkansas compound the constitutional infirmity of a life without parole sentence. In both cases, the sentences were mandatory. Following this Court's reasoning in striking mandatory death sentences under the Eighth Amendment, a mandatory juvenile life without parole sentence by its nature precludes considerations of the individual juvenile offender or the circumstances of his crime. Absent these considerations neither the sentencer nor the reviewing court have any ability to assess the proportionality of the sentence to a particular juvenile. A mandatory scheme thus precludes constitutionally relevant evidence of youth, lesser criminal involvement, and potential for maturity and therefore impermissibly taints the reliability of the sentence. Additionally, Jackson's life without parole sentence following a conviction of felony murder is squarely at odds with this Court's holding in *Graham* that juveniles who neither kill, intend to kill, or foresee that life will be taken are constitutionally ineligible for such sentences.

Finally, this Court has repeatedly acknowledged that the risk of wrongful convictions is of concern in evaluating the harshest sentences imposed on certain categories of offenders. Research demonstrates that juveniles are particularly at risk of giving false confessions because of their developmental characteristics, further supporting increased scrutiny of such sentences under the Constitution.

## **Interest of Amici**

The organizations submitting this brief work on behalf of adolescents in a variety of settings, including adolescents involved in the juvenile and criminal justice systems. Amici are advocates and researchers who have a wealth of experience and expertise in providing for the care, treatment, and rehabilitation of youth in the child welfare and justice systems. Amici know that youth who enter these systems need extra protection and special care. Amici understand from their collective experience that adolescent immaturity manifests itself in ways that implicate culpability, including diminished ability to assess risks, make good decisions, and control impulses. Amici also know that a core characteristic of adolescence is the capacity to change and mature. For these reasons, Amici believe that youth status separates juvenile and adult offenders in categorical and distinct ways that warrant distinct treatment under the Eighth Amendment.

## **Counsel of Record**

**Marsha L. Levick**  
Juvenile Law Center

## **Signatories**

**Juvenile Law Center** is the oldest multi-issue public interest law firm for children in the United States, founded in 1975 to advance the rights and well-being of children in jeopardy.

**Alabama Fair Sentencing of Children** is a grass roots effort in Alabama working to abolish juvenile life without parole.

The **Barton Child Law & Policy Clinic** is a clinical program of Emory Law School dedicated to promoting and protecting the legal rights and interests of children involved with the juvenile court, child welfare and juvenile justice systems in Georgia.

The **Campaign for the Fair Sentencing of Youth** is a national coalition and clearinghouse that coordinates, develops and supports efforts to implement just alternatives to the extreme sentencing of America's youth with a focus on abolishing life without parole sentences for all youth.

The **Campaign for Youth Justice** is a national organization created to provide a voice for youth prosecuted in the adult criminal justice system.

The **Center on Children and Families** at the University of Florida Fredric G. Levin College of Law in Gainesville, Florida is an organization whose mission is to promote the highest quality teaching, research and advocacy for children and their families.

The **Center for Children's Advocacy** is a non-profit organization based at the University of Connecticut Law School and is dedicated to the promotion and protection of the legal rights of poor children.

The **Center for Children's Law and Policy** is a public interest law and policy organization focused on reform of juvenile justice and other systems that affected troubled and at-risk children, and protection of the rights of children in such systems.

The **Center for Public Representation**, a national public interest law firm with its main office in Northampton, Massachusetts, has represented children and adults with disabilities for nearly forty years.

The **Central Juvenile Defender Center** is a training, technical assistance and resource development project housed at the Children's Law Center, Inc.

The **Chicago Lawyers' Committee for Civil Rights Under Law, Inc.** is the public interest law consortium of Chicago's leading law firms, established in 1969.

The **Child Welfare League of America**, founded in 1920, is a coalition of hundreds of private and public child and family service agencies that collectively serve more than 3 million abused, neglected and vulnerable children and youth every day.

The **Children and Family Justice Center** is a comprehensive children's law center that has represented young people in conflict with the law and advocated for policy change for over 20 years.

The **Children & Youth Law Clinic** is an in-house legal clinic, staffed by faculty and students at the University of Miami School of Law established in 1995.

The **Children's Law Center, Inc.** in Covington, Kentucky has been a legal service center for children's rights since 1989.

**Children's Law Center of Los Angeles** is a non-profit public interest law corporation that receives appointments from the Los Angeles County and the Sacramento County dependency courts to serve as counsel for abused and neglected youth.

Founded in 1977, the **Children's Law Center of Massachusetts** is a private, non-profit legal services agency that provides direct representation and appellate advocacy for indigent children in juvenile justice, child welfare and education matters.

The **Civitas ChildLaw Center** is a program of the Loyola University Chicago School of Law, whose mission is to prepare law students and lawyers to be ethical and effective advocates for children.

