ORIGINAL

IN THE SUPREME COURT OF OHIO

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| STATE OF OHIO, | : | |
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| PLAINTIFF-APPELLEE, | : | CASE NO. 2014-0120 |
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| V. | : | ON DISCRETIONARY APPEAL FROM THE |
| | : | MAHONING COUNTY COURT OF APPEAL, |
| BRANDON MOORE, | : | SEVENTH APPELLATE DISTRICT, |
| | : | CASE NO. 08MA20 |
| DEFENDANT-APPELLANT. | : | |

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# BRIEF OF JUVENILE LAW CENTER *ET AL.* AS *AMICI CURIAE* IN SUPPORT OF DEFENDANT-APPELLANT BRANDON MOORE

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## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

**Page(s)**

**Cases**

**Constitutions/Statutes**



**Other Authorities**

## I. STATEMENT OF INTEREST

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. *See* Appendix for a list and brief description of all *Amici*.

## II. STATEMENT OF FACTS

*Amici* adopt the Statement of Facts as articulated in the brief of Appellant Brandon Moore.

## III. ARGUMENT

**Proposition of Law: The Eighth Amendment prohibits sentencing a juvenile to a term-of-years sentence that precludes any meaningful opportunity for release.**

In 2010, the U.S. Supreme Court held in *Graham v. Florida,* 560 U.S. 48 (2010) that life without parole sentences for juvenile offenders committing non-homicide offenses violate the Eighth Amendment's ban on cruel and unusual punishments. Appellant Brandon Moore was convicted of non-homicide offenses that he committed as a juvenile and received a sentence that requires him to serve 92 years before he is parole-eligible. Because Mr. Moore would not be eligible for parole until he reaches the unlikely age of 107, his sentence is the functional equivalent of a life without parole and therefore unconstitutional pursuant to *Graham*. The majority of states that have considered sentences similar to Mr. Moore's have held that extreme term-of-year sentences that are the functional equivalent of "life without parole" sentences violate *Graham*. This Court, too, should hold that Appellant's sentence – which guarantees that he will die in prison – violates *Graham*.

### A. *Graham v. Florida* Requires That Juveniles Convicted Of Non-Homicide Offenses Receive A "Meaningful Opportunity To Obtain Release"

In *Graham v. Florida*, the U.S. Supreme Court held the Eighth Amendment forbids States from "making the judgment at the outset that [juvenile non-homicide] offenders never will be fit to reenter society." 560 U.S. at 75. Instead, States must give these offenders "some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Id.* In *Graham*, the Court explained that juveniles who commit non-homicide offenses "should not be deprived of the opportunity to achieve maturity of judgment and self-recognition of human worth and potential." *Id.* at 79. Similarly, Appellant's 92-year sentence (forcing him to remain in prison until he reaches 107 years old before he may even be considered for parole) for non-homicide offenses is wholly at odds with *Graham*, as it forecloses any meaningful opportunity

for Mr. Moore to obtain release within his lifetime.[1] To hold that such a sentence does not violate *Graham* because it was not formally labeled "life without parole," defies common sense and cannot be squared with the Supreme Court's Eighth Amendment jurisprudence.

The categorical rule articulated in *Graham* concerns impact and outcomes – not labels. The outcome the Supreme Court sought to prohibit in *Graham* – a determination at the outset that a juvenile convicted of a non-homicide offense should have no meaningful opportunity for release – is exactly the outcome in this case if Appellant's current sentence stands. Upholding these sentences would allow any trial court to circumvent the categorical ban declared in *Graham* simply by choosing a term-of-years sentence – here "92 years without parole" – instead of "life without parole." Even in the case of brutal or cold-blooded offenses, a sentencing court should not be able to circumvent the Constitution's categorical prohibition on juvenile life without parole sentences for non-homicide crimes by re-labeling the sentence as a specific term of years, however long. *See Graham*, 560 U.S. at 78 (noting that, absent a categorical ban, "'[a]n unacceptable likelihood exists that the brutality or cold-blooded nature of any particular crime would overpower mitigating arguments based on youth as a matter of course, even where the juvenile offender's objective immaturity, vulnerability, and lack of true depravity" should require a less severe sentence) (quoting *Roper v. Simmons*, 543 U.S. 551, 573 (2005)).

