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July 12, 2024

Honorable Chief Justice and Associate Justices
Supreme Court of New Jersey
25 Market Street
Trenton, New Jersey 08625

Re: State v. Jones et al. (089524)

Honorable Chief Justice and Associate Justices:

Pursuant to Rule 2:6-2(b), kindly accept this letter-brief on behalf of Amici Curiae[1] the American Academy of Pediatric Neuropsychology, the American Civil Liberties Union of New Jersey; the Center for Juvenile Justice Reform at Georgetown University; the Center for Law, Brain and Behavior of the Massachusetts General Hospital at Harvard Medical School; the Gault

[1] Consistent with the scientific consensus explained in their proposed brief, proposed Amici agree wholeheartedly with the scientific evidence and arguments laid out in the amicus brief filed on behalf of the individual scholar amici, also in support of the instant petitions for certification. (See Brief of Amici Curiae Neuroscience, Psychology and Juvenile Justice Scholars.)

Center; the Juvenile Law Center; the Pacific Juvenile Defender Center; and the Sentencing Project.

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Preliminary Statement

Almost two decades ago, in striking down the death penalty for children, Justice Kennedy explained that a line needed to be drawn somewhere and 18 was the logical place to draw it because "[t]he age of 18 is the point where society draws the line for many purposes between childhood and adulthood." Roper v. Simmons, 543 U.S. 551, 574 (2005). The same line was later drawn for the imposition of death-in-prison sentences. Psychological expertise now teaches that Roper's line drawing -- expanded by the United States Supreme Court and adopted by this Court -- requires review in light of robust developmental scientific findings since Roper was decided. Late adolescents (18-20) share similar characteristics with middle adolescents (14-17) that equally justify prohibitions on, or at least limitations on, the most extreme sentences. Amici respectfully request that the Court grant Certification in these cases and adopt the undisputed science that supports extending Comer's protections to include late adolescents.

Statement of Facts and Procedural History

Amici adopt the Statement of Facts contained in Defendants/Petitioners' Petitions for Certification filed July 1, 2024.

Statement of Interest of Amici

The interests of Amici are set forth more fully in the accompanying

certification of counsel. The proposed Amici have diverse memberships and missions, but they share a common understanding of the state of recent research on adolescent development and crime: older adolescents share many developmental characteristics with their younger peers. So, sharp age distinctions in sentencing drawn between, say, 17-year-olds and 20-year-olds are unsupported by science.

Argument

The Court should grant certification because the line drawn in Comer, providing protections for middle adolescents but not late adolescents, is not supported by science.

This case asks whether the rule of State v. Comer, 249 N.J. 359, 401 (2022), should be extended to late adolescents.[2] Both the known trajectories of criminal offending and desistance, and the brain and developmental neuroscience that track and explain this desistance, suggest that it should. Late adolescents share the same brain characteristics that provided the basis for the Court's treatment of middle adolescents in Comer and entitle them to the same constitutional protections.

A. The state of the law.

[2] "Adolescence" refers to the period of development from ages 10 to 25. Scientists have further divided adolescence into four phases: early adolescence (10-13), middle adolescence (14-17), late adolescence (18-20), and early adulthood (21-25). G. Icenogle & E. Cauffman, Adolescent Decision Making: A decade in Review, 31 J. of Rsch. on Adolescence, 4, 1006-22 (2021).

Starting with Roper, 543 U.S. at 578, and proceeding to Graham v. Florida, 560 U.S. 48, 82 (2010), and Miller v. Alabama, 567 U.S. 460, 465 (2012), the United States Supreme Court recognized the vulnerabilities of young people and imposed significant restrictions on the harshest punishments. Miller identified five characteristics of youth -- the Miller factors[3] -- that make young people categorically less culpable than adults. This Court recognized that children require different treatment in State v. Zuber, 227 N.J. 422, 429 (2017), and Comer, 249 N.J. at 401. The Courts provided relief to children under 18, but had not been asked to consider extending those protections to people aged 18-20.

