

Nos. 08-7412 & 08-7621

IN THE
Supreme Court of the United States

TERRANCE JAMAR GRAHAM,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

JOE HARRIS SULLIVAN,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

ON WRITS OF CERTIORARI TO THE
DISTRICT COURT OF APPEAL OF FLORIDA, FIRST DISTRICT

**BRIEF OF *AMICI CURIAE* OF THE MOTHERS AGAINST MURDERERS
ASSOCIATION, ROBERT HOELSCHER, RUTH JOHNSON, AZIM
KHAMISA, BILL PELKE, AQEELA SHERRILLS, TAMMI SMITH, AND
LINDA WHITE IN SUPPORT OF PETITIONERS**

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INTEREST OF *AMICI*¹

Amici are individuals who have lost family members to violent crime committed by juveniles yet oppose life sentences without the possibility of parole for juveniles. *Amici* also include an organization whose mission focuses on assisting such crime victims and whose activities and experiences have led the organization to stand against life sentences without parole for juveniles. Because the interests of other juvenile crime victims will be uniquely and significantly impacted by the resolution of this case, *amici* submit their testimonials in hopes of giving voice to their reasoned opposition to juvenile life without parole.

SUMMARY OF ARGUMENT

Recognizing that this Court is examining whether criminal acts less severe than murder merit a sentence of life without parole where the offenders are juveniles, *amici* urge the Court to hold that this sentence violates the Eighth Amendment's prohibition against cruel and unusual punishment. Victims differ in their views on proportionality of punishment for juvenile offenders and the importance of allowing juvenile offenders to be released from prison upon rehabilitation. In considering what is cruel and unusual, therefore, this Court should not assume all victims would support the continued

¹ The parties have consented to the filing of amicus briefs in this case and filed consent letters with the Clerk. This brief was not authored in whole or part by counsel for a party, and no person or entity, other than *amici* and their counsel, has made a monetary contribution to the preparation or submission of this brief.

imposition of life without parole sentences upon juveniles. *Amici* contend that proportionality, rehabilitation and forgiveness must be the governing principles of juvenile sentencing. These principles are ill-served by sentencing children to life without the possibility of parole.

ARGUMENT

I. **AMICI URGE THE COURT TO CONSIDER VOICES OF ALL VICTIMS, INCLUDING THOSE WHO OPPOSE LIFE WITHOUT PAROLE FOR JUVENILES BECAUSE SUCH SENTENCES DO NOT SATISFY THE PRINCIPLES OF PROPORTIONALITY, REHABILITATION AND FORGIVENESS.**

Victims who constitute *amici* here believe proportionality, rehabilitation and forgiveness must guide decisions involving the sentencing of juvenile offenders. They advocate for those strongly-held values to be reflected as paramount in our nation's juvenile justice system.

The federal government and all 50 states legislatively recognize the victim's voice in sentencing defendants, including juveniles. *See, e.g.*, Victoria Schwartz, Comment, *The Victims' Rights Amendment*, 42 Harv. J. on Legis. 525, 526 & n.13 (2005) (listing victims' rights statutes); Crime Victims' Rights Act of 2004, 18 U.S.C. § 3771. The various statutes reflect the importance of considering victims' views of both the harm suffered and the proper punishment for defendants.

Proportionality is central to our penal system. It is axiomatic that a defendant should not be punished to a greater extent than the offense merits. *See Atkins v. Virginia*, 536 U.S. 304, 311 (2002) (and cases cited therein). This fundamental tenet is captured in the Eighth Amendment's prohibition against cruel and unusual punishment, which forbids penalties that are disproportionate to the offense. *See id.* A penalty is constitutionally disproportionate if it is out of step with contemporary societal values. *Id.* at 312. In addition to examining objective evidence of contemporary values, this Court has said that it must also bring its own reasoned judgment to bear on whether a particular form of punishment is constitutionally disproportionate. *Id.* at 313. Because victims' voices are legally relevant to sentencing courts across the nation, *amici* urge this Court to consider *amici's* experiences as a particularly poignant indicator of contemporary values that should inform this Court's reasoned judgment.

Amici have experienced firsthand what science is now documenting. As addressed in other *amicus* briefs submitted in support of Petitioners, landmark scientific research now reveals that adolescents are less capable of controlling their behavior than adults. Recent psychological, neurological and behavioral studies establish that children cannot appreciate consequences and assess risk and harm the way adults can, in part because their brains continue to develop through their teen years. *See, e.g.,* L.P. Spear, *The Adolescent Brain and Age-Related Behavioral Manifestations*, 24 NEUROSCIENCE & BIOBEHAV. REVS. 417, 421 (2000); Lita Furby & Ruth Beyth-Marom, *Risk Taking in Adolescence: A Decision-Making Perspective*, 12

DEVELOPMENTAL REV. 1, 9-11 (1992); Elizabeth Cauffman & Laurence Steinberg, *(Im)Maturity of Judgment in Adolescence: Why Adolescents May Be Less Culpable Than Adults*, 18 BEHAV. SCI. & L. 741, 742 (2000); Elizabeth R. Sowell et al., *Development of Cortical and Subcortical Brain Structures in Childhood and Adolescence: A Structural MRI Study*, 44 DEVELOPMENTAL MED. & CHILD NEUROLOGY 4 (2002). Thus, *amici* believe that punishing children to the same extent as adults – who are mentally and developmentally capable of assessing the consequences and impact of their crimes in a way children cannot – offends the core principle of proportionality.