The **Colorado Juvenile Defender Coalition** is a non-profit organization dedicated to excellence in juvenile defense and advocacy, and justice for all children and youth in Colorado.

The **Defender Association of Philadelphia** is an independent non-profit corporation created in 1934 by a group of Philadelphia lawyers dedicated to the idea of high quality legal services for indigent criminal defendants.

The **Disability Rights Legal Center** is a non-profit legal organization that was founded in 1975 to represent and serve people with disabilities.

The **Education Law Center – PA** is a public interest organization dedicated to ensuring that all Pennsylvania children have access to a quality public education.

**Families & Allies of Virginia’s Youth** is a diverse statewide organization that works to improve life outcomes for youth who are involved in – or who are at risk of being involved in – Virginia’s justice systems.

**Fight for Lifers, West** is a Lifers Support Group in Western Pennsylvania devoted to prisoners in Pennsylvania who are sentenced to life imprisonment without parole.

**Florida’s Children First** is Florida’s preeminent legal advocacy organization dedicated to the legal rights of children in the state’s care and custody.

**Human Rights Watch** is a non-governmental organization established in 1978 to monitor and promote observance of internationally recognized human rights. It has Special Consultative Status at the United Nations, regularly reports on human rights conditions in the U.S. and more than seventy other countries around the world, and actively promotes legislation and policies worldwide.

**International CURE (Citizens United for Rehabilitation of Errants)** is a grassroots prison reform organization that advocates for more rehabilitative opportunities for people incarcerated.

The **Iowa Chapter of Citizens United for the Rehabilitation of Errants** was established in 1992 and is a member organization of International CURE.

The **John Howard Association of Illinois** provides critical public oversight to Illinois’ prisons, jails, and juvenile correctional facilities.

**JustChildren**, a project of the Legal Aid Justice Center, with offices in Charlottesville, Richmond, and Petersburg, is Virginia's largest children's law program.

The **Justice for Children Project** is an educational and interdisciplinary research project housed within The Ohio State University Michael E. Mortiz College of Law, begun in 1998 to explore ways in which the law may be used to redress systemic problems affecting children.

The **Juvenile and Special Education Law Clinic** is one of eight clinics at the U.D.C. David A. Clarke School of Law and represents children and parents in Washington, DC.

**Juvenile Justice Initiative** of Illinois is a non-profit, non-partisan, inclusive statewide coalition of state and local organizations, advocacy groups, legal educators, practitioners, community service providers and child advocates.

**Juvenile Justice Project of Louisiana** is the only statewide, non-profit advocacy organization focused on reform of the juvenile justice system in Louisiana.

The **Juvenile Rights Advocacy Project** is curricular law clinic, based at Boston College Law School since 1995.

The **Kids First Law Center** is a nonprofit public interest organization for children in Cedar Rapids, Iowa.

**Loyola Law School Center for Juvenile Law and Policy** is an organization dedicated to reforming the Los Angeles juvenile justice through research, activism and advocacy.

The **Mid-Atlantic Juvenile Defender Center** is one of nine regional centers created by the National Juvenile Defender Center in 2000.

The **National Alliance on Mental Illness** is the nation's largest grassroots mental health organization dedicated to building better lives for the millions of Americans affected by mental illness.

The **National Association for Counsel of Children** is a non-profit child advocacy and professional membership association dedicated to enhancing the well-being of America's children.

The **National Association of Counsel for Children** is a 501(c)(3) non-profit child advocacy and professional membership association dedicated to enhancing the well being of America's children.

The **National Black Law Student Association** is a national organization formed to articulate and promote the needs and goals of black law students and effectuates change in the legal community.



The **National Center for Youth Law** is a private, non-profit organization devoted to using the law to improve the lives of poor children nationwide.

The **National Family Network** works to create a community of support for friends and family members of people impacted by violence committed by youth.

The **National Juvenile Defender Center** was created to ensure excellence in juvenile defense and promote justice for all children.

The mission of the **National Juvenile Justice Network** leads and supports a movement of state and local juvenile justice coalitions and organizations to secure local, state and federal laws that are fair, equitable and developmentally appropriate for all children, youth and families.

The **New Jersey Institute for Social Justice** is a Newark-based non-partisan research and advocacy organization dedicated to the advancement of New Jersey's urban areas and residents.

The mission of the **North Carolina Office of the Juvenile Defender** is to provide services and support to defense attorneys, to evaluate the current system of representation and make recommendations, to elevate the stature of juvenile delinquency representation, and to work with other juvenile justice actors to promote positive change in the juvenile justice system.

The **Northeast Juvenile Defender Center** is one of the nine regional centers affiliated with the National Juvenile Defender Center.

The **Children and Family Justice Center** at the **Northwestern University School of Law's Bluhm Legal Clinic** is as a legal service provider for children, youth and families and a research and policy center.