In the decision below,[4] the Appellate Division refused to extend Comer, saying that, "as an intermediate appellate court," it could not question whether Comer had become "outmoded." State v. Jones, __ N.J. Super. __, __ (App. Div. 2024) (slip op. at 27). The objective science as to late adolescents, part of the record in this case but not in Comer, suggests that it has. But the Appellate Division decided not to decide the appeal, leaving it to this Court to modify its own decisions. So, if review of this "question of general public importance"

[3] The factors are: (1) immaturity, impetuousness, and risk taking; (2) family/home environment (3) peer influence; (4) understanding of the legal process; and (5) greater potential for rehabilitation. Miller, 567 U.S. at 477-78.

[4] Unlike the other cases raising this issue that the Court declined to hear, e.g., State v. Barkley, 256 N.J. 517 (2024); State v. Cain, 255 N.J. 382 (2023), the Appellate Division chose to publish Jones, binding courts to its decision.

does not come from this Court, it will not come from anywhere.[5] See R. 2:12-4.

The Appellate Division also felt that authorities from both outside and within our state dictated its holding. Jones, slip op. at 22-27. But the foreign cases refusing to extend Miller turn on the federal Constitution. United States v. Sierra, 933 F.3d 95, 97 (2d Cir. 2019); United States v. Marshall, 736 F.3d 492, 500 (6th Cir. 2013); Commonwealth v. Lee, 206 A.3d 1, 10 (Pa. Super. Ct. 2019);[6] Haughey v. Comm'r of Corr., 164 A.3d 849, 856-57 (Conn. App. 2017). Our Constitution goes further. Zuber, 227 N.J. at 438. And a growing number of states have extended protections to late adolescents. E.g., Commonwealth v. Mattis, 224 N.E.3d 410, 429 (Mass. 2024); People v. Parks, 987 N.W.2d 161, 182-83 (Mich. 2022); In re Monschke, 482 P.3d 276 (Wash. 2021). Given this divide, Amici urge the Court to clarify our law and join the growing number of jurisdictions that extend protections to late adolescents.

Moreover, State v. Ryan, 249 N.J. 581 (2022), is no obstacle. Samuel Ryan could be sentenced to life without parole without the application of Miller because his sentence was "not imposed as" a "penalty for" crimes he committed

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[5] As this is a constitutional issue, courts cannot stand by for legislative action. Cf. Comer, 249 N.J. at 409 (Solomon, J., concurring in part and dissenting in part). But if the Court feels that the record is incomplete, the Court may remand or appoint a special master to impartially assess the state of the science.

[6] In this context, the Pennsylvania Constitution is coextensive with the federal Constitution. Commonwealth v. Elia, 83 A.3d 254, 267 (Pa. 2013).

as a child, but "as a stiffened penalty for" crimes he committed when he was 23 years old. Id. at 585-86, 594. Ryan thus was not a late adolescent and would not be eligible for relief under the modification of Comer that Amici propose.

This Court should return to first principles and recognize that the rationale of Roper supports expanding Comer. Roper relied heavily on Atkins v. Virginia, 536 U.S. 304, 317-21 (2002) (banning death penalty for cognitively compromised). Roper was never about chronological age alone, but "the diminished culpability of juveniles." 543 U.S. at 571. Treating those of tender years tenderly only because of their chronological age is arbitrary legalism.

Jones also rested its holding on the view that "age 18 is the point where society draws the line for many purposes between childhood and adulthood." Slip op. at 9 (citation omitted). But 18- to 20-year-olds cannot buy alcohol, cannabis, or tobacco. N.J.S.A. 2C:33-15(1)(a)(1); N.J.S.A. 2C:33-13.1(a). They cannot buy handguns. N.J.S.A. 2C:58-6.1(a). They cannot gamble in casinos or on sports. N.J.S.A. 5:12-119(a); N.J.S.A. 5:12A-11(e). Animating those statutes is the Legislature's judgment that those aged 18 to 20 lack the ability to exercise self-control and appreciate risks and consequences as compared to those over 21. Those statutes show that age 18 is not a categorical legal threshold.[7]

[7] Federal law agrees. Healthcare plans that cover dependent children must make coverage available until age 26. 45 C.F.R. § 147.120. States can also allow youth to remain in federally subsidized foster care after age 18. Pub. L. No. 110-351.