Amici believe that children are fundamentally redeemable. The principle of rehabilitation – providing offenders a second chance at a productive, law-abiding life – has special resonance in cases involving juvenile offenders. The same studies cited above also show that juveniles can be successfully rehabilitated. This brief contains several accounts where *amici* have personally witnessed the rehabilitation of the juveniles they have come to know through tragic events. They have observed that juvenile offenders mature and develop through participation in rehabilitation programs. Many *amici* recognize that the adult still serving the prison sentence is an entirely different person from the juvenile who committed the crime that led to the original sentence. For these reasons, *amici* believe juvenile offenders should be offered a legitimate chance at complete rehabilitation which they feel cannot be attained without the possibility of parole. After they have completed an appropriate punishment for their significant crimes, these young people should have the

opportunity to prove that they deserve a second chance before their whole lives have been wasted in prison.

Amici value forgiveness and advocate for the juvenile justice system to recognize this value. The following testimonials demonstrate how individual victims came to forgive. Equally importantly, the accounts below show the significant role that forgiveness played in helping them overcome these tragic events and in recognizing that life without parole is an inappropriate sentence for children.

II. THE EXPERIENCES OF *AMICI* SHOW THAT JUVENILE LIFE WITHOUT PAROLE FAILS TO APPROPRIATELY REFLECT PROPORTIONALITY, REHABILITATION AND FORGIVENESS.

The specific accounts below show why *amici* hold such firm beliefs. These real-life experiences should form the backdrop for this Court's evaluation of how the principles of proportionality, rehabilitation and forgiveness bear on the constitutionality of juvenile life without parole. It is the high regard in which *amici* and other similarly-situated victims hold these related principles that has led them to advocate for an end to life without parole for juveniles.

A. Aqeela Sherrills knows firsthand that change is possible, and he believes that even his firstborn son's killer deserves a chance to change.

A few short months after his son's death, while on the set of the television show "America's Most Wanted," Aqeela shocked the detective working his case. Aqeela told him that he did not want Terrell's teenaged killer, if caught, to spend the rest of his life in prison. The detective was incredulous. "Like many others, he just didn't understand how I could not want this kid to go away for life." Aqeela did not relent, though, and even as he pled for the killer – a 17-year-old gang member – to turn himself in to authorities, he reiterated to the police, to family and to friends that his primary concern was in getting the killer the help that he needed to heal.

Even before Terrell's death, Aqeela had been opposed to life without parole for juveniles. Coming of age in the Watts neighborhood of south-central Los Angeles, he began working to end gang conflict as a young man. A one-time gang member himself, Aqeela made a discovery during his first year in college that would lead him to dedicate his life to violence prevention and the promotion of community and healing. Aqeela realized, "that my friends and I had been living under conditions that had been supported by a set of unwritten rules. Most of us hadn't really understood what we were doing, and we didn't understand how these 'rules' had impacted our lives. We were just following them because if we didn't, there would be consequences." These "rules" – rules about loyalty, love and revenge – often predetermined the results of even the smallest conflict.

The unfortunate result, Aqeela observed, was that much of the violence that plagued his neighborhood resulted from “knee-jerk reactions which, themselves, resulted from the immaturity of the people involved in the conflict.”

Early in his life, Aqeela came to realize that the majority of those “rules”-driven conflicts were eminently preventable. Usually, the underlying causes of the conflict were not, in fact, interpersonal problems between the perpetrator and the victim. “Most of the conflicts that I dealt with during my 16 years on the front lines had to do with peoples’ deeper wounds, many of which had been inflicted by sexual, physical or psychological abuse. These wounds had been left untreated because it was taboo to talk about them.” The real problem, as Aqeela sees it, is that people, especially children, have been deeply wounded – mentally, emotionally or otherwise – early in their lives. The “rules” that govern life in what Aqeela calls the “relentless” streets of Watts and other neighborhoods across the country have foreclosed the possibility of treating those wounds. Young people carry the burden of that hurt yet simultaneously lack life experience and coping skills. When they enter into even the smallest conflict situation, the conflict quickly spirals to a point where adherence to the “rules” often leads to violence and bloodshed. For Aqeela, the only way to confront the juvenile criminal activity is to focus on healing the wounds and changing people’s attitudes about adherence to those “rules” that do nothing but harm them.

