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STATE OF NEW JERSEY	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION - HUDSON COUNTY
Plaintiff,	:	INDICTMENT NO: 11-03-0348-I
	:	
-v-	:	CRIMINAL ACTION
	:	
LATONIA BELLAMY	:	On Remand from the Superior
	:	Court of New Jersey,
Defendant.	:	Appellate Division
	:	

**BRIEF OF AMICUS CURIAE RODERICK & SOLANGE MACARTHUR
JUSTICE CENTER IN SUPPORT OF LATONIA BELLAMY**

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PRELIMINARY STATEMENT

This case is governed by two principles fundamental to the New Jersey Constitution. First, the New Jersey Constitution is a source of independent rights that extend beyond the protections of the U.S. Constitution. State v. Zuber, 227 N.J. 422, 438 (2017). Second, under the State Constitution, young people “are constitutionally different” from adults. Id. at 444, 446-47 (quoting Miller v. Alabama, 567 U.S. 460, 471 (2012)). For Latonia Bellamy, who stands convicted of crimes that occurred when she was just 19 years old, those two precepts require this Court to account for her youth when determining a constitutional sentence.

Amicus Curiae, the Roderick & Solange MacArthur Justice Center (RSMJC) contends that the New Jersey Supreme Court’s jurisprudence on sentencing youth under age 18, see Zuber, 227 N.J. at 422; State v. Comer (Comer II), 249 N.J. 359, 383 (2022), should apply equally to young people like Ms. Bellamy who committed crimes after that age. The Court’s juvenile sentencing jurisprudence was premised upon features of adolescent development which data now show apply equally to young people well into their twenties. The data underscore what the New Jersey Legislature has long recognized and continues to emphasize in recent legislative judgments: that even after 18, young people are immature, vulnerable to influence, often unable to control impetuous behavior and yet remarkably capable of change. Under the rationales

of the New Jersey Supreme Court's youth sentencing decisions, this Court is bound to evaluate the mitigating qualities of youth when sentencing Ms. Bellamy, regardless of any otherwise applicable mandatory minimum sentence.

Indeed, the 30-year statutory parole bar at issue in this case cannot be reconciled with the principles undergirding the New Jersey Supreme Court's youth sentencing jurisprudence. Enforcing a 30-year-parole bar for a crime Ms. Bellamy committed at 19 would violate Article I, Paragraph 8 of the New Jersey Constitution by prohibiting this Court from accounting for relevant age-related mitigating factors. It would flaunt scientific evidence and societal consensus demonstrating that the age of 18 in no way reflects the decisive point of maturation. Accordingly, and as set forth below, this Court should grant parole eligibility after no more than twenty years in line with the prevailing science, demonstrated societal consensus, and the New Jersey Supreme Court's decision in Comer II, 249 N.J. at 401.

STATEMENT OF INTEREST OF AMICUS CURIAE

Amicus, RSMJC, is a public interest law firm founded in 1985 by the family of J. Roderick MacArthur to advocate for human rights and social justice through litigation. RSMJC has offices at Northwestern Pritzker School of Law, at the University of Mississippi School of Law, in New Orleans, in St. Louis, and in Washington, D.C. RSMJC attorneys have served as counsel, amicus

counsel, and amicus curiae in cases concerning state constitutional limits on sentencing. It has participated in civil rights campaigns in areas that include police misconduct, compensation for the wrongfully convicted, extreme sentencing—including for youth—and the treatment of incarcerated people. Amicus writes to share its expertise and national perspective to assist the Court in addressing this issue of public importance.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Amicus relies upon the Statement of Facts and Procedural History set forth in brief of the Office of the Public Defender on behalf of Latonia Bellamy with the following additions.

On August 10, 2022, this Court ordered that any amicus briefs in this matter be filed by December 14, 2022. On September 20, 2022, RSMJC moved for leave to appear as amicus curiae and for attorney Andrea Lewis Hartung to appear pro hac vice. On November 28, 2022, the Court revised the scheduling order and directed that amicus briefs be filed by March 14, 2023.

ARGUMENT

I. THE NEW JERSEY CONSTITUTION BROADLY PROTECTS INDIVIDUAL RIGHTS BEYOND THOSE OF THE U.S. CONSTITUTION, INCLUDING WITH RESPECT TO ARTICLE I, PARAGRAPH 12'S PROHIBITION ON CRUEL AND UNUSUAL PUNISHMENTS.