B. The state of the science.

Adolescence is a transitional stage of development involving considerable physical, hormonal, and behavioral change. As courts have recognized, adolescents are less mature, more impetuous, and more susceptible to peer influence than adults. See, e.g., Zuber, 227 N.J. at 439. Despite possessing relatively mature analytical reasoning by mid-adolescence, adolescents' decisions often reflect an insensitivity to consequences and a failure to appraise risks. L. Steinberg, & G. Icenogle, Using Developmental Science to Distinguish Adolescents and Adults under the Law, Ann. Rev. of Dev. Psych., 1, 21-40 (2019). There is no clear way to differentiate in biologically or practically meaningful ways the brain functioning of 17-year-olds from 18-to-20-year-olds in terms of risk-taking behaviors, foreseeing the consequences of their actions, and avoiding negative influences of others. R.J. McCaffrey & C.R. Reynolds, Neuroscience and the Death Penalty for Late Adolescents, J. of Pediatric Neuropsychology, 7, 3-8 (2021).

Adolescents are less capable than adults of countering dysregulating influences and in exerting cognitive control over behaviors. B. Luna et al., Maturation of Cognitive Processes from Late Childhood to Adulthood, Child Dev., 75(5), 1357-72 (2004). As a result, adolescents are particularly vulnerable to poor decision making in emotionally heightened and/or time-pressured

situations and when they are in the presence of peers. N. Duell & L. Steinberg, Differential Correlates of Positive and Negative Risk Taking in Adolescence, J. of Youth & Adolescence, 49, 1162-78 (2020).

Since Roper, considerable scientific evidence has accumulated demonstrating that, compared to adults, middle adolescents are more impulsive, prone to engage in risky and reckless behavior, motivated more by immediate reward than punishment, and less oriented to the future and more to the present. See, e.g., Zuber, 227 N.J. at 439 (citing cases relying on developmental science). But recent scholarship has also established late adolescence (ages 18-20) as its own developmental stage, where incomplete "developmental traits that exist for those under the age of [18] apply to those between [18] and [20]." Sawyer et al., The Age of Adolescence, Lancet Child & Adolescent Health, 2, 223-28 (2018). This progression to "late adolescence" is marked by ongoing brain and behavior change characterized by lower levels of emotional control and higher levels of impulsive actions. L. Steinberg & G. Icenogle, supra, 21-34.

Since Miller was decided in 2012, dozens of publications have explored the brain's development through late adolescence, up to and including age 20. Ctr. for L., Brain & Behav. at Mass. Gen. Hosp., White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys and Policy Makers (2022), https://clbb.mgh.harvard.edu/white-paper-on-the-science-of-late-adolescence/.

Late adolescence is marked by ongoing brain maturation in areas that govern emotional arousal and self-control regulation. This period also often operates as an important transitional phase, as late adolescents lose earlier family and academic structures, which may magnify their vulnerability to risk-taking and peer influence. This could lead to suboptimal decisions, especially when a young person's childhood is saturated with individual and/or community instability. JJ. Arnett, Emerging Adulthood, Am. Psych., 55, 468-80 (2000); N. Jaworska & G. MacQueen, Adolescence as a Unique Developmental Period, J. of Psychiatry & Neuroscience, 40, 291-93 (2015).