The **Pacific Juvenile Defender Center** is a regional affiliate of the National Juvenile Defender Center.

The **Pendulum Foundation** serves youth who are serving long prison sentences, particularly those serving life without parole.

For 225 years, the **Pennsylvania Prison Society** has advocated for a restorative and constructive correctional system, including abolishing juvenile life without parole sentences.

The **Public Defender Service for the District of Columbia** is a federally funded, independent public defender organization; for 50 years, PDS has provided quality legal

representation to indigent adults and children facing a loss of liberty in the District of Columbia justice system.

The **Rutgers School of Law – Camden Children’s Justice Clinic** is a holistic lawyering program using multiple strategies and interdisciplinary approaches to resolve problems for indigents facing juvenile delinquency charges, primarily providing legal representation in juvenile court hearings.

**Rutgers Urban Legal Clinic** is a clinical program of Rutgers Law School – Newark, established more than 30 years ago to assist low-income clients.

The **Sentencing Project** is a 25-year-old national non-profit organization engaged in research and advocacy on criminal justice and juvenile justice reform.

The **Southern Juvenile Defender Center** is one of nine regional centers created by the National Juvenile Defender Center to enhance the juvenile defense bar’s capacity to provide high quality representation

The **Support Center for Child Advocates**, founded in 1977, is Philadelphia’s volunteer lawyer program for abused and neglected children in Philadelphia, representing 800 children each year.

The **University of Michigan Law School Juvenile Justice Clinic** is a live client clinic that represents juveniles charged with criminal and delinquent conduct in various courts in the State of Michigan.

**Voices for Georgia’s Children** is an independent, non-profit organization whose mission is to substantially improve outcomes for Georgia’s children by engaging lawmakers and the public into building a sustained, comprehensive, long-term agenda.

The **W. Haywood Burns Institute** is a San Francisco-based national nonprofit organization with a mission to protect and improve the lives of youth of color, poor youth, and the well-being of their communities by reducing the adverse impacts of public and private youth-serving systems to ensure fairness and equity throughout the juvenile justice system.

The **Wisconsin Council on Children and Families** was established in 1881 and has continued to the present time, through research, policy analysis, and education, to promote policies and investments to ensure that all children grow up in safe and healthy families and communities.

**Youth Advocate Programs, Inc.** is a non-profit, direct services organizations founded in 1975 whose mission is to provide safe, proven and effective alternatives to institutional placement.

The **Youth Law Center** is a San Francisco-based national public interest law firm working to protect the rights of children at risk or involved in the juvenile justice and child welfare systems.

**Mary Berkheiser** is a Professor of Law at the William S. Boyd School of Law, University of Nevada, Las Vegas, specializing in juvenile law.

**Shay Bilchik** is the founder and Director of the Center for Juvenile Justice Reform at Georgetown University Public Policy Institute.

**Tamar Birckhead** is an assistant professor of law at the University of North Carolina at Chapel Hill where she teaches the Juvenile Justice Clinic and the criminal lawyering process.

Professor **Laura Cohen** is the former director of training for the New York City Legal Aid Society's Juvenile Rights Division.

**Michele Deitch** teaches juvenile justice policy and criminal justice policy at the University of Texas – Lyndon B. Johnson School of Public Affairs and at the University of Texas School of Law.

**Donald N. Duquette** is Clinical Professor of Law and Director of the Child Advocacy Law Clinic at the University of Michigan Law School.

**Barbara Fedders** is a clinical assistant professor at the University of North Carolina School of Law and a former clinical instructor at the Harvard Law School Criminal Justice Institute.

**Barry Feld** is Centennial Professor of Law, University of Minnesota Law School, who specializes in juvenile justice.

**Brian J. Foley** is a Professor of Law at Florida Coastal School of Law who teaches and writes in the area of criminal law and procedure.

**James Alan Fox**, Ph.D., is the Lipman Family Professor of Criminology, Law and Public Policy at Northeastern University in Boston.

**Frank Furstenberg** is a Professor of Sociology at the University of Pennsylvania where he is also an Associate in the Population Studies Center and the Zellerbach Family Chair, Emeritus, with a research focus on children, youth and families.

**Martin Guggenheim** is the Fiorello La Guardia Professor of Clinical Law at N.Y.U. Law School, where he has taught since 1973, and is an active litigator in the area of children and the law.

**Kristin Henning** is a Professor of Law and Co-Director of the Juvenile Justice Clinic at the Georgetown Law Center, and the former Lead Attorney for the Juvenile Unit of the Public Defender Service for the District of Columbia.

**Paul Holland** is Associate Dean for Academic Affairs at Seattle University School of Law, where he teaches in the Youth Advocacy Clinic, a law school clinic that represents juveniles charged with crimes.

**Miriam Aroni Krinsky** is a Lecturer at the UCLA School of Public Policy and an Adjunct Professor at Loyola Law School, and the former Executive Director of the Children's Law Center of Los Angeles.