The New Jersey Supreme Court interprets the New Jersey Constitution as protecting rights more expansively than federal law including with respect to restrictions on criminal sentencing.

State v. Muhammad, 145 N.J. 23, 40 (1996); see also Zuber, 227 N.J. at 438 (citing State v. Gerald, 113 N.J. 40, 76 (1988)). It is axiomatic that state constitutions are not derivative of the U.S. Constitution. See ROBERT F. WILLIAMS, THE LAW OF AMERICAN STATE CONSTITUTIONS 20-21 (Oxford U.P. 2009) (noting that states sought the protections of the federal Bill of Rights to ensure that rights already guaranteed in state constitutions would be similarly protected from federal intrusion). Thus, as Justice Handler summed up, whereas the U.S. Constitution is “a negative restriction” on governmental power, the State Constitution “is an affirmative grant of rights and liberties to be effectuated to the fullest.” Alan B. Handler, Expounding the State Constitution, 35 Rutgers L. Rev. 202, 205 (1983).

In accord with those principles, the New Jersey Supreme Court has regularly interpreted the State Constitution as “a source of fundamental rights independent of the United States Constitution.” State v. Melvin, 248 N.J. 321, 347 (2021) (citing State v. Gilmore, 103 N.J. 508, 522-23 (1986)). It has likewise recognized that invocation of “the state charter [can] achieve a result unavailable under federal law[,]” see State v. Hunt, 91 N.J. 338, 358 (1982) (Handler, J., concurring) (citation omitted), even with respect to state constitutional provisions that are “analogous or identical [to] provisions of the Federal Constitution.” Muhammad, 145 N.J.

at 40; see also Zuber, 227 N.J. at 438 (citing Gerald, 113 N.J. at 76).

Examples abound. The New Jersey Supreme Court has repeatedly recognized that Article I, Paragraph 7 “affords greater protection against unreasonable searches and seizures” than does the Fourth Amendment. See, e.g., State v. Novembrino, 105 N.J. 95, 145 (1987); see also State v. Pierce, 136 N.J. 184, 208 (1994). The Court has also relied upon the broader equal protection and due process guarantees of the New Jersey Constitution to invalidate peremptory strikes in jury selection, see Gilmore, 103 N.J. at 522-23, to invalidate restrictions on state-funding of medically necessary therapeutic abortions, see Right to Choose v. Byrne, 91 N.J. 287 (1982), and to prohibit consideration of acquitted conduct in sentencing, Melvin, 248 N.J. at 346-352, notwithstanding whether the same results would be compelled by federal constitutional law in each instance. Most significantly for this case, New Jersey’s high court treats Article I, Paragraph 12’s prohibition on cruel and unusual punishment as more protective than the federal Eighth Amendment even while employing a test that overlaps with federal jurisprudence. Comer II, 249 N.J. at 383 (quoting Zuber, 229 N.J. 167, 438 (2017)).

Over several decades, the New Jersey Supreme Court has enlarged rights under Article I, Paragraph 12 beyond the Eighth Amendment. See id.; Gerald, 113 N.J. at 76, 89. In doing so, the

Court has recognized that expanding on Eighth Amendment jurisprudence is appropriate because criminal sentencing “is a matter of particular state interest or local concern and does not require a uniform national policy[.]’” Gerald, 113 N.J. at 76, 89 (addressing capital punishment) (quoting State v. Ramseur, 106 N.J. 123, 167 (1987)), superseded by constitutional amendment, N.J. Const. art. I, ¶ 12 (effective Dec. 3, 1992)); see also Shirley S. Abrahamson, Criminal Law and State Constitutions: The Emergence of State Constitutional Law, 63 Tex. L. Rev. 1141, 1150 (1985) (noting that criminal law is an area of traditional state concern “in which state judges have special experience and expertise”).

Especially when addressing criminal punishments for youth, the New Jersey Supreme Court has embraced this notion repeatedly. For instance, in Zuber, 227 N.J. at 422, the New Jersey Supreme Court recognized expanded protections for youth in Article I, Paragraph 12 of the State Constitution beyond those provided by the Eighth amendment under Miller, 567 U.S. at 471. There, the New Jersey Supreme Court held that mandatory de facto life sentences for youth under age 18 violate the State Constitution even though the U.S. Supreme Court had not addressed sentences that functionally amount to life. Zuber, 227 N.J. at 446-47 (finding that Miller’s rationales “appl[y] with equal strength to a sentence

that is the practical equivalent of life without parole”) (citations omitted).