Aqeela knows that such changes can be accomplished. His actions and experience give credibility to this belief. Specifically, Aqeela was the driving force behind brokering a 1992 peace treaty between the Los Angeles Bloods and Crips street gangs. From this and other similar experiences, and from the discoveries he has made about himself and his community, Aqeela knows that people, especially juveniles, are “basically good” and able to redeem themselves. Life imprisonment of juveniles who commit even the most heinous of crimes is not the answer because it fails to recognize that many offenders commit their acts because of their own wounds and adherence to a set of false “rules.” Those wounds could be healed and juvenile offenders can learn that these “rules” make no sense.

Aqeela had hoped that he would never be faced with as close a personal challenge to his beliefs about juvenile sentencing as he faced on January 10, 2004. Around 11:45 p.m., Aqeela received a phone call from his son Terrell’s close friend who told him that Terrell had been shot while attending a party in an affluent neighborhood. When Aqeela arrived at the hospital, a doctor explained that, despite his best efforts, Terrell had died of the gunshot wounds. Aqeela recalls feeling “totally defeated. That’s the only way to describe it.” He could not understand why someone would have wanted to shoot Terrell, his dynamic, charismatic, firstborn son. The circumstances of the shooting were frustratingly inexplicable: Terrell had been talking with his friends when the 17-year-old killer shot Terrell in the back multiple times. Looking back, Aqeela wishes that the killer had stopped to consider his actions even for a moment and had spoken with Terrell. The killer “would have gotten an entirely different read on my son.”

In the midst of his suffering, Aqeela was confronted by numerous friends and family members who wanted to seek revenge. Terrell's killer had been quickly identified through the street network, and friends and family assured Aqeela revenge would be swift and precise. Aqeela stood his ground, not only demanding that the juvenile killer not be harmed, but also telling the detective on the case that he did not want the killer to go to jail for the rest of his life. Rather, Aqeela wanted to meet the killer and his parents. He wanted to know what had gone wrong and what wounds the killer carried. Most of all, he wanted to be sure the killer received appropriate care while carrying out his sentence.

Aqeela had spent his adult life seeking an end to conflict and promoting healing. He knew seeking revenge was "required" under the unwritten "rules," but, in seeking revenge, he would be sacrificing all that he and his community had achieved through his anti-violence work. The same, Aqeela believed, would be true if the killer was sent to prison for the rest of his life. "I recognized that the community could not afford to lose another child. It is imperative that we give people, especially children, a second chance and the opportunity to redeem themselves."

To Aqeela, imprisoning the 17-year-old for the rest of his life was an unjust punishment for someone who was likely failed by the people entrusted with his care: "when children commit a crime, it is a sign that parents have failed." Aqeela recognized that his son's killer, while having committed a heinous crime, was still a person who could contribute positively to his community. He wants the killer to be given the opportunity he needs to

heal his wounds and to recognize that the “rules” that he had followed no longer control his actions. For Aqeela, it is clear that his son’s teenaged killer can be forever changed if he can recognize that his action likely resulted from an immature inability to deal with his own problems and a knee-jerk adherence to the “rules.”

Aqeela does not feel that he holds these beliefs alone: “Terrell speaks through me against life imprisonment for juveniles.”

B. Robert Hoelscher is tough on crime yet finds it inconceivable to sentence juveniles like adults for crimes committed under the misguided influence of youth.

In April 1961, when Robert Hoelscher was seven, his father was murdered by a troubled 17-year-old from his neighborhood in Houston, Texas. Robert’s mother found her husband’s body on the floor of the convenience store that Robert’s father managed. Robert’s father had partially lost his hearing while serving in World War II, so he never heard his assailant coming. He was shot in the back. The teenage killer was quickly apprehended with the murder weapon and the money he had stolen. He was tried and sentenced to life in prison. He remains in prison today, nearly 50 years later.

Robert and his five brothers and sisters were left without a father and, in many ways, the trauma that their mother experienced took her from them, too. Robert’s mother spent the majority of her remaining

days struggling with addiction to nicotine, alcohol and pain killers. She died of cancer at age 57. As the middle child of six, Robert was the prototypical “lost child” of an alcoholic parent. He retreated into a withdrawn, quiet, and contented persona to cope with his difficult home life. Robert’s family never discussed his father’s death or their feelings about the event. It was not until well into adulthood that Robert found himself retelling the story time and time again to support a cause he came to champion.

Robert has spent a decade working in the criminal justice system and with juveniles specifically. His work began in 2001 as a volunteer for the Innocence Project of New Orleans. In only one year, Robert’s hard work and dedication earned him a promotion to be the organization’s first executive director. Although it is no longer his full-time job, Robert has never stopped his innocence work. He remains deeply connected to efforts to reform criminal justice in this country and continues to volunteer. Robert recognizes that his work experience may even eclipse his father’s death in terms of the impact on his views on justice.

His innocence work notwithstanding, Robert has never considered himself an activist. He credits his initial attraction to this cause to the book *Actual Innocence* by Barry Scheck, Peter Neufeld and Jim Dwyer. The universal experience of a child wrongly accused of even a non-violent act resonated with Robert and helped him connect to the impetus behind the Innocence Project. He invested himself in criminal

justice reform, believing his connection to the cause had little to do with his father's death or the teenager who killed his father, and more to do with empathy and logic. Robert does not base his opposition to life sentences for children on an emotional response to a tragic personal event. Robert's views on juvenile life without parole, the death penalty and the need for an enlightened criminal sentencing paradigm for youth rests on pragmatism.