The Supreme Court's Eighth Amendment jurisprudence has clarified that the constitutionality of a sentence depends on the actual impact of the sentence upon the individual, not how a sentence is labeled. For example, the U.S. Supreme Court took this commonsense and equitable approach in *Sumner v. Shuman,* 483 U.S. 66 (1987), where it noted that "there is no basis for distinguishing, for purposes of deterrence, between an inmate serving a life sentence

[1] The unlikely possibility that Mr. Moore could live to be 107 does not alter the analysis. The opportunity to obtain release after one's life expectancy cannot be considered "meaningful."

without possibility of parole and a person serving several sentences of a number of years, *the total of which exceeds his normal life expectancy.*" 483 U.S. 66, 83 (1987) (emphasis added).

*Miller v. Alabama,* 132 S. Ct. 2455 (2012), banning mandatory life without parole sentences for juvenile *homicide* offenders, confirms that a life without parole sentence is unconstitutional for a juvenile convicted of non-homicide crimes, even multiple non-homicide offenses. *Miller* found that, "given all we have said in *Roper, Graham,* and this decision about children's diminished culpability and heightened capacity for change, *we think appropriate occasions for sentencing juveniles to this harshest possible penalty* [life without parole] *will be uncommon.*" 132 S. Ct. at 2469 (emphasis added). This Court, too, in the context of homicide offenses committed by juveniles has recognized that "because of the severity of [life without parole], and because youth and its attendant circumstances are strong mitigating factors, that sentence should rarely be imposed on juveniles." *State v. Long*, 138 Ohio St. 3d 478, 488 (2014) (citing *Miller*, 132 S. Ct. at 2649). Under *Miller,* a juvenile convicted of only non-homicide crimes by definition cannot be categorized as one of the most culpable juvenile offenders for whom a life without parole sentence would be proportionate or appropriate. *See Miller*, 132 S. Ct. at 2476 (Breyer, J., concurring) ("The dissent itself here would permit life without parole for 'juveniles who commit the worst types of murder,' but that phrase does not readily fit the culpability of one who did not himself kill or intend to kill.").[2]

[2] Although *Amici,* throughout the brief, distinguish between juveniles convicted of homicide and non-homicide offenses, *Amici* do not intend to suggest that extreme term-of-year sentences are constitutionally appropriate for juveniles who commit homicide offenses. Appropriate sentencing for juveniles convicted of homicide offenses is not at issue in this case.

### B. This Court Should Hold That Appellant's 92-Year Sentence Without The Possibility of Parole Violates Graham

#### 1. The Majority Of States Considering The Question Have Held That Graham And Miller Apply To Term-Of-Years Sentences That Are The Functional Equivalent Of Life Without Parole

Most states considering the question have concluded that *Graham* and *Miller* apply to term-of-year sentences that are the functional equivalent of life without parole – often for sentences much shorter than Appellant's 92-years-without-parole sentence.

The Iowa Supreme Court, for example, held that a sentence in which juvenile *homicide* offender[3] would not be eligible for parole for 52.5 years was unconstitutional in light of *Miller* and *Graham*. *State v. Null*, 836 N.W.2d 41 (Iowa 2013). The Iowa Supreme Court concluded that such a lengthy sentence contravened *Graham's* requirement that youth have a "meaningful opportunity" to demonstrate rehabilitation and obtain release. *Id.* at 72. Mr. Null, who was 16-years old at the time of the offenses, would not have been eligible for parole consideration until he was 69 years old. *Id.* at 45. Though not labeled "life without parole," the Iowa Supreme Court determined that Null's aggregate sentence – requiring him to spend at least half a century in prison – merited the same analysis as a sentence explicitly termed "life without parole." *Id.* at 71.

The Iowa Supreme Court found that life expectancy alone could not determine whether an opportunity for release is meaningful pursuant to *Graham*. Unlike Appellant's case – in which his nine-decade imprisonment before parole review clearly exceeds his life expectancy – the Iowa Supreme Court noted that the "evidence in this case does not clearly establish that Null's prison term is beyond his life expectancy." *Id.* The court found that compliance with *Miller* and *Graham* require more than merely the potential that a juvenile offender will be released on his deathbed, stating:

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[3] Mr. Null was convicted of second-degree murder and first-degree robbery. *Null*, 836 N.W.2d at 45. Though Mr. Null received a 75-year sentence, he was parole-eligible after 52.5 years. *Id.*

> [W]e do not believe the determination of whether the principles of *Miller* or *Graham* apply in a given case should turn on the niceties of epidemiology, genetic analysis, or actuarial sciences in determining precise mortality dates. In coming to this conclusion, we note the repeated emphasis of the Supreme Court in *Roper*, *Graham*, and *Miller* of the lessened culpability of juvenile offenders, how difficult it is to determine which juvenile offender is one of the very few that is irredeemable, and the importance of a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Graham*, 560 U.S. at 75. We also note that in the flurry of legislative action that has taken place in the wake of Graham and Miller, many of the new statutes have allowed parole eligibility for juveniles sentenced to long prison terms for homicides to begin after fifteen or twenty-five years of incarceration

*Null*, 836 N.W.2d at 71-72.