**Julie E. McConnell** is a Clinical Professor of Law at the University of Richmond School of Law and the Director of the Children's Defense Clinic.

**James R. Merikangas, MD**, is Clinical Professor of Psychiatry and Behavioral Neuroscience at the George Washington University School of Medicine in Washington DC.

**Wallace Mlyniec** is the former Associate Dean of Clinical Education and Public Service Programs, and currently the Lupo-Ricci Professor of Clinical Legal Studies and Director of the Juvenile Justice Clinic at Georgetown University Law Center.

**Eddie Ohlbaum** is a trial lawyer who joined the Temple Law School Faculty in Spring 1985 and is the first holder of Temple's first chair in trial advocacy, the Jack E. Feinberg Professorship of Litigation.

**Elizabeth Scott** is the Harold R. Medina Professor of Law at Columbia University specializing in juvenile delinquency and juvenile justice policy.

**Jeffrey Shook** is Associate Professor of Social Work and Affiliated Professor of Law at the University of Pittsburgh, with a research focus on the intersections of law, policy, and practice in the lives of children and youth.

**Abbe Smith** is Professor of Law, Director of the Criminal Defense & Prisoner Advocacy Clinic, and Co-Director of the E. Barrett Prettyman Fellowship Program at Georgetown Law School.

**Michael Sturley** is the Stanley D. and Sandra J. Rosenberg Centennial Professor at the University of Texas Law School who argued a juvenile sentencing case before the U.S. Supreme Court.

**Barbara Bennett Woodhouse** is L.Q.C. Lamar Professor of Law at Emory University and Co-Director of the Barton Child Law and Policy Clinic, and she is also David H. Levin Chair in Family Law (Emeritus) at University of Florida.



# American Bar Association

## *Summary of Brief in Support of Petitioners Jackson and Miller*

### **Summary**

The ABA respectfully submits that while this Court limited its holding in *Graham* to juveniles convicted of non-homicide offenses, every characteristic and difference between children and adults identified in *Roper* and *Graham* that supports this Court's conclusion that juveniles are less morally culpable and have a greater capacity for rehabilitation than adults also supports an extension of *Graham's* holding to all juveniles regardless of whether they were convicted of homicide. Similarly, *Graham's* holding that the standard penological justifications of sentencing are not served by juvenile life without parole ("JLWOP") sentences applies with equal force to juveniles convicted of homicide. Moreover, the exclusion of juveniles convicted of homicide from the protection of *Graham* does not comport with the "evolving standards of decency that mark the progress of a maturing society." *Roper*, 543 U.S. at 560-61. Each of these arguments for extending *Graham* to juveniles convicted of homicide is supported by the ABA's research, investigation and the experience of its members in formulating, adopting and periodically reviewing the ABA's *Juvenile Justice Standards*, which specifically include standards for sentencing.

Moreover, the ABA urges a conclusion that a JLWOP sentence is unconstitutional even for juveniles convicted of homicide crimes based on the fact that neither public safety nor penal objectives would be compromised by allowing the chance for parole. Further, consideration should be given to the overwhelming opposition to JLWOP demonstrated by international authorities. While the Petitioners may focus on the constitutionality of JLWOP as applied to fourteen year old children under particular circumstances, the ABA requests, for the reasons set forth herein and consistent with the consensus of medical and behavioral scientists as to a child's brain development, that this Court hold categorically that a JLWOP sentence for any child under the age of eighteen for any crime is unconstitutional.

The ABA is not asserting that all juveniles should be entitled to parole, but only that they should not be denied the opportunity to be considered for parole before they die in prison. The need for such protection for juvenile offenders is made more compelling by the fact that many juveniles sentenced to JLWOP, including the Petitioners here, are tried as adults before trial judges with no discretion to sentence them to anything but life without the possibility of parole. Thus, many trial judges are stripped of any opportunity to consider the backgrounds, developmental differences or other mitigating factors of youth that this Court, the scientific community, and the ABA have recognized.

## **Interest of Amici**

Pursuant to Supreme Court Rule 37.3, the American Bar Association (“ABA”), as *amicus curiae*, respectfully submits this brief in support of the Petitioners. The ABA requests this Court to reverse the decisions below and extend its decision in *Graham v. Florida*, 130 S. Ct. 2011 (2010), to hold that a sentence of life imprisonment without the possibility of parole for a juvenile offender convicted of homicide impermissible under the Eighth and Fourteenth Amendments of the United States Constitution.

The ABA is the largest voluntary professional membership organization and its nearly 400,000 members constitute the leading association of legal professionals in the United States. The ABA’s members come from each of the fifty states, the District of Columbia, and the U.S. Territories. Its members include judges, prosecutors, defense lawyers, lawyers in private practice, as well as those in corporations, non-profit organizations, and government agencies. The ABA also includes lawyers involved in correctional facilities and parole boards, as well as legislators, law professors, and law students. Since its inception, this wide cross-section of legal professionals has sought to “[w]ork for just laws, including human rights, and a fair legal process.”