It was only several years later that a more personal motivation emerged. On a visit to one of his sisters, Robert came across a newspaper account of his father's murder. The article described a phone call his mother had made to the parents of her husband's killer. Only two days after her husband's murder, Robert's mother made the call to express her forgiveness and the sadness she felt for their son as a fellow parent. She told them that hate simply would not bring back the father of her children, so she had chosen to forgive. This news reflected a side of Robert's mother that had been lost to him in her later life.

Robert was deeply moved when he read about his mother's commitment to forgiveness in the immediate aftermath of unspeakable tragedy. The story reminded Robert that in these cases there is always loss on both sides. He felt his mother's gesture had to have afforded some healing to the parents of his father's killer. In some way, reading this story also provided Robert some sense of closure. "If there is any real life experience that can be called 'closure,' reading about my mother's phone

call was it for me.” It was an emotional confirmation of the logic of the path he had taken.

To Robert, that logic is quite simple and compelling. As to the role of punishment, Robert says very matter-of-factly: “My father’s killer took a human life. He needed to be held accountable. He was.” As to the public safety concern, he says: “My father’s killer could have taken someone else’s life. He needed to be put in a place where he was no longer a threat to anyone else. He was.” In terms of redemption, Robert is equally practical and straightforward. “When a person makes a mistake, he deserves a chance to make up for that mistake. If a prisoner can demonstrate that he is ready to go home and play by the rules, then we should provide that opportunity.” Further, from a fiscal responsibility standpoint, Robert sees little sense in keeping someone in prison for life when the person could be contributing to society and paying tax dollars instead of spending them.

Self-described as “tough on crime,” Robert’s sense of logic compels his position “that juvenile life without parole offenders should have a path – hard earned to be sure – back to the community.” He believes simply that juveniles are different from adults. He finds it unreasoned and peculiar that the criminal justice system seems to assume that a higher sentence for a juvenile who commits a more serious crime is appropriate because the more serious crime reflects a higher, rather than lower, level of maturity and accountability. “By any reasonable measure,” he thinks, “that is wrongheaded logic. If anyone imprisoned for life deserves a second

chance at life, it is those individuals whose criminal acts were committed under the misguided influence of youth.”

C. Tammi Smith feels her half-brother’s killer has shown he deserves a second chance.

Tammi Smith grew up in the same dysfunctional household in Grand Rapids, Michigan, as her half-brother, Robert Sellon, whom she always thought of as her full brother. When Tammi was not quite 15-years-old, Tammi’s mother threw Tammi, Robert and their other siblings out of the house. They all went in separate directions. Robert was already spending most of his time managing a local pool hall, so that simply became his residence.

On the night of October, 26, 1981, two 17-year-old brothers, David and Michael Samel, went to the pool hall where Robert lived. They had heard a drug shipment was being stored there. Since both brothers suffered drug addiction and were in desperate need of money, they headed to the pool hall intending to steal the shipment. However, the information they had received was wrong. Once they realized that there were no drugs at the pool hall, they decided to rob Robert. He put up a fight, and the two brothers beat him to death. At his trial, Michael pled guilty to second degree murder and received a prison sentence. David’s counsel believed that, because Michael had pled guilty, David’s case would be dismissed. However, his case not only proceeded to trial on first degree murder, but also resulted in a sentence of life in prison without parole for David.

Initially, Tammi was enraged by what these boys had done to Robert, and she hoped that the Samels would be imprisoned for the rest of their lives for their crime. She had recurring nightmares about the attack, and prior to David being transferred from pre-trial detention to permanent incarceration, Tammi visited him only to express her hatred of him face-to-face. However, this opportunity to express her anger to the offender did not provide her with the closure she desired.

As the years went on, Tammi looked to her Christian faith to help her work through her anger, and she eventually forgave the Samels for their crime. Yet even after embracing forgiveness, there was still an unresolved question that prevented her from achieving closure: What kind of adults had Michael and David become in prison? The question haunted her. In 2001, when she realized that Michael would soon be released from prison, she and her half-sister started corresponding with both Samels brothers and were able to visit them in prison. As she learned more about them, she saw that they were no longer drug-addicted, naïve teenagers, but mature adult men who felt extreme remorse over the crime committed in their youth. “David has talked about how childish he was, and he will beat himself up over it,” she says. David has even expressed to her “that if he could give his life to bring her half-brother back, he would.”

Michael has now been released, but David remains in prison. Tammi favors and will help to seek David’s release. Tammi says that “he would be a better person out than wasting his life just sitting in prison – he could give something back.”