Notably, the Iowa Supreme Court rejected the argument that *Graham* and *Miller* do not apply to consecutive fixed-term sentences from multiple offenses, specifically noting that one of the juvenile defendants in *Miller* was convicted of multiple crimes, and nothing in the text of the opinion implied that multiple offenses affected the Court's analysis or decision. *Id.* at 73. The court concluded, "the direction from the Supreme Court that trial courts consider everything said about youth in *Roper, Graham*, and *Miller* means more than a generalized notion of taking age into consideration as a factor in sentencing. . . .Instead, we conclude [the Iowa Constitution] requires that a district court recognize and apply the core teachings of *Roper, Graham*, and *Miller* in making sentencing decisions for long prison terms involving juveniles." *Id.* at 74.

On the same day as *Null*, the Iowa Supreme Court also struck down a *35-year* sentence for a juvenile offender convicted of a non-homicide offense. *State v. Pearson*, 836 N.W.2d 88, 96 (Iowa 2013). In vacating this 35-year sentence, the court noted that "though *Miller* involved sentences of life without parole . . . its reasoning applies equally to [the defendant's] sentence of thirty-five years without the possibility of parole." *Id.*

Similarly, in 2014, the Supreme Court of Indiana resentenced a juvenile defendant who received 150-years for two *homicide* offenses and a robbery. Though, as in *Null*, the offenses committed – homicide offenses – meant that a life without parole sentence was permissible, the Court relied on *Graham* in striking down the sentence. The court found:

> Similar to a life without parole sentence, Brown's 150 year sentence " 'forswears altogether the rehabilitative ideal.' " *Miller,* 132 S. Ct. at 2465 (quoting *Graham,* 560 U.S. at 74). Indeed, Brown's sentence essentially " 'means denial of hope; it means that good behavior and character improvement are immaterial; it means that whatever the future might hold in store for the mind and spirit of the [juvenile] convict, he will remain in prison for the rest of his days.' " *Graham,* 560 U.S. at 70 (quoting *Naovarath v. State,* 105 Nev. 525, 779 P.2d 944, 944 (1989)).

*Brown v. State*, 10 N.E.3d 1, 8 (Ind. 2014). Though the Indiana Supreme Court imposed an 80-year aggregate sentence, *id.*, Mr. Brown could serve less than 40 years with good time credit. *See Indiana High Court: Teen's 150-Year Term Excessive*, ASSOCIATED PRESS, June 2, 2014, *available at* http://wishtv.com/2014/06/02/indiana-high-court-teens-150-year-term-excessive/.

The California Supreme Court has also held that extreme term-of-years sentences for juvenile non-homicide offenders violate *Graham*. In *People v. Caballero*, 282 P.3d 291, 293 (Cal. 2012), the court vacated the 110-year sentence of a 16-year-old boy convicted of three counts of attempted murder. Like the Iowa and Indiana Supreme Courts, the California Supreme Court determined that *Graham* does not just bar "life without parole" sentences, but any sentence that denies a juvenile non-homicide offender a meaningful opportunity for release, finding:

> Defendant in the present matter will become parole eligible over 100 years from now. Consequently, he would have no opportunity to "demonstrate growth and maturity" to try to secure his release, in contravention of *Graham*'s dictate. *Graham*'s analysis does not focus on the precise sentence meted out. Instead, as noted above, it holds that a state must provide a juvenile offender "with some realistic opportunity to obtain release" from prison during his or her expected lifetime.

*People v. Caballero*, 282 P.3d at 295 (internal citations omitted). The court "conclude[d] that sentencing a juvenile offender for a nonhomicide offense to a term of years with a parole eligibility date that falls outside the juvenile offender's natural life expectancy constitutes cruel and unusual punishment in violation of the Eighth Amendment." *Id.* Though a parole board may not ultimately release the juvenile offender, "the state may not deprive them at sentencing of a meaningful opportunity to demonstrate their rehabilitation and fitness to reenter society in the future." *Id.*

The U.S. Court of Appeals for the Ninth Circuit has similarly held that a 254-year sentence (with parole eligibility after 127 years) for a 16-year-old convicted of non-homicide offenses violated *Graham*. *Moore v. Biter*, 725 F.3d 1184, 1186 (9th Cir. 2013). In *Moore v. Biter*, the juvenile was convicted of "sexually victimizing four separate women on four occasions during a five-week period." *Id.* The Ninth Circuit held:

> Moore's sentence of 254 years is materially indistinguishable from a life sentence without parole because Moore will not be eligible for parole within his lifetime. Moore's sentence determines "at the outset that [Moore] never will be fit to reenter society." His sentence results in the same consequences as Graham's sentence. Moore must live the remainder of his life in prison, knowing that he is guaranteed to die in prison regardless of his remorse, reflection, or growth.