The ABA, through its Criminal Law Section, has always taken an active role in advocating for the improvement of the criminal justice system, with a special interest in the improvement of the juvenile justice system through its Juvenile Justice Committee. This committee is composed of stakeholders participating in the juvenile justice system, including both adult and juvenile judges, and lawyers involved in all aspects of the issues facing children in the juvenile justice process.

The ABA’s research, investigation and experience of its members, along with its study of developments in juvenile justice law, and scientific and psychological studies regarding the differences between children and adults, has informed the ABA’s continuing development of ABA policies relating to the sentencing of children. In addition, the ABA devoted over nine years working with the Institute of Judicial Administration (“IJA”) on the development of standards for the administration of juvenile justice, which culminated in the publication in 1980 of the IJA/ABA *Juvenile Justice Standards* and republication in 1996. The ABA drew upon this varied and rich experience in its *amicus curiae* briefs in *Graham*, 130 S. Ct. 2011(2010), and *Roper v. Simmons*, 543 U.S. 551 (2005), in which the ABA discussed its sentencing policies that reflect factors rendering juvenile offenders less morally culpable, and more capable of rehabilitation than adults convicted of the same crimes, including homicide. See ABA Briefs in *Graham*, 2009 WL2197339 and *Roper*, 2004 WL 1617399, available at <http://www.abanet.org/amicus/briefs98-03.html>.

## **Counsel of Record**

**WM. T. Robinson III**

President, American Bar Association

## **Signatories**

The **American Bar Association** is the largest voluntary professional membership organization and the leading organization of legal professionals in the United States. Its more than 400,000 members span all 50 states and other jurisdictions, and include attorneys in private law firms, corporations, non-profit organizations, government agencies, and prosecutor and public defender offices, as well as judges, legislators, law professors and law students.



## **Amnesty International, et al.**

### *Summary of Brief in Support of Petitioners Jackson and Miller*

#### **Summary**

International law and opinion have informed the law of the United States since the adoption of the Declaration of Independence. The Founders were greatly influenced by international legal and social thought; and throughout U.S. history, courts have referred to international standards when considering the constitutionality of certain practices. This is particularly true with respect to the Eighth Amendment's "cruel and unusual punishments" clause. The point, as the Court explained in *Graham*, is not that the Eighth Amendment is governed by international law, but rather that as a matter of U.S. constitutional law, the Court must consider contemporary standards of decency, as informed by international (and foreign) law and practice. Thus, amici consider international law and practice with respect to sentencing of juvenile offenders to life without parole to be of particular relevance to this Court.

Virtually every other country in the world either has never engaged in or has rejected the sentencing of persons convicted of crimes committed when they were under 18 to life without possibility of parole. The few countries in which juveniles were previously reported to be serving life sentences without parole have either changed their laws or explained that juvenile offenders can apply for parole.

Universally accepted standards condemn sentencing juvenile offenders to life without the possibility of parole. All countries except the United States and Somalia are parties to the Convention on the Rights of the Child, which prohibits the sentence. Several treaties that the United States is party to have also been interpreted to prohibit the sentence.

This Court considered international law when holding that the juvenile death penalty violates the Eighth Amendment, *Roper*, 543 U.S. at 575-79, and again when it struck down life sentences without parole for offenders under 18 convicted of non-homicide crimes. *Graham*, 130 S. Ct. at 2033-34. Many of the international norms considered in *Roper* and *Graham* apply equally to any life without parole sentences applied to juvenile offenders, and those norms equally support overturning Mr. Miller and Mr. Jackson's sentences here.

The community of nations rejects sentencing any juvenile offender to die in prison, whatever the offense. Allowing the practice to continue in the United States would be inconsistent with contemporary standards of decency and contrary to the Eighth Amendment. The appropriate remedy is to ensure that persons incarcerated for crimes committed when they were under the age of 18 have a meaningful opportunity to obtain release at the end of a term of years sentence or through parole consideration.

### **Interest of Amici**

*Amici* urge the Court to consider international law and opinion, as well as foreign practice, when applying the Eighth Amendment's clause prohibiting cruel and unusual punishments. International standards and practice prohibiting sentencing juvenile offenders to life in prison without the possibility of parole provide an important indicator of evolving standards of decency, which illuminate the contours of acceptable conduct under the Eighth Amendment. Treaties the United States is party to are relevant to this analysis. The United States is the only country in the world that does not comply with the norm against imposing life without possibility of parole sentences on offenders who are under the age of 18 at the time of the offense.