Tammi Smith not only is seeking David's release but also opposes all juvenile life without parole: "It is just not right to put a teenager in prison for the rest of their lives thinking they are never going to change." Her own childhood experience plays a significant role in her views on sentencing juveniles to life in prison without the possibility of parole. She explains that as a youth, "there were a lot of things I did wrong in my life, but I would not want to have a mark against me for the rest of my life." She views David Samel similarly, saying he is not the same person now as he was as a teenager, and that he should not continue to be punished for the mistakes of his youth. It is clear to her that David would never commit a similar crime again.

Rather than focusing only on her own suffering, Tammi holds herself responsible to uphold the principles Robert would have had. Release is what Tammi believes Robert would have wanted. In getting to know the brothers, Tammi has often thought, "my brother would probably get along with these guys." She also knows that Robert, who himself committed minor crimes as a juvenile, including dealing drugs, would want someone like David to have a second chance. "He would have said, 'I deserve a second chance if I am the one in prison,' so David does too."

Tammi feels society is better served by releasing juveniles who have sufficiently demonstrated remorse for their crimes and who have applied themselves during their time in prison. She is inspired by David's commitment to using his time in prison to educate himself. She is gratified to hear David say that, should he ever be released, he wants to help juveniles who have

been convicted of crimes. “David wants to show he is sorry by giving back. He has a good heart and wants to help people.” For Tammi, the thought that David will never have the opportunity to be a productive member of society is tragic, especially when there are other criminals who serve shorter sentences and never demonstrate the remorse and positive growth David has.

Unfortunately, Tammi knows that, for now, David’s dream of re-entering society and using all he has learned during his time in prison to help others is not a reality. Instead, 27 years after being convicted for killing Robert, David is still confined to prison and faces the possibility that he will continue to pay for his crime until he dies in prison.

D. Linda White does not believe life sentences without the possibility of parole serve anyone.

Linda White had not given significant thought to the appropriateness of sentencing children to life without parole prior to November 18, 1986. That was the day that her 26-year-old daughter Cathy, then two months pregnant, was raped and killed by two 15-year-old boys.

Cathy was approached by her killers at a gas station and yielded to the boys’ seemingly innocent request for a ride. Once inside Cathy’s car, the boys brandished a stolen handgun, forced Cathy to drive toward Alvin, Texas, and then ordered her to stop just south of Houston, where they raped her. Drunk and high, the boys then shot Cathy in the leg with the intent to debilitate her. When they came to the sudden realization

that Cathy could identify them, they killed her and drove away from the scene in her car. Linda and her family did not learn of Cathy's fate until four days after her disappearance and murder. The killers were arrested and confessed to the police. They pled guilty to Cathy's murder and rape and received 54 and 55 years in prison, respectively.

Though the entry of the pleas gave Linda what she would later call "judicial closure," the long sentences meted out to the two boys did nothing to assuage the sadness that she felt. Nor did the pro-prison rhetoric she heard at her victims' support group provide any relief. Linda was only able to begin to come to terms with the horrific incident that had claimed Cathy's life when she began to confront "reality" about what had happened to her daughter and, significantly, to her daughter's killers.

Linda began to find this "reality" three years after Cathy's death. She enrolled in college-level courses and closely followed debates about the appropriate judicial response to criminal activity. She later learned about restorative justice, wanting to find and implement constructive solutions to the events that had torn her world apart. She went on to work with and teach inmates in Texas prisons. She has been heavily involved with the *Bridges to Life* program, offering victims and inmates the chance to gather and share stories in a supportive, healing-based environment. These thirteen years spent working in prisons and learning about criminal justice have given Linda the perspective that has allowed her to better cope with Cathy's death. Linda has come to know that prisons are horrible places, and

that sentencing anyone to spend their life in such an environment – without giving them an opportunity to make up for past wrongdoing – is an unusually cruel and pointless response to crime.

Linda does not believe that sentencing juveniles to life without parole is ever appropriate, no matter how serious their crimes may have been. “There is no way that a 13- year-old can be held responsible to make decisions the same as adults do.” Linda’s coursework in psychology has taught her that only adults have sufficient understanding of their actions and a developed ability to resist impulses. As with the boys who made a snap decision to murder her daughter, “juveniles aren’t able to fully appreciate the long-term consequences of their actions.”

Linda’s experiences working directly with inmates much like the boys who killed Cathy have given her the opportunity to see firsthand the impact of the oppressive conditions imposed by a life without parole sentence. This experience has strengthened Linda’s opposition to the sentence. Many of the inmates she has met have expressed remorse for their wrongdoing. They are focused on trying “to make up for the wrong they’ve done.” Sentencing juveniles to life without parole deprives them of the opportunity to return to the world and “make up” for their wrongs.

Linda has come to terms with her daughter’s rape and death not through seeking retribution, but through advocating for a more just solution that she knows serves her daughter, her daughter’s killers and the country as a whole. “There is already enough pain and

violence in the world,” Linda states. The infliction of additional violence upon others, especially juveniles, does not make sense to her. Linda knows that Cathy would not have wanted to see her killers locked away for the rest of their lives without the possibility of release. When Linda first had an opportunity to talk with one of her daughter’s killers, she learned, for the first time, what her daughter’s last words to them had been: “I forgive you, and God will, too.” Of her advocacy of justice, Linda says, “Cathy would love what I am doing.”