*Id.* at 1191-92 (quoting *Graham*, 560 U.S. at 75). The Ninth Circuit explained that "*Graham's* focus was not on the label of a 'life sentence' – but rather on the difference between life in prison with, or without, possibility of parole." *Id.* at 1192.

The Ninth Circuit also held that the violent and sexual nature of the defendant's offenses did not justify a sentence that would deny him the possibility of release. *Id.* The court found that the state court "incorrectly concluded that *Graham* is inapplicable because [the juvenile

offender] committed violent rapes, forced copulation, and sodomy perpetrated with a firearm. Importantly, in crafting its categorical bar, *Graham* drew only one line that was crime-specific: it distinguished between homicide and nonhomicide crimes." *Id.*

Other state appellate and federal trial level courts have applied similar reasoning in striking down term-of-years sentences that are the functional equivalent of life without parole for juvenile offenders.[4] *See, e.g., People v. Rainer*, No. 10CA2414, 2013 WL 1490107, at *14 (Colo. App. Apr. 11, 2013) (vacating the 112-year sentence of a juvenile non-homicide offender who would not be eligible for parole until age 75 because the sentence, "with the virtually nonexistent possibility of parole at the age of seventy-five, violates the holding and reasoning of *Graham* because it virtually 'guarantees he will die in prison without any meaningful opportunity to obtain release, . . . even if he spends the next half century attempting to atone for his crimes and learn from his mistakes.'");[5] *Thomas v. Pennsylvania*, No. 10-4537, 2012 WL 6678686, at *2 (E.D. Pa. Dec. 21, 2012) (vacating a sentence in which a 15-year-old offender would not be parole-eligible until age 83 noting that "[t]his Court does not believe that the Supreme Court's analysis would change simply because a sentence is labeled a term-of-years sentence rather than a life sentence if that term-of years sentence does not provide a meaningful opportunity for parole in a juvenile's lifetime. The Court's concerns about juvenile culpability and inadequate penological justification apply equally in both situations, and there is no basis to

[4] Appellate courts in Florida are divided on the question of whether *Graham* applies to extreme term-of-years sentences for juvenile non-homicide offenders. The issue is currently pending in the Florida Supreme Court. *See Gridine v. State*, 103 So. 3d 139 (Fla. 2012); *Henry v. State*, 107 So. 3d 405 (Fla. 2012).

[5] On the same day the Colorado Court of Appeals vacated Rainer's sentence, they affirmed a sentence in which a juvenile non-homicide offender would qualify for parole at 57, which the court did not consider to be equivalent with life without parole. *See People v. Lucero*, No. 11CA2030, 2013 WL 1459477 (Colo. App. Apr. 11, 2013). The court compared *Lucero* to *Rainer,* where the juvenile defendant wouldn't qualify for parole until 75, an age which actually exceeded his life expectancy. *Id.*

distinguish sentences based on their label."); *United States v. Mathurin,* No. 09–21075, 2011 WL 2580775 (S.D. Fla. June 29, 2011) (vacating a juvenile defendant's mandatory minimum sentence of 307 years and imposing a constitutionally permissible sentence which provided a meaningful opportunity for defendant to be released at age 53).

### 2. State Supreme Courts That Have Declined To Extend Graham To Term-Of-Year Sentences Have Not Considered Sentences As Lengthy As Appellant's

In analyzing sentences shorter than Appellant's, some state supreme courts have held that *Graham* does not apply to term-of-year sentences. The Louisiana Supreme Court, for example, upheld a lengthy term-of-years sentence for a juvenile convicted of multiple non-homicide offenses, noting that "*Graham* does not prohibit consecutive term of year sentences for multiple offenses committed while a defendant was under the age of 18, even if they might exceed a defendant's lifetime." *State v. Brown*, 118 So. 3d 332, 341 (La. 2013). The court found it significant that the case did not involve a "life sentence" or "one non-homicide offense," since, like Appellant, the defendant was convicted of multiple charges. *Id.* at 342. This holding conflicts with the holding of other state supreme courts cited above that have found that *Graham* applies to aggregate sentences that provide no meaningful opportunity for release. Additionally, while not an acceptable rationale for upholding the sentence, the defendant in the Louisiana case is eligible for parole at age 86, *id.* – more than two decades earlier than Appellant would be parole eligible.