Prohibiting the sentence imposed in these cases would bring the United States into alignment with one of the most widely accepted international human rights norms, and enhance compliance with treaty obligations. Formally recognizing the unconstitutionality of these sentences would uphold the Eighth Amendment principles that led this Court to strike down the death penalty for juveniles in *Roper v. Simmons*, 543 U.S. 551 (2005), and juvenile life sentences without parole for non-homicide crimes in *Graham v. Florida*, 130 S. Ct. 2011 (2010).

### **Counsel of Record**

**Constance de la Vega**

University of San Francisco School of Law

### **Signatories**

**Amnesty International** is a worldwide human rights movement of more than 2.2 million members and subscribers. It works independently and impartially to promote respect for human rights. It monitors domestic law and practices in countries throughout the world for compliance with international human rights law and international humanitarian law and standards, and it works to prevent and end grave abuses of human rights and to demand justice for those whose rights have been violated. It has addressed the issue of juvenile life without parole and co-published the report *The Rest of Their Lives: Life Without Parole for Child Offenders in the United States* (2005). It has previously appeared as *amicus curiae* in cases before the United States Supreme Court, including *Graham v. Florida*, 130 S. Ct. 2011 (2010).

**The Amsterdam Bar Association** ('**Amsterdamse orde van Advocaten**') is the professional body of lawyers, practicing in the district of the Amsterdam Court. The membership is mandatory. The Amsterdam bar organization, representing over 5,000 lawyers, has as a task to further good practice by lawyers and to protect the rights and

interests of their members as lawyers, as well as the administration of justice.

**The Austrian Bar (Österreichischer Rechtsanwaltskammertag, ÖRAK)** is the official representation of lawyers in Austria, a public body determined by law, which is responsible for safeguarding their rights and affairs and their representation at national, European and international level. It is as such particularly responsible for proposing legislative acts and rendering opinions on legislative projects as well as for notifying deficiencies in the administration of justice and administration to the competent body and providing proposals in order to improve the administration of justice and administration.

**The Bar Human Rights Committee of England and Wales (BHRC)** is the international human rights arm of the Bar of England and Wales. It is an independent body primarily concerned with the protection of the rights of advocates and judges around the world and with defending the rule of law and internationally recognized legal standards relating to the right to a fair trial. The BHRC regularly appears in cases where there are matters of human rights concern, and has experience of legal systems throughout the world. The BHRC has previously appeared as *amicus curiae* in cases before the United States Supreme Court, including *Roper v. Simmons*, 543 U.S. 551 (2005) and *Sullivan v. Florida* and *Graham v. Florida*, 130 S. Ct. 2011 (2010).

**The Barcelona Bar Association** now has more than 21,000 members; 16,000 are active and 6,000 do not exercise as lawyers but enjoy certain rights as members of the Bar. The Association aims at guaranteeing the professional interests of the law profession but also watching for the accomplishment of the profession's deontological rules, with a distinct vocation for serving the community. The Association exercises deontological control, regulates on matters of fees, fights against professional intrusion, organizes and provides legal aid to those with no financial resources, and to persons held in detention.

**The Bar of Montreal**, with over 13,000 members, is one of the largest bar associations in the world, as well as being the second largest French-speaking bar association. Its members' expertise covers all aspects of the legal practice, administration and business. Many of its members are recognized nationally and internationally in these fields. With more than 160 years of history, the Bar of Montreal is considered a model for its leadership in the pursuit of excellence in ethics and high standards of competence. The Bar of Montreal's mission is to protect the public. With this in mind, the Bar organizes a number of activities each year which inform members of the public of their legal rights and how they are to be exercised.

**The Center for Constitutional Rights (CCR)** is a national non-profit legal, educational and advocacy organization dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is committed to the creative use of law as a positive force for social change.

**Columbia Law School's Human Rights Institute (HRI)**, founded in 1998, serves as a

crossroads for practitioners, scholars, and activists, and as a focal point for Columbia Law School's human rights curriculum, programs and research. HRI leverages these academic resources into support for human rights in the United States and throughout the world. As part of its work to promote human rights in the United States, HRI, in conjunction with Columbia Law School's Human Rights Clinic, is co-counsel in *In re Juveniles Sentenced to Life Without Parole in the United States of America*, Petition P-161-06, Inter-Am. C.H.R. (2006), concerning the mandatory sentencing of juveniles in Michigan to life without the possibility of parole. HRI also participated as amicus in *Graham v. Florida*, 130 S. Ct. 2011 (2010).

**The Czech Bar Association** is the biggest legal professional organization in the Czech Republic representing more than 8,500 lawyers. It is a self-governing organization performing public administration in the area of the Legal Profession and, as such, it protects and guarantees the quality of the provision of the legal services by lawyers.