E. Ruth Johnson does not believe the punishment fits the crime for the 17-year-old killer of her son.

On December 7, 1987, just before his 23rd birthday, Ruth Johnson’s son Steven was shot and killed by a 17-year-old drug dealer. Steven was sitting in a car next to his girlfriend unaware that their backseat passenger was armed. Without warning, the teenaged passenger opened fire on Steven and his girlfriend, shooting them multiple times. When the police arrived, Steven and his girlfriend were both found dead and the killer had fled the scene.

Ruth was shocked and devastated. She attended court hearings and the trial where the 17-year-old was found guilty of two counts of murder and one count of possessing a weapon. The teenager received a life sentence without parole. Following that final hearing, the case was closed – at least for purposes of the criminal justice system. For Ruth, neither the trial nor the sentencing stopped her pain.

Today, the teenager is a grown man and a life prisoner. Lynn McNeal has served 20 years of his sentence, yet Ruth's emotional wound remains open. Lynn turns 39 this year and is still the only person who has been arrested or taken any responsibility for Steven's death. An adult supplied him the bullets and adults ran the drug operation that led to the murders. Only Lynn ever went to prison.

Ruth does not doubt Lynn's culpability. She questions his sentence. Though Ruth was sitting in the courtroom during the short bench trial, she describes herself as having been "frozen" – unable to feel or listen to anything that was happening around her. She did not follow the trial or the legal arguments, and she barely noticed the teenager before her who was being sent away for life.

Twenty years later, Ruth reviewed the trial transcripts from this dark period and found herself unhappy with the process that led not only to a teenaged boy being held solely responsible for the crime against her son but also, and more importantly, to his being given such an unjust sentence. She learned that Lynn had been alone in a police station all night before he confessed without a parent or attorney to advise him. Ruth fears that he may only have confessed because he believed the police when they promised leniency because of his age. Although Ruth knows that the boy deserved a significant sanction for his crime, Lynn's continued imprisonment serves neither Ruth nor her community.

Ruth does not think the punishment fits the crime. For her, life without parole is not the right sentence for

a young member of a criminal business that buys and sells narcotics and eliminates anyone who gets in its way. It does not do justice to her son that the others in the drug ring were never questioned or arrested – nor does it serve her son or provide justice for her family when the teenage offender continues to serve a sentence decades after his mistake and will not ever be given the chance to make up for his crime outside of prison.

F. Azim Khamisa is working together with the family of his son’s killer to curb youth violence and help their communities heal.

Azim Khamisa first confronted the issue of sentencing juveniles to life in prison without parole when his 20-year-old son Tariq, was shot dead by a gang member while delivering pizzas in San Diego on January 21, 1995.

Fourteen-year-old Tony Hicks shot Tariq on orders from a gang leader who was himself only 18. At the time, Tony was taking part in an initiation ritual where he and his fellow gang members ordered a pizza with the plan to steal the delivery man’s cash when he arrived at the door. Tariq was the delivery man. When Tariq refused to turn over his money to the gang members, he was fatally shot by Tony. Five days later, Tony Hicks was arrested and ultimately prosecuted. He received a sentence of 25 years to life in prison.

On the news of his son’s death, Azim’s life “came to a crashing halt.” He even felt suicidal. After taking nine months to begin to come to terms with his son’s death, Azim set up the Tariq Khamisa Foundation (“TKF”) and

approached someone who might seem to be an unlikely partner in this effort: Tony's grandfather, Ples Felix. Azim offered forgiveness and invited Tony's grandfather to work together to help put an end to youth violence. Through their joint efforts, TKF began to deliver youth education programs to prevent gang violence and murder.

It still took Azim five years to develop the courage to come face-to-face with his son's killer. When he looked into Tony's eyes during their first meeting, instead of feeling anger and revenge, Azim recognized Tony's humanity. Azim found himself looking into the eyes of a young boy, not a killer.

Azim realized that Tariq was not the only victim in this incident. Victims lay at "both ends of the gun." While his son was the victim of a killer, the killer himself was a victim of society. Tony was born to a 15-year-old single mother and was rejected by his father. At an early age, Tony witnessed the death of his cousin and suffered abuse from his uncle's girlfriend. He was then sent to live with a relative.

Azim is in regular contact with Tony in prison. Azim realizes that young offenders can be reformed and has been working to reduce Tony's sentence. Tony is studying in jail and has now passed his college exams. Azim has offered Tony a job in his foundation should he ever be released. Azim believes Tony will be more useful to society by working for TKF than by spending his life in prison.