Other state supreme courts have held that *Graham* does not apply to shorter term-of-year sentences. *See, e.g., Adams v. State*, 707 S.E.2d 359, 365 (Ga. 2011) (holding that a 25-year sentence does not violate *Graham*); *Angel v. Com.*, 704 S.E.2d 386, 402 (Va. 2011) (finding that

*Graham* was not violated because juveniles sentenced to life without parole for non-homicide offenses in Virginia would be eligible for release at age 60).

State appellate courts have also upheld long term-of-year sentences for juvenile offenders. In *Diamond v. State*, , 441 (Tex. Crim. App. 2012), the Texas Court of Criminal Appeals upheld a child's consecutive 99-year and 2-year sentences. Inexplicably, however, the court's majority failed to analyze, discuss, or even mention *Graham*'s applicability. *See also Burnell v. State*, No. 01-10-00214-CR, 2012 WL 29200 (Tex. App. Jan. 5, 2012) (holding that a 25-year sentence does not violate *Graham*). In Arizona, a 17-year-old was sentenced to an aggregate term of 139.75 years based on numerous felony convictions. *See State v. Kasic*, 265 P.3d 410, 415 (Ariz. Ct. App. 2011). Significantly, however, the defendant was convicted of thirty-two felonies arising from six arsons and one attempted arson committed over a one-year period beginning when he was seventeen years of age, but *continuing into his adulthood. Id.* at 411.

Courts in Ohio have also failed to apply *Graham* to lengthy term-of-years sentences. Prior to *Graham*, the Ohio Court of Appeals upheld an 89-year sentence of Chaz Bunch, a juvenile non-homicide offender.[6] *See State v. Bunch*, No. 06 MA 106, 2007 WL 4696832 (Ohio Ct. App. Dec. 21, 2007). This Court denied leave to appeal. *State v. Bunch*, 886 N.E.2d 872 (Ohio 2008). After *Graham* was decided, Mr. Bunch filed a federal habeas petition challenging his sentence. Under the standard of review for a federal habeas, the Sixth Circuit found that *Graham* "did not *clearly establish* that consecutive, fixed-term sentences for juveniles who commit multiple nonhomicide offenses are unconstitutional when they amount to the practical equivalent of life without parole." *Bunch v. Smith*, 685 F.3d 546, 550 (6th Cir. 2012) *cert.*

[6] Under Ohio's statutes, Mr. Bunch will serve at least 79-years in prison before he is eligible for parole. Ohio Rev. Code Ann. §2929.20.

*denied, Bunch v. Bobby*, 133 S. Ct. 1996 (2013) (emphasis added). *But see Moore v. Biter*, 725 F.3d 1184, 1191 (9th Cir. 2013) (holding that a fixed-term sentence for a juvenile non-homicide offender convicted of multiple non-homicide offenses violated clearly established federal law). Mr. Bunch then moved for reconsideration of his sentence in Ohio's state courts, and this Court declined to hear Mr. Bunch's appeal. *State v. Bunch*, 3 N.E. 3d 1219 (Ohio 2014). Appellant Moore's case therefore presents an opportunity for this Court to decide this question of law on the merits and clarify the proper scope of *Graham* in Ohio's courts.

### *3.* This Court Should Hold That Appellant's Sentence Violates *Graham* And *Miller*

If a child does not kill or intend to kill, a court cannot, "at the outset," decide that the child should be sentenced to die in prison. *Graham*, 560 U.S. at 75. The U.S. Supreme Court has equated life without parole for juveniles with death sentences for adults. *See Miller*, 132 S. Ct. at 2466 (viewing life without parole "for juveniles as akin to the death penalty").

Under this lens, and applying the persuasive reasoning of other courts that have applied *Graham* to extreme term-of-years sentences, Appellant Moore's sentence clearly violates the U.S. Constitution as it essentially guarantees that he will die in prison. Mr. Moore's sentence deprives him of *any* opportunity for release, let alone the "meaningful opportunity" required by *Graham*. 560 U.S. at 75. A child's sentence to die in prison becomes no less "cruel and unusual" by labeling it a sentence of "92-years without parole" instead of "life without parole."