**The European Bars Federation/Fédération des Barreaux d'Europe (FBE)** was founded in Barcelona on 23rd May 1992, as a successor to the « Conférence des Grands Barreaux d'Europe ». Its official headquarters are in Strasbourg. FBE membership is open to all national and local Bars and Law societies within the Council of Europe. Today, the FBE has 250 member bars, representing approximately 800 000 lawyers. Its principal objects are: to put in place common activity while respecting its members' autonomy and independence; to establish a permanent link between Bars with the organization of periodic meetings; to represent the Advocacy with all the European Institutions; to promote the supremacy of law, the right to a fair trial and human rights, an item in which it is particularly and strongly involved this year; and to promote the harmonization of the profession in Europe equally in forensic activity and profession ethics, and all possible contacts with lawyers of the other Continents.

**The General Council of the Bar (GCB)** of South Africa is a voluntary association constituted by ten South African bars. The advocates who are members of the General Council of the Bar of South Africa are in private practice and are competitive specialist advocates who are experts in trial, motion court, appellate and opinion advocacy. One of GCB's objects is to promote the administration of justice.

**The Hong Kong Bar Association** is the professional organization of all practicing Barristers in Hong Kong totaling over 1,100 members. Matters of policy are decided by the Bar Council with the support of its various Special Committees. The Association is principally concerned in considering and taking appropriate action in respect of all matters concerning the legal profession in general and speaking up on issues relating to the administration of justice. The Association is a staunch supporter in upholding human rights and the rule of law.

**Human Rights Advocates (HRA)**, a California non-profit corporation was founded in 1978 and has national and international membership. It endeavors to advance the cause of human rights to ensure that the most basic rights are afforded to everyone. HRA has

Special Consultative Status in the United Nations and has participated in meetings of its human rights bodies for almost thirty years, where it has addressed the issue of juvenile sentencing. HRA has participated as amicus curiae in cases involving individual and group rights where international standards offer assistance in interpreting both state and federal law. Cases it has participated in include: *Graham v. Florida*, 130 S. Ct. 2011 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005); *Grutter v. Bollinger*, 539 U.S. 306 (2003); and *Cal. Fed. Savings & Loan Ass'n v. Guerra*, 479 U.S. 272 (1987).

**Human Rights Watch** is a non-profit, independent organization and the largest international human rights organization based in the United States. For over 30 years, Human Rights Watch has investigated and exposed human rights violations and challenged governments to protect the human rights of all persons, including youth and prisoners. To fulfill its mission, Human Rights Watch investigates allegations of human rights violations in the United States and over 80 countries throughout the world by gathering information from governmental and other sources, interviewing victims and witnesses, and issuing detailed reports. Where human rights violations have been found, Human Rights Watch advocates for the enforcement of those rights before government officials and in the court of public opinion. In 2004, Human Rights Watch published *Thrown Away*, on youth offenders sentenced to life without parole in Colorado. In 2005, Human Rights Watch co-published *The Rest of Their Lives*, a national report on the sentencing of youth offenders to life without parole. Subsequently, in 2008, the organization published *When I Die They'll Send Me Home*, on the same topic in California. In 2009, the organization published updated national statistics on youth offenders serving life without parole throughout the United States. The organization has also advocated on the issue before the Committee against Torture, the Human Rights Committee, and the Committee on the Elimination of Racial Discrimination.

**The Japan Federation of Bar Associations (JFBA)** is an autonomous body comprised of the 52 bar associations in Japan, their individual members, and the legal professional corporations. Founded in 1949, the JFBA self-regulates the legal profession and strives to further the primary role of attorneys in society: the protection of fundamental human rights and the realization of social justice. Aiming for a judicial system that is familiar, open, and accessible to the public, the JFBA has been engaged in the reform of the judicial system.

**The Law Council of Australia** is the peak national representative body of the Australian legal profession. The Law Council represents its constituent bodies on national issues, and promotes the administration of justice, access to justice and general improvement of the law. Through this representation the Law Council effectively acts on behalf of 56,000 legal practitioners in Australia. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world.

**The Law Society of England and Wales** is the professional body representing more than 138,000 solicitors in England and Wales. Its concerns include upholding the

independence of the legal profession, the rule of law and human rights throughout the world. The Law Society regularly intervenes in cases that relate to its core mandate. It has previously submitted amicus curiae in cases before the United States Supreme Court, including *Kennedy v. Louisiana*, 554 U.S. 407 (2008) and *Sullivan v. Florida and Graham v. Florida*, 130 S. Ct. 2011 (2010).

**The Law Society of New South Wales** is the largest professional association of lawyers in Australia. The Law Society acts as the voice of the legal profession, representing the interests of over 21,000 members, encouraging debate and actively driving law reform issues through policy submissions and open dialogue with Governments, parliamentary bodies, the Courts and the Attorney General's Department. Endowed with co-regulatory duties with the Office of the Legal Services Commissioner, it sets and enforces professional standards, licenses solicitors to practice, investigates complaints and administers discipline to ensure that both the community and the profession are properly served by ethical and responsible solicitors.