Despite having a demanding job, Azim dedicates virtually all of his remaining time to TKF and other projects, such as The Forgiveness Project and the Constant and Never Ending Improvement Program (“CANEI”), all of which work towards restorative justice for young people. Azim has worked with these organizations for 15 years. Azim has also published several books in this area, including *From Murder to Forgiveness*, *From Forgiveness to Fulfillment* and *The Secrets of a Bulletproof Spirit*. He has spoken globally on these issues and has won various international awards in this area, including the California Peace Prize by the California Wellness Foundation, the National Crime Victims Special Community Service Award presented by President Bill Clinton and Attorney General Janet Reno, and the Season for Nonviolence Peace Hero Award. Although he had to pay a high price, Azim feels that he now leads a fulfilling life.

Through his hard work and dedication to this cause, Azim has realized the benefits of such restorative programs for juveniles. He believes that almost all juvenile offenders can be rehabilitated and integrated peacefully back into society. Young people make mistakes, but that does not make them unforgivable.

G. Bill Pelke believes all juveniles, including his grandmother’s killer, can be turned around.

On May 14, 1985, Bill Pelke’s grandmother was killed by a group of four teenaged girls. Everyone in Ruth Pelke’s Gary, Indiana neighborhood knew that the elderly woman freely gave Bible lessons to local children who were interested. Tragically, this generosity led four

drunk and high teenagers to knock on her door pretending to want Bible lessons when they really wanted to steal money for video games. Ruth was an easy target. When she unsuspectingly turned to get them information for the lessons, one girl hit her over the head with a vase. Then, Paula Cooper, just 15 years old, stabbed Ruth 33 times. The teens managed to steal only 10 dollars and Ruth's car.

Paula was sentenced to death and initially placed on death row. Angry and frustrated, Bill supported the sentence and favored the media attention and publicity that it would bring in exposing the circumstances of his grandmother's death.

A year-and-a-half after Ruth's death, and three-and-a-half months after Paula was sentenced, Bill realized the death penalty was not, in fact, the most appropriate punishment for the killer of a spiritual woman with a tremendous faith in the Bible. Understanding that the death of any child would have deeply hurt his grandmother, Bill felt that the responsibility rested on his shoulders to seek justice in the way that his grandmother would approve.

This sense of responsibility led Bill to an help in an effort to collect signatures from two million people to overturn Paula's sentence. After three years, her sentence was reduced to 60 years, or 30 years with good behavior. During this time, Bill regularly exchanged letters with Paula. However, his first face-to-face meeting with Paula did not come until nine-and-a-half years after his grandmother's death, on Thanksgiving in 1994. In this meeting Bill was able to face the killer

and feel forgiveness instead of hate and anger. The key to Bill's forgiveness was his ability to feel compassion because he saw that Paula had the ability to reform. He continues to correspond with her today.

Bill is now convinced that Paula has reformed. She has obtained her GED and a college degree. She wants to help others who shared her experiences. Observing Paula's rehabilitation, Bill feels all juveniles can be turned around if given the right chance and environment. This provides him a sense of healing.

Today, Bill is president of Journey of Hope, an organization he co-founded with families of murder victims who oppose the death penalty. Bill is also the author of "Journey of Hope," has been featured in several publications, and speaks in a variety of forums on his experience. Bill witnessed Paula's successful rehabilitation in prison and sees it as proof that all juvenile offenders deserve the possibility of parole.

H. Ninety-eight mothers of murder victims comprise *Mothers Against Murderers Association*, a non-profit organization created to serve victims who seek resolution and forgiveness as well as justice.

At 6:30 p.m. every other Thursday night, mothers hold hands in West Palm Beach Florida and pray for themselves, for their families and for their murdered children. The non-profit organization Mothers Against Murderers Association ("MAMA") brings these women together and opens the floor to any of the 98 members who wish to voice an opinion or share a story. Some will talk about their day. Others may talk about children's

problems at school. And some will share thoughts about the murder of their loved ones, how they are healing, and whether they have found the strength to forgive. The healing circle is a spiritual experience in which MAMA members acknowledge the pain and anguish of losing a loved one and, over time, seek to forgive the murderer.

Angela Williams, MAMA's founder, has lost seven family members to murder. Her desire to cope with those murders – and to help other like her heal and survive these tragic events – inspired Angela to found MAMA in 2003. The organization's primary aim is to assist parents and guardians of murder victims. Many of them have had their lives forever altered by juvenile killers.

On March 20, 2001 Angela's 18-year-old nephew, Dtaurean Gidds, was murdered by 17-year-old Rogyne O'Neal during an attempted robbery. Dtaurean had been talking with his cousin when he was approached by two teenaged robbers. When Dtaurean revealed that he knew one of the robbers, Rogyne was startled. Afraid of being turned in, Rogyne fatally shot Dtaurean. Rogyne was arrested later that year. After his trial, he was sentenced to serve two life sentences.

As she has with all seven murderers responsible for the deaths in her family, Angela has come to forgive Rogyne. Angela understands the importance of forgiveness. She has had multiple experiences counseling other victims' family members who, unable to forgive, allowed anger to build up inside of them and developed obsessions with revenge. Angela has seen how

these people become trapped in their rage, unable to move beyond the tragedy and constantly reliving the pain of their loss. In her experience, too much focus on punishment of offenders – rather than on seeking justice for all involved through rehabilitation – worsens the situations. This is especially true in situations where the offenders are juveniles. As Angela explains, children – even those who commit the worst crimes – can and must be saved. For her, healing for victims’ families and redemption of juvenile offenders are essential and synergistic: victims cannot heal unless child offenders are given a true chance at rehabilitation.