Although late adolescents are in some ways like individuals in their mid-20s, in attributes that are critical to legal culpability, they are more like individuals in early and middle adolescence in behavior and psychological functioning (particularly in emotionally charged or social contexts), vulnerability to peer pressure, and prospect for rehabilitation. G. Icenogle & E. Cauffman, supra, 1006-22; B.J. Casey et al., Making the Sentencing Case: Psychological and Neuroscientific Evidence for Expanding the Age of Youthful Offenders, Ann. Rev. of Criminology, 5, 321-43 (2022). Thus, because brain structure and function, as well as an individual's behavior, personality, and propensity for risk-taking, are all in flux through late adolescence, there is no rational, scientific basis for drawing a line at age 18. Based on the state of the

developmental psychological and neuroscience, the line for "adulthood" is not 18. The logic of Zuber, Comer, and the Miller factors apply equally to those up to 20. The rest of this brief is organized around the Miller factors concerning distinguishing characteristics of youth and how they apply to late adolescents.

1. Miller factor 1: immaturity, impetuousness, and risk taking.

Continued study of brain maturation over the past decade has provided evidence that several aspects of brain development that impact self-regulation and higher order thinking continue into late adolescence, and it is now widely accepted amongst neuroscientists that fundamental changes in brain development continue through age 20. G. Icenogle & E. Cauffman, supra, 1006-22. In adolescence, the brain undergoes significant changes in both structure (brain anatomy) and function (brain activity).

Structural changes are primarily the result of two processes: (1) synaptic pruning, a process by which unused synapses (connections between neurons) are eliminated to increase efficiency in communication, which helps to support rational decision making; and (2) myelination, a process in which axons (parts of cells through which nerve impulses are conducted to other cells) are insulated with fatty tissue, enabling neurons to communicate with greater speed and efficiency, which is important for self-control. They continue at least into the early 20s. L.H. Somerville, Searching for Signatures of Brain Maturity: What

Are We Searching For?, Neuron, 92, 1164-67 (2016); R. Engle, The Teen Brain, Current Directions in Psych. Sci., 22 (2) (2013); L. Spear & M. Silveri, Special Issue on the Adolescent Brain, Neuroscience & Biobehav. Revs., 70 (2016).

Modern imaging tools like MRI have provided the ability to measure structural changes in tissue related to processes at the level of the synapse and myelin sheath. This has allowed scientists to see changes in gray and white matter that extend through and beyond late adolescence. Findings using these technologies indicate that, at a neurobiological level, the vulnerability of adolescents to risky and impulsive decision making can be explained, in part, by the protracted development of cortical systems, which contribute to the regulation of emotion in decision-making, relative to the earlier maturation of the limbic system, which mediates approach and avoidance behavior. K.L. Mills et al., The Developmental Mismatch in Structural Brain Maturation during Adolescence, Dev. Neuroscience, 36, 147-60 (2014).

Specifically, the limbic system shows significant changes during adolescence, in contrast to prefrontal regions that show slower maturation and changes into the 20s. Id. at 397-406. So, adolescents, including late adolescents, are, on average, less capable than adults of controlling their behaviors when they are in the presence of dysregulating influences. M. Achterberg et al., Frontostriatal White Matter Integrity Predicts Development of Delay of

Gratification: A Longitudinal Study, J. of Neuroscience, 36, 1954-61 (2016).

Research over the last decade confirms that there is significant ongoing brain maturation in late adolescence, specifically in areas related to the regulation of emotion, impulsivity, and risk-taking behavior (e.g., prefrontal cortex). M.D. Rudolph et al., At Risk of Being Risky: The Relationship between "Brain Age" under Emotional States and Risk Preference, Dev. Cognitive Neuroscience, 24, 93-106 (2017). As the brain matures from late adolescence to early adulthood, subcortical and cortical pathway changes lead to improved cognitive capacity in social and emotional contexts, and a reduction in reckless behavior. E.A. Crone et al., Multiple Pathways to Risk Taking in Adolescents, Dev. Rev., 62, 1-12 (2021).