Following Zuber, the New Jersey Supreme Court again read the New Jersey Constitution as more protective of youth than the Federal Constitution, holding that N.J.S.A. 2C:7-2(b)’s lifetime registration and notification requirements, as applied to youth under 18, violated Article I, Paragraph 1’s protection of individual liberty. State in Interest of C.K., 233 N.J. 44, 48 (2018). And last year, the Court rejected a 30-year statutory parole bar for youth under 18, holding “under the State Constitution that juveniles may petition the court to review their sentence after 20 years.” Comer II, 249 N.J. at 399.

This more expansive approach to sentencing to effectuate the State Constitution’s prohibition on cruel and unusual punishment reflects the Court’s settled view that youth sentencing policy is a matter of state and local concern that does not require a uniform national policy. See Gerald, 113 N.J. at 76. The same is true here. And recognizing the constitutional limits of sentencing for youth over age 18 would be consistent with the state Supreme Court’s previous expansive interpretations of Article I, Paragraph 12.

For instance, the U.S. Supreme Court focused its holding in Miller on mandatory life-without-parole sentences for youth under age 18. But the New Jersey Supreme Court correctly recognized that this holding did not prevent the State from also prohibiting de

facto life sentences. Zuber, 227 N.J. at 446-47. Furthermore, the court rightly interpreted U.S. Supreme Court jurisprudence as leaving space for it to lower the maximum parole bar for those under 18. Comer II, 249 N.J. at 399. After all, the U.S. Supreme Court left to the states the decision of what constitutes a “meaningful opportunity to obtain release.” Graham v. Florida, 560 U.S. 48, 75 (2010). The same approach under the State Constitution is proper here.

Moreover, expanding youth-focused sentencing protections under the New Jersey Constitution beyond age 18 would not conflict with existing federal law. The U.S. Supreme Court’s existing decisions concerning Eighth Amendment protections for youth involved children under age 18. In that context, the Court focused on “the point where society draws the line for many purposes between childhood and adulthood.” Roper v. Simmons, 543 U.S. 551, 574 (2005). In other words, the Court’s prior discussions of characteristics of individuals under age 18 were case-specific and based upon certain societal indicators, not on science. The Court has yet to consider more recent research on adolescent development past age 18.

Indeed, continuing research consistently shows that the very same developmental principles undergirding the U.S. and New Jersey Supreme Courts’ sentencing jurisprudence for young people apply to those whose crimes occurred after age 18. See infra Part II.B. And

society does not consider 18 to reflect the decisive point of maturity, as reflected by a wide range of legislative judgments. See infra Part II.A. Accordingly, this Court must assess Ms. Bellamy's sentence under the State Constitution guided by these principles and uphold the New Jersey Constitution as "an affirmative grant of rights and liberties to be effectuated to the fullest." Handler, supra, 35 Rutgers L. Rev. at 205.

II. LENGTHY MANDATORY MINIMUMS OF PAROLE INELIGIBILITY FOR YOUTH OVER AGE 18 VIOLATE ARTICLE I, PARAGRAPH 12 OF THE NEW JERSEY CONSTITUTION BY FORECLOSING CONSIDERATION OF SIGNIFICANT FEATURES OF YOUTH.

In evaluating whether a punishment is cruel and unusual under Article I, Paragraph 12, the New Jersey Supreme Court asks: "First, does the punishment for the crime conform with contemporary standards of decency? Second, is the punishment grossly disproportionate to the offense? Third, does the punishment go beyond what is necessary to accomplish any legitimate penological objective?" Comer II, 249 N.J. at 383 (quoting Zuber, 227 N.J. at 438). Applying that test, the 30-year statutory parole bar at issue in this case cannot be reconciled with Article I, Paragraph 12 of the New Jersey Constitution.

Brain science confirming the mitigating nature of youth drove courts to limit criminal penalties for youth under 18. See Zuber, 227 N.J. at 446-47 (citing Miller, 567 U.S. at 471). But that brain science shows that the same mitigating factors persist past age

18. More pointedly, the rationales underlying the New Jersey Supreme Court's interpretation of Article I, Paragraph 12 in cases involving youth under 18 apply equally to young people past that age who possess the same mitigating features of youth. See Zuber, 227 N.J. 422; Comer II, 249 N.J. at 383. Thus, this court similarly should limit criminal penalties for young people like Ms. Bellamy.