As other state courts have found, sentencing Appellant to die in prison is no more constitutional because it involved *multiple* convictions of non-homicide offenses – it remains a sentence contrary to U.S. Supreme Court precedent. The U.S. Supreme Court has found that people who do not kill or intend to kill are categorically less culpable than people who commit homicide offenses. *Graham*, 560 U.S. at 69. The fact that a child was convicted of *multiple* non-

homicide counts does not alter this equation. Just as an adult who was convicted of multiple *non-homicide* offenses could not receive the death penalty, *see, e.g., Coker v Georgia*, 433 U.S. 584, 599 (1977) (banning the death penalty for an individual convicted of rape and robbery), a juvenile who is convicted of *multiple* non-homicide offenses cannot be sentenced to die in prison, an otherwise unconstitutional sentence. The U.S Supreme Court has been clear: "[a]s it relates to crimes against individuals . . . the death penalty should not be expanded to instances where the victim's life was not taken." *Kennedy v. Louisiana*, 554 U.S. 407, 437 (2008). Where no life has been taken, a child analogously cannot be sentenced to die in prison – even if the child is convicted of multiple offenses.

*Graham* established "a categorical rule [which] gives all juvenile nonhomicide offenders a chance to demonstrate maturity and reform." 560 U.S. at 79. Labels and semantics should not enable courts to escape the clear mandate of *Graham* that children who commit non-homicide offenses must be provided a meaningful opportunity for release from prison. As the Iowa Supreme Court noted, in vacating mandatory 60-year sentences for a juvenile homicide offenders pursuant to *Miller* and *Graham*, "it is important that the spirit of the law not be lost in the application of the law." *State v. Ragland*, 836 N.W.2d 107, 121 (Iowa 2013).

## IV. CONCLUSION

The United States Supreme Court has mandated that sentencers undertake an individualized analysis for children accused of serious crimes in order to reflect our society's evolving standards of decency and to take account of our greater understanding of adolescent development. The Court has found that any child who commits non-homicide offenses must have a meaningful opportunity to be released from prison. Accordingly, *Amici* respectfully request that this Court invalidate Appellant Moore's unconstitutional sentence. This will ensure that Ohio is appropriately applying the United States Supreme Court's decisions on juvenile sentencing and that the prohibition on life without parole sentences for non-homicide offenses is not subverted by semantics.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

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## APPENDIX

### Statements of Interest

**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. Juvenile Law Center pays particular attention to the needs of children who come within the purview of public agencies- for example, abused or neglected children placed in foster homes, delinquent youth sent to residential treatment facilities or adult prisons, or children in placement with specialized service needs. Juvenile Law Center works to ensure children are treated fairly by systems that are supposed to help them, and that children receive the treatment and services that these systems are supposed to provide. Juvenile Law Center also works to ensure that children's rights to due process are protected at all stages of juvenile court proceedings, from arrest through disposition, from post-disposition through appeal, and that the juvenile and adult criminal justice systems consider the unique developmental differences between youth and adults in enforcing these rights.

The **Campaign for the Fair Sentencing of Youth (CFSY)** 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. Our vision is to help create a society that respects the dignity and human rights of all children through a justice system that operates with consideration of the child's age, provides youth with opportunities to return to community, and bars the imposition of life without parole for people under age eighteen. We are advocates, lawyers, religious groups, mental health experts, victims, law enforcement, doctors, teachers, families, and people directly impacted by this sentence, who believe that young people deserve the opportunity to give evidence of their

remorse and rehabilitation. Founded in February 2009, the CFSY uses a multi- pronged approach, which includes coalition-building, public education, strategic advocacy and collaboration with impact litigators--on both state and national levels--to accomplish our goal.

The **Campaign for Youth Justice (CFYJ)** is a national organization created to provide a voice for youth prosecuted in the adult criminal justice system. The organization is dedicated to ending the practice of trying, sentencing, and incarcerating youthful offenders under the age of 18 in the adult criminal justice system; and is working to improve conditions within the juvenile justice system. CFYJ creates awareness of the negative impact of prosecuting youth in the adult criminal justice system and of incarcerating youth in adult jails and prisons and promotes researched-based, developmentally-appropriate rehabilitative programs and services for youth as an alternative. CFYJ also provides research, training and technical assistance to juvenile and criminal justice system stakeholders, policymakers, researchers, nonprofit organizations, and family members interested in addressing the unique needs of youth prosecuted in the adult system.