It is not only changes in brain anatomy and function that bear on the questions of maturity, impetuousness, and risk taking. Psychological research has demonstrated that adolescents differ from adults in their levels of reward sensitivity, impulse control, future orientation, and susceptibility to peer influence, which all contribute to their heightened risk-taking propensity. G. Icenogle & E. Cauffman, supra, 1006-22. Both adolescents and late adolescents exhibit diminished capacity in emotionally charged situations with high risk or high reward, which neuroscientists often refer to as "hot cognition." A.O. Cohen et al., When is an Adolescent an Adult? Assessing Cognitive Control in

Emotional and Nonemotional Contexts, Psych. Sci., 27, 549-62 (2016). Cold cognition, by comparison, entails calmer situations, and here, late adolescents demonstrate more adult-like decision making.

Emotionally charged situations can provoke impulsivity and suboptimal decision making. S.L. Johnson et al., Impulsive Responses to Positive and Negative Emotions: Parallel Neurocognitive Correlates and their Implications, Biological Psychiatry, 87, 338-49 (2020); O. Feldman Hall et al., The Effects of Social Context and Acute Stress on Decision Making under Uncertainty, Psych. Sci., 26, 1918-26 (2015). For youth, on average, it is more challenging to keep one's own behavior in line with one's goals under emotionally charged situations than it is for adults. L.H. Somerville et al., Frontostriatal Maturation Predicts Cognitive Control Failure to Appetitive Cues in Adolescents, J. of Cognitive Neuroscience, 23, 2123-34 (2011). Maturation entails the ability to behave consistently in emotionally and non-emotionally charged situations. Research has shown that emotional cues can disrupt the cognitive capacity of young and late adolescents alike. For example, even in one's mid-twenties, emotional cues can impede or slow the speed at which people process relevant information. A.O. Cohen et al., supra, 549-62. Emotional cues can compromise the accuracy and consistency of responses of persons in their early twenties, but this adverse impact subsides by the time they reach their late twenties. D.J. Bos

et al., Distinct and Similar Patterns of Emotional Development in Adolescents and Young Adults, Dev. Psychobiology, 62, 591-99 (2020). This suggests that emotional control continues to develop through late adolescence.

Adolescents are less able to control their impulses and lack future orientation related to their actions as compared to older adults. As such they tend to give greater weight to immediate outcomes as compared to long-term consequences. M.T. Banich et al., Developmental Trends and Individual Differences in Brain Systems involved in Intertemporal Choice during Adolescence, Psych. of Addictive Behavs., 27, 416-30 (2013). Future orientation increases from early to late adolescence (i.e., from 12-20), followed by more modest changes thereafter. K. Monahan et al., Juvenile Justice Policy and Practice: A Developmental Perspective, Crim. & Just., 44 (2015).

Overall, there is little difference between adolescents aged 15-17 and late adolescents aged 18-20 regarding cognitive capacity in emotionally charged situations. A.O. Cohen et al., supra, 549-62. Late adolescents may make rational decisions in some contexts, such as choosing to attend college or seek out a job, but still lack the ability to engage in mature decision-making in emotionally charged scenarios -- especially where peer influences, threats, or short-term incentives are at play. Ibid.

2. Miller factors 2 and 3: family and home environment and peer influence.

A growing body of research demonstrates that the early life environment significantly influences the developing brain. Middle and late adolescents involved in the criminal justice system have experienced childhood adversity and trauma at far higher rates than the general population. J. Craig et al., A Little Early Risk Goes a Long Bad Way: Adverse Childhood Experiences and Life-Course Offending in Cambridge J. of Crim. J., 53, 34-45 (2017); M. Baglivio et al., The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders, J. of Juv. Just., 3, 1-17 (2014). Those experiences can impact the development of regions controlling emotions (i.e., the amygdala and striatum) and self-control regions (e.g., the prefrontal cortex), and lead to differences in regulatory processes, all of which are predictors of poor decision-making and maladaptive behaviors that last into late adolescence. J.I. Herzong & C. Schmahl, Adverse Childhood Experiences and the Consequences of Neurobiological, Psychosocial, and Somatic Conditions across Lifespan, Frontiers in Psychiatry, 9, 420 (2018).