Led by Angela’s example, MAMA’s members stand against juvenile life sentences without parole. They believe that juvenile offenders can be redeemed and can transform their lives. MAMA members find juvenile life without parole sentences unacceptable because such sentences reject the possibility of restorative justice and deny juveniles a chance at redemption. Angela summarizes MAMA’s ethos saying, “We’re about forgiveness and we’re about saving the children.” For many of MAMA’s members, that forgiveness takes on true meaning when they engage in helping another child – even if that child is the killer of their own son or daughter. MAMA members recognize that “My child won’t come back so why shouldn’t I help this child have a second chance?” Angela says, of MAMA members, “We can’t help our kids anymore but we can help someone else’s.”

MAMA’s focus is not only on forgiveness but finality. Finality does not result from a correctional institution that forecloses parole review for a juvenile offender. For

MAMA, finality is accomplished only when a juvenile offender has changed direction through rehabilitation and has become a contributing member of the community. Finality comes when a child has been rehabilitated and is released from prison. It is this sense of finality that leads to true “closure.” Angela explains: “You only reach finality by helping someone else. Not just take, take, take. You have to give back.”

MAMA gives back by counseling and guiding children who begin to display criminal tendencies. The organization has developed an educational component that encourages members to share their own experiences of loss with jailed juvenile offenders. MAMA volunteers teach the children how to consider the consequences of their actions and contribute to, rather than endanger, their communities. MAMA members know that many juvenile offenders come from at-risk communities and families. Even these children are still in their formative years and can overcome this disadvantaged beginning. But they need help. As Angela reiterates over and over, “You have to save the children. That’s what the focus is on, saving the kids.”

Tangenika Williams, another MAMA member, agrees that juvenile offenders deserve a second chance. She believes that the still-unidentified killer who claimed her husband’s life in a June 25, 2005 drive-by shooting should “do the time for the crime.” But she also believes that if the killer was a juvenile – as she suspects – the killer deserves a “second chance at life.” She recognizes that juveniles’ “brains aren’t like adults” and that juveniles are more susceptible to snap decisions resulting from, among other things, peer pressure. Most

important for Tangenika is that the killer, if a juvenile, is given a real opportunity at reformation and rehabilitation. She believes that children should be punished differently than adults: “children need guidance, not a life spent in the penitentiary.”

Tangenika, Angela and other MAMA members continue to bring their message of forgiveness and healing to others in the community. MAMA provides family members comfort, often beginning just hours after a murder victim has been found and even at the crime scenes. They counsel grieving parents and try to talk down angry family members who cannot see past their rage and only want revenge. The experience of these crime victim mothers has taught them that it takes a tremendous commitment to help family members of victims. MAMA strives to provide a vital source of continuing support and healing, something which may otherwise be unavailable. MAMA also works actively with both the police and the community to encourage witnesses to help solve murders. MAMA is dedicated to providing a variety of programs for children aimed at helping them cope with loss and turning them away from violence. MAMA’s extensive advocacy and activism has given it a unique perspective on and stake in juvenile justice issues.

Angela and other members of MAMA have long recognized that kids “make bad judgments, do bad things; they’re not really realizing what they’re doing. They’re not taught the right things.” MAMA members believe that juvenile offenders, still in their formative years of development, have the chance to change only if someone will reach out to them. MAMA aims to help the

community fill that role and opposes juvenile life without parole because it is antithetical to their goal: to give both victims and juvenile offenders “a chance at life again.”

It may be contrary to our assumptions that victims of violent crime would be as forgiving as the victims who constitute *amici* here. But the rationale for their opinions is supported by the sometimes emotional, sometimes spiritual and always personal journey they have traveled. For *amici*, this journey has led them to a place where they advocate to see the juvenile killers of their family members freed after they have paid the price for their crimes and shown that they have been rehabilitated. In their own ways, each account reveals a recognition that proportionality in sentencing is essential and that locking a child away forever for a crime committed before that child was fully developed and accountable is inconsistent with the principle of proportionality. Each account reflects the significant impact of successful rehabilitation on the healing of the victim’s family and the way that this process of rehabilitation engenders a parallel process of forgiveness in so many victims.

Amici reject juvenile life without parole for the ultimate crime of murder. Their experiences should inform this Court’s view of whether such a cruel punishment is ever appropriate for children in non-murder cases. It is not. Juvenile life without parole is unconstitutional in large part because it fails to take into account that sentencing does not necessarily

become more just with permanence. It is only through a permanent focus on proportionality, rehabilitation and forgiveness that our system of sentencing of juveniles can be restorative and successful for victims, offenders and communities.

CONCLUSION

For the reason set forth above, *amici* respectfully request that this Court reverse the ruling of the court below.

Respectfully submitted,

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