A. Society Does Not Consider Young People Mature Once They Reach Age 18.

In broadening the sentencing protections of Article I, Paragraph 12, for youth under 18 the New Jersey Supreme Court recognized that “[c]hildren lack maturity, can be impetuous, are more susceptible to pressure from others, and often fail to appreciate the long-term consequences of their actions.” Comer II, 249 N.J. at 368. For this reason, the Court struck down excessive sentences as disproportionate. Id. at 397. Yet, in the years since the U.S. Supreme Court decisions that served as a backdrop for this State's views on sentencing young people, the science on late adolescents over age 18 has shifted from developing findings to well-accepted evidence. See Defendant's Br. at 48-54 (summarizing data showing that young people's brains continue to develop into their mid-twenties). The reality is, neurological and psychological development do not halt on one's 18th birthday.

The Legislature, and indeed the general public here and beyond New Jersey, recognize the continuing development of youth past age

18. From sentencing to restrictions on drugs, alcohol, gambling, handguns, and tobacco, New Jersey has long regulated people beyond age 18 in recognition of their vulnerability and immaturity. These laws, along with the recent decisions of other state courts, powerfully demonstrate a consensus that even past the age of 18, young people are different than adults and warrant different treatment, including with respect to criminal penalties.

1. New Jersey statutes protect and regulate youth beyond age 18 in recognition of their vulnerability and immaturity.

The Legislature has consistently recognized that brain and behavioral development continue past age 18, including most recently in 2019 when it added N.J.S.A. 2C:44-1(b)(14) as an additional sentencing factor. L. 2020, c. 110. That law requires courts to consider as a mitigating circumstance that “[t]he defendant was under 26 years of age at the time of the commission of the offense.” State v. Canfield, 470 N.J. Super. 234 (App. Div. 2022), aff’d as modified 252 N.J. 497 (2023) (quoting N.J.S.A. 2C:44-1(b)(14)) (emphasis added). As the Appellate Division noted in the instant case, this law makes youth matter in sentencing in light of “‘developments in psychology and brain science’” showing that “the ‘parts of the brain involved in behavior control continue to mature through late adolescence.’” State v. Bellamy, 468 N.J. Super. 29, 46 n.3 (App. Div. 2021) (quoting Zuber, 227 N.J. at 441

(citation omitted). New Jersey's understanding that 18 does not mark the age of maturity did not start there, however.

The Persistent Offender Statute similarly recognizes that youth over age 18 lack maturity and warrant special treatment. Specifically, N.J.S.A. 2C:44-3(a), allows a person to be sentenced to "to an extended term of imprisonment" only if they are "21 years of age or over" and have committed three first-, second-, or third-degree qualifying crimes. N.J.S.A. 2C:44-3(a); see also State v. Pierce, 188 N.J. 155, 162 (2006) (age is a "prerequisite finding" to qualify "as a 'persistent offender'").

This special solicitude for youth over the age of 18 in the area of criminal sentencing is consistent with both long-standing and emerging legislation regulating youth under age 21 to protect them from legal activities that require maturity and judgment. For example, the Legislature's age-restrictions on alcohol reflect a longstanding understanding that people younger than 21 are not fully developed. See, e.g., N.J.S.A. 33:1-77; N.J.S.A. 9:17B-1(b). New Jersey follows the Federal Uniform Drinking Age Act of 1984, 3 U.S.C. § 158, which incentivized states to set their legal drinking age at 21. South Dakota v. Dole, 483 U.S. 203 (1987). That law followed the report of a Presidential Commission that emphasized the unique characteristics and susceptibilities of youth. Id. at 209 (citing Presidential Commission on Drunk Driving

8, 11 (1983)¹ (noting that young people “are at greatest risk for involvement in motor vehicle crashes” because of the impetuous and volatile nature of youth)). All fifty states uniformly adhere to 21, not 18, as the legal and safe drinking age.²

While in the 1970s New Jersey extended basic civil and contractual rights and obligations to people 18 and older for certain purposes, N.J.S.A. 9:17B-1 to 9:17B-3, it has always simultaneously recognized, as demonstrated by policies like the drinking age, that with respect to activities that require maturity and judgment, young people under 21 are not fully developed.³ For example, New Jersey has long placed higher age restrictions on gambling. See N.J.S.A. 9:17B-1 (limiting casino gaming to people legally able to purchase alcohol). And after New Jersey legalized sports betting in in 2018, it restricted such activities to people “at least 21 years of age.” N.J.S.A. 5:12A-11(e).