However, given brain plasticity, the impact of these stresses is not necessarily permanent, and these temporary changes in brain function can be reversed should reductions of stress occur. C. Liston, et al., Psychosocial Stress Reversibly Disrupts Prefrontal Processing and Attentional Control, Proceedings

of the Nat'l Acad. of Scis., 106, 912-17 (2008). Even for those who suffer serious trauma, time in safe environments, especially if supports and effective interventions are in place, can mitigate the impact of adverse social environments and limit anti-social behavior.

A significant body of research shows that adolescents are more influenced by peers than their adult counterparts. L. Steinberg, Adolescent Brain Science and Juvenile Justice Policymaking, Psych., Pub. Pol'y, & L., 23 (2017); D. Albert et al., The Teenage Brain: Peer Influences on Adolescent Decision-Making, Current Directions in Psych. Sci., 22, 114 (2013); A.R. Smith et al., Age Differences in the Impact of Peers on Adolescents' and Adults' Neural Response to Reward, Dev. Cognitive Neuroscience, 11, 75-82 (2015). Although peer influence is the strongest during mid adolescence, it also extends to late adolescence. When peers are present, late adolescents display a greater preference for an immediate reward (material as well as social rewards), regardless of the risky nature of a situation and are less likely to delay gratification. A. Weigard et al., Effects of Anonymous Peer Observation on Adolescents' Preference for Immediate Rewards, Dev. Sci., 17, 71-78 (2014).

Generally, late adolescents are more likely to take risks around peers than when alone or when adults are watching. K. Silva et al., Adolescents in Peer Groups Make More Prudent Decisions When a Slightly Older Adult is Present,

Psych. Sci., 322, 322-30 (2016). This is consistent with more adolescents committing crimes with accomplices than adults. J. Kim & J.M. Fletcher, The Influence of Classmates on Adolescent Criminal Activities in the United States. Deviant Behav., 39, 275-92 (2018). Peer involvement causes greater risk-taking behavior and is associated with changes in brain responses during adolescence. Specifically, peer presence enhances responses in a brain region that is important for motivation and reward processing. This effect of peer presence on reward-related activity in the brain relates to enhanced risk-taking behavior. A. Smith et al., Age Differences in the Impact of Peers on Adolescents' and Adults' Neural Response to Reward, Dev. Cognitive Neuroscience, 11, 75-82 (2015).

3. Miller factor 4: understanding of the legal process.

A significant body of research makes clear that adolescents, as a group, are at increased risk for rights violations during the adjudicative process. A. Beltrani & P. Zapf, Competence to Stand Trial and criminalization: An Overview of the Research, CNS Spectrums, 25, 161-72 (2020). Adolescents often do not fully understand legal concepts. Research on their legal capacities has found that youth are more likely than adults to show deficits in the capacities necessary to participate competently at trial, often struggle to understand and appreciate the significance of their Miranda rights, and are more likely to waive their rights during police questioning and give false confessions. R. Rogers et

al., The Comprehensibility and Content of Juvenile Miranda Warnings, Psych., Pub. Pol'y, & L., 14, 63-87 (2008); E. Cauffman & L. Steinberg, Emerging Findings from Research on Adolescent Development and Juvenile Justice, Victims & Offenders, 7, 428-49 (2012); J.L. Viljoen & R. Roesch, Competence to Waive Interrogation Rights and Adjudicative Competence in Adolescent Defendants: Cognitive Development, Attorney Contact, and Psychological Symptoms, L. & Human Behav. 29, 723-42 (2005).

Compared to adults, late adolescents are more likely to prioritize immediate outcomes over long-term consequences and over-value immediate consequences in settings that have direct implications for waiving Miranda rights, making plea deals, and falsely confessing. Scientist Action & Advocacy Network, Scientific Support for a Developmentally Informed Approach to Miranda Rights (2018), https://scaan.net/docs/20180607-MirandaReport.pdf. Thus, one of the most common factors adolescents considered when accepting a plea deal was the ability to immediately leave and go home. T.M. Zottoli & T. Daftary-Kapur, Guilty Pleas of Youths and Adults: Differences in Legal Knowledge and Decision Making, L. & Hum. Behav., 43(2), 166-79 (2019).