The **Center for Children's Law and Policy (CCLP)** is a public interest law and policy organization focused on reform of juvenile justice and other systems that affect troubled and at-risk children, and protection of the rights of children in such systems. The Center's work covers a range of activities including research, writing, public education, media advocacy, training, technical assistance, administrative and legislative advocacy, and litigation. CCLP works locally in DC, Maryland and Virginia and also across the country to reduce racial and ethnic disparities in juvenile justice systems, reduce the use of locked detention for youth and advocate safe and humane conditions of confinement for children. CCLP helps counties and states develop collaboratives that engage in data-driven strategies to identify and reduce racial and ethnic

disparities in their juvenile justice systems and reduce reliance on unnecessary incarceration. CCLP staff also work with jurisdictions to identify and remediate conditions in locked facilities that are dangerous or fail to rehabilitate youth.

The **Children's Law Center, Inc.** in Covington, Kentucky has been a legal service center for children's rights since 1989, protecting the rights of youth through direct representation, research and policy development and training and education. The Center provides services in Kentucky and Ohio, and has been a leading force on issues such as access to and quality of representation for children, conditions of confinement, special education and zero tolerance issues within schools, and child protection issues. It has produced several major publications on children's rights, and utilizes these to train attorneys, judges and other professionals working with children.

The **Coalition for Juvenile Justice** (CJJ) is a non-profit, non-partisan, nationwide coalition of State Advisory Groups (SAGs), allied staff, individuals, and organizations. CJJ is funded by our member organizations and through grants secured from various agencies. CJJ envisions a nation where fewer children are at risk of delinquency; and if they are at risk or involved with the justice system, they and their families receive every possible opportunity to live safe, healthy, and fulfilling lives. CJJ serves and supports SAGs that are principally responsible for monitoring and supporting their state's progress in addressing the four core requirements of the Juvenile Justice and Delinquency Prevention Act (JJDPA) and administering federal juvenile justice grants in their states. CJJ is dedicated to preventing children and youth from becoming involved in the courts and upholding the highest standards of care when youth are charged with wrongdoing and enter the justice system.

The **Colorado Juvenile Defender Coalition** (CJDC) is a non-profit organization dedicated to excellence in juvenile defense and advocacy, and justice for all children and youth in Colorado. A primary focus of CJDC is to reduce the prosecution of children in adult criminal court, remove children from adult jails, and reform harsh prison sentencing laws through litigation, legislative advocacy, and community engagement. CJDC works to ensure all children accused of crimes receive effective assistance of counsel by providing legal trainings and resources to attorneys. CJDC also conducts nonpartisan research and educational policy campaigns to ensure children and youth are constitutionally protected and treated in developmentally appropriate procedures and settings. Our advocacy efforts include the voices of affected families and incarcerated children.

**Juvenile Justice Initiative (JJI) 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 supported by private donations from foundations, individuals and legal firm. JJI as a coalition establishes or joins broad-based collaborations developed around specific initiatives to act together to achieve concrete improvements and lasting changes for youth in the justice system, consistent with the JJI mission statement. Our mission is to transform the juvenile justice system in Illinois by reducing reliance on confinement, enhancing fairness for all youth, and developing a comprehensive continuum of community-based resources throughout the state. Our collaborations work in concert with other organizations, advocacy groups, concerned individuals and state and local government entities throughout Illinois to ensure that fairness and competency development are public and private priorities for youth in the justice system.

**Juvenile Justice Project of Louisiana (JJPL)** is the only statewide, non-profit advocacy organization focused on reform of the juvenile justice system in Louisiana. Founded in 1997 to challenge the way the state handles court involved youth, JJPL pays particular attention to the high rate of juvenile incarceration in Louisiana and the conditions under which children are incarcerated. Through direct advocacy, research and cooperation with state run agencies, JJPL works to both improve conditions of confinement and identify sensible alternatives to incarceration. JJPL also works to ensure that children's rights are protected at all stages of juvenile court proceedings, from arrest through disposition, from post-disposition through appeal, and that the juvenile and adult criminal justice systems consider the unique developmental differences between youth and adults in enforcing these rights. JJPL continues to work to build the capacity of Louisiana's juvenile public defenders by providing support, consultation and training, as well as pushing for system-wide reform and increased resources for juvenile public defenders.