**The New Zealand Law Society** is the statutory regulator of the legal profession in New Zealand (currently comprising 11,500 practicing lawyers). The Law Society's regulatory functions include fundamental obligations to uphold the rule of law and the administration of justice, and it actively monitors and promotes the rule of law and human rights. The Law Society has previously made submissions as amicus curiae to this Court.

**The Norfolk Island Bar Association** is the professional body representing lawyers on and from Norfolk Island. It consists of barristers, solicitors and judicial officers. It is a corporate member of the International Bar Association, the Human Rights Institute and the European Association of Lawyers. Its members are active in many countries of the world.

**The Norwegian Bar Association** is the representative organization for more than 90% of the lawyers in Norway. The Association safeguards the basic principles of the legal profession, such as independence and professional confidentiality. Furthermore, the Association is the most important arena for the lawyers' political engagement in relation to the rule of law.

**The Ordem dos Advogados Portugueses (OAP)** in English, Portuguese Bar Association, was established by the State, Decree n.º 11 715, of 12 June 1926, over 85 years ago. However, its origins trace even back to the Lisbon Lawyers Association, whose Statutes were approved in 1838. The Ordem dos Advogados is the only public and independent association (nationwide) compulsory representing law graduates who practice law and deliver legal services (advocacia) as a profession, presently counting 27,903 active Lawyers.

**The Swedish Bar Association** is the sole national organization for advocates in Sweden, a professional body representing more than 5,000 advocates. Its international focus

includes upholding the independence of the legal profession, the rule of law and human rights in Europe and throughout the world.

**The Union Internationale des Avocats (UIA- International Association of Lawyers)** was created in 1927 and is the oldest professional association, with several thousand individual members, as well as more than 200 bar associations, organisations or federations (representing nearly two million lawyers) from over 110 countries. The objectives of the UIA are to promote the basic principles of the legal profession, to contribute to the establishment of an international legal order based on the principles of human rights and justice among nations, through the law and for the cause of peace, and to defend the moral and material interests of members of the legal profession.

**The University of Minnesota Human Rights Center (HRC)** is dedicated to the advancement of the fundamental rights guaranteed by national and international law. The HRC seeks to ensure that all persons receive the full panoply of rights accorded to them by national and international law regardless of nationality or immigration status. The HRC maintains one of the largest human rights document collections in the United States (<http://www.umn.edu/humanrts>). In addition, the Co-Director of the University of Minnesota Human Rights Center has served from 1996 – 2003 as a member of the United Nations Sub-Commission on the Promotion and Protection of Human Rights and thus has expertise in regard to the international human rights law applicable to this matter. The HRC has previously submitted amicus curiae briefs; for example, in *Grutter v. Bollinger*, 539 U.S. 306 (2003).

**The University of San Francisco (USF) Center for Law and Global Justice** is a focal point for USF School of Law's commitment to international justice and legal education with a global perspective. The Center generates student externships around the globe, protects and enforces human rights through litigation and advocacy, manages and participates in international rule of law programs in developing nations, develops partnerships with world-class foreign law schools, provides a forum for student scholarship, and nurtures an environment where student-organized conferences and international speakers explore topics relating to global justice. For over five years the Center has been working on projects addressing the sentencing of juvenile offenders.

# **Professor of Law and his Students from the Moritz College of Law at the Ohio State University**

*Summary of Brief in Support of Petitioners Jackson and Miller*

## **Summary**

Interpreting the Eighth Amendment's prohibition on cruel and unusual punishments, this Court has repeatedly stressed that juveniles are a special and unique class of criminal offenders who have a distinct level of maturity, mental capacity, and vulnerability to negative influences. In addition, this Court's Eighth Amendment jurisprudence has repeatedly recognized that not all homicide offenses are constitutionally equivalent; because murders can and will differ in their severity, a constitutional scheme of punishment must sometimes differentiate between and among murder offenses. This Court's Eighth Amendment jurisprudence has also identified constitutional problems with certain aspects of some mandatory sentencing schemes. Collectively, these established jurisprudential principles connote that any statutory scheme which mandates that a juvenile offender convicted of a certain class of homicide must be sentenced to life without the possibility of parole, without any consideration of the offender's age or any other potential mitigating offense circumstances, violates the Eighth Amendment's prohibition on cruel and unusual punishments.

## **Interest of Amici**

Amici offer this brief to highlight sentencing principles deserving of attention in the consideration of whether juvenile offenders may be sentenced to life imprisonment without the possibility of parole.

## **Counsel of Record**

**Douglas A. Berman**

The Ohio State University Moritz College of Law

## **Signatories**

Amici curiae are a law professor and his law students who have been teaching, studying and writing about sentencing laws, issues, and policies. The drafters of this brief recently participated in a law school class in which they examined modern Eighth Amendment jurisprudence and its implications.