Age-related changes in temporal discounting (the phenomenon where the subjective value of a reward declines when the reward is delayed) have been linked to the development of the prefrontal cortex. Future-oriented decision

making is associated with enhanced communication between the prefrontal cortex, a brain region that is important for making decisions about future outcomes, and subcortical regions that respond to rewards. Importantly, these connections continue to strengthen during late adolescence, which can account for why late adolescents prioritize immediate outcomes and make more impulsive decisions in the legal context, which is stressful and threat-inducing. S.A. Fields et al., The Relationship Between Stress and Delay Discounting: A Meta-Analytic Review, Behav. Pharmacology, 25, 434-44 (2014).

4. Miller factor 5: potential for rehabilitation.

There are two primary developmental trajectories for anti-social behavior: one that is primarily limited to the period of adolescence and one that persists across the lifespan. B.J. Casey et al., supra, 321-43. More than 90% of young people who commit crimes (even those who commit very serious crimes) will desist in their criminal behaviors as they enter adulthood. L. Steinberg et al., Psychosocial Maturity and Desistance from Crime in a Sample of Serious Juvenile Offenders, Juv. Just. Bull. 1-12 (2015). Some persist in misconduct longer than others but eventually self-desist; they typically exhibit normative early adjustment but may be higher than average on personality traits associated with risk-taking, which are then exacerbated by the biological and social changes of adolescence. Ibid. These youth also tend to exhibit a slower, or

delayed, psycho-social maturation (i.e., responsibility; future orientation; temperance). Ibid. Whether youth with those developmental characteristics continue to engage in serious criminal acts depends on a number of factors, including the extent to which their peers engage in antisocial behavior, their engagement in institutions wherein they have pro-social adult influences, and whether they have active parents/guardians who monitor their behavior.

Despite the many factors that influence the persistence of anti-social behavior, the association between increased age and young adult maturation and desistence from crime is one of the most established facts in the field of criminology. Scholars generally agree that engagement in offending behavior peaks in late adolescence (18-20) and gradually drops thereafter, with almost all desisting by age 40. E. Mulvey, Highlights from Pathways to Desistence: A Longitudinal Study of Serious Adolescent Offenders, Nat'l Inst. of Just. (2011).

The age-crime curve is seen as universal. It seems to apply, at least roughly, in all demographic and socioeconomic categories, for all offenses, and across both historical-eras and cultures/nations. D.P. Farrington, Age and Crime, in M. Tonry & N. Morris (eds.), Crime and Justice: An Annual Review of Research (1986). Although most adults who engage in criminal behavior also offended during adolescence, most juveniles who commit crime desist by adulthood. R.J. Sampson & J.H. Laub, Crime in the Making: Pathways and

Turning Points through Life (1993). This is true even among those who engage in more serious forms of crime. E. Mulvey, supra. In other words, desistance from crime is the norm rather than the exception.

Even serious forms of violence generally follow the trend, and importantly, homicide tends to be a one-time occurrence. Young people convicted of crimes of violence are not generally at risk for persistence (barring certain types of offenders, such as individuals who commit serial or mass murders). R. Rosenfeld et al., Special Categories of Serious and Violent Offenders, in From Juvenile Delinquency to Adult Crime: Criminal Careers, Justice, Policy and Prevention (2012).

Conclusion

In Zuber, the Court cited approvingly to Roper's explanation that "as any parent knows and as the scientific and sociological studies . . . tend to confirm," children are fundamentally different than adults. As the scientific studies robustly confirm, the qualities that justify those protections do not disappear on one's eighteenth birthday. Given that late adolescents share significant characteristics with middle adolescents, the Court should grant Certification to consider extending Comer's protections to young people aged 20.

Respectfully submitted,

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DATED: July 12, 2024