The **National Association of Counsel for Children (NACC)** is a non-profit child advocacy and professional membership association dedicated to enhancing the well-being of America's children. Founded in 1977, the NACC is a multidisciplinary organization with approximately 2200 members representing all 50 states, DC, and several foreign countries. The NACC works to improve the delivery of legal service to children, families, and agencies; advance the rights and interests of children; and develop the practice of law for children and families as a sophisticated legal specialty. NACC programs include training and technical assistance, the national children's law resources center, the attorney specialty certification program, the model children's law office project, policy advocacy, and the amicus curiae program. Through the amicus curiae program, NACC has filed numerous

briefs involving the legal interest of children in state and federal appellate courts and the Supreme Court of the United States. Founded in 1977, the National Association of Counsel for Children (NACC) is a 501(c)(3) non-profit child advocacy and professional membership association dedicated to enhancing the well being of America's children. The NACC works to strengthen legal advocacy for children and families by promoting well resourced, high quality legal advocacy; implementing best practices; advancing systemic improvement in child serving agencies, institutions and court systems; and promoting a safe and nurturing childhood through legal and policy advocacy. NACC programs which serve these goals include training and technical assistance, the national children's law resource center, the attorney specialty certification program, policy advocacy, and the amicus curiae program. Through the amicus curiae program, the NACC has filed numerous briefs involving the legal interests of children and their families in state and federal appellate courts and the Supreme Court of the United States. The NACC uses a highly selective process to determine participation as amicus curiae. Amicus cases must pass staff and Board of Directors review using the following criteria: the request must promote and be consistent with the mission of the NACC; the case must have widespread impact in the field of children's law and not merely serve the interests of the particular litigants; the argument to be presented must be supported by existing law or good faith extension the law; there must generally be a reasonable prospect of prevailing. The NACC is a multidisciplinary organization with approximately 3000 members representing all 50 states and the District of Columbia. NACC membership is comprised primarily of attorneys and judges, although the fields of

medicine, social work, mental health, education, and law enforcement are also represented.

The **National Center for Youth Law (NCYL)** is a private, non-profit organization that uses the law to help children in need nationwide. For more than 40 years, NCYL has worked to protect the rights of low-income children and to ensure that they have the resources, support, and opportunities they need to become self-sufficient adults. NCYL provides representation to children and youth in cases that have a broad impact. NCYL also engages in legislative and administrative advocacy to provide children a voice in policy decisions that affect their lives. NCYL supports the advocacy of others around the country through its legal journal, Youth Law News, and by providing trainings and technical assistance.

One of NCYL's priorities is to reduce the number of youth subjected to harmful and unnecessary incarceration and expand effective community based supports for youth in trouble with the law. NCYL has participated in litigation that has improved juvenile justice systems in numerous states, and engaged in advocacy at the federal, state, and local levels to reduce reliance on the justice systems to address the needs of youth, including promoting alternatives to incarceration, and improving children's access to mental health care and developmentally appropriate treatment. One of the primary goals of NCYL's juvenile justice advocacy is to ensure that youth in trouble with the law are treated as adolescents, and not as adults, and in a manner that is consistent with their developmental stage and capacity to change within the juvenile justice system.

The **National Juvenile Defender Center** was created to ensure excellence in juvenile defense and promote justice for all children. The National Juvenile Defender Center responds to the critical need to build the capacity of the juvenile defense bar in order to improve access to

counsel and quality of representation for children in the justice system. The National Juvenile Defender Center gives juvenile defense attorneys a more permanent capacity to address important practice and policy issues, improve advocacy skills, build partnerships, exchange information, and participate in the national debate over juvenile justice. The National Juvenile Defender Center provides support to public defenders, appointed counsel, child advocates, law school clinical programs and non-profit law centers to ensure quality representation and justice for youth in urban, suburban, rural and tribal areas. The National Juvenile Defender Center also offers a wide range of integrated services to juvenile defenders and advocates, including training, technical assistance, advocacy, networking, collaboration, capacity building and coordination.

The mission of the **National Juvenile Justice Network (NJJN)** leads and supports a movement of state and local juvenile justice coalitions and organizations to secure local, state and federal laws, policies and practices that are fair, equitable and developmentally appropriate for all children, youth and families involved in, or at risk of becoming involved in, the justice system. NJJN currently comprises forty-one members in thirty-three states, all of which seek to establish effective and appropriate juvenile justice systems. NJJN recognizes that youth are fundamentally different from adults and should be treated in a developmentally appropriate manner focused on their rehabilitation. Youth should not be transferred into the punitive adult criminal justice system where they are subject to extreme and harsh sentences such as life without the possibility of parole, and are exposed to serious, hardened criminals. NJJN supports a growing body of research that indicates the most effective means for addressing youth crime are rehabilitative, community-based programs that take a holistic approach, engage youth's family members and other key supports, and provide opportunities for positive youth development.

The mission of the **San Francisco Office of the Public Defenders** is to provide vigorous, effective, competent and ethical legal representation to persons who are accused of crime and cannot afford to hire an attorney. We provide representation to 25,000 individuals per year charged with offenses in criminal and juvenile court.