¹ <https://babel.hathitrust.org/cgi/pt?id=mdp.39015034427750&view=lup&seq=24>

² J.H. Hedlund, et al., Determine Why There Are Fewer Young Alcohol-Impaired Drivers, Nat'l Highway Traffic Safety Admin. (2001), available at <http://www.nhtsa.dot.gov/people/injury/research/FewerYoungDrivers/index.htm>, archived at <http://perma.cc/78X8-CGKB>.

³ Indeed, the adoption of 18 as the age of majority even for limited purposes stemmed from states' efforts to maintain consistency when the U.S. needed to lower the draft age during World War II. Vivian E. Hamilton, Adulthood in Law and Culture, 91 Tul. L. Rev. 55, 64-65 (2016). 18 was not “a widely held consensus that young people reached maturity or generally attained adult-like capabilities” by that age. Id. at 65.

Around the same time, New Jersey also raised the legal age for purchasing tobacco products and electronic smoking devices from 19 to 21. N.J.S.A. 2C:33-13.1; N.J.S.A. 2A:170-51.4. This 2017 change is consistent with research showing that the hallmark features of youth render young people particularly vulnerable to the dangers of smoking, even past age 18. Institute of Medicine of the National Academies, Ending the Tobacco Problem: A Blueprint for the Nation, 93 (2007) (citing research showing that young people “misperceive the magnitude of smoking harm...and fail to appreciate the long-term dangers” in light of their “general tendencies...to take a short-term perspective and to give[] substantial weight to peer influences”).⁴

New Jersey likewise prohibits people under 21 from purchasing or possessing handguns in recognition of younger people’s immaturity, impulsivity, and risk-taking. N.J.S.A. 2C:58-3c(4); N.J.S.A. 2C:58-6.1b. Federal restrictions in 18 U.S.C. § 922(b)(1) and (c)(1), which prohibit licensed firearms dealers from selling handguns to people under 21, reflect a similar rationale. See Federal Firearms Act: Hearings Before the Subcomm. to Investigate Juvenile Delinquency of the Sen. Comm. on the Judiciary, 90th Cong.

⁴ <http://www.iom.edu/Reports/2007/Ending-the-Tobacco-Problem-A-Blueprint-for-the-Nation.aspx>.

57 (1967) (testimony of Sheldon S. Cohen) (noting that the “easy availability of weapons” impacts young people’s “tendency toward wild, and sometimes irrational behavior”). Moreover, 14 states prohibit people under 21 from purchasing handguns, and 9 states make 21 the minimum age for handgun possession. Giffords Law Center to Prevent Gun Violence, Minimum Age to Purchase & Possess (last visited March 13, 2023).⁵ As experts recognize, these laws accord with research showing “that the human brain continues to develop well past the age of 21, particularly in areas that may alter a person’s likelihood of involvement in violence against themselves or others.” Id.

Multiple other areas of New Jersey law similarly decline to confer responsibility upon youth under 21. For instance, the New Jersey Constitution limits eligibility for service in the state Legislature to adults older than 21. N.J. Const. art. IV, § 1, ¶ 2. And to be a senator the person must be thirty. Id. The State has also carved out exceptions to the notion that 18 is the age of majority. For example, people “between 18 and 21 years of age [may] seek to avail themselves of” services provided to dependent and neglected children. N.J.S.A. 30:4C-1 to 30:4C-44. New Jersey law likewise includes young people under 21 within the group of

⁵<https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/minimum-age/#:~:text=Minimum%20age%20of%2021%20is,and%20the%20District%20of%20Columbia>

"minors" protected by the New Jersey Uniform Transfers to Minors Act, N.J.S.A. 46:38A-2, which protects young people from poorly managing their assets.

Voters in New Jersey also understand that development and maturation do not end when one turns 18. In 2020, New Jerseyans approved an amendment to the State Constitution to make it legal for people to possess small amounts of marijuana for personal use. N.J. Const. art. IV, § 7, ¶ 13 (later implemented in N.J.S.A. 24:6I-31, et seq.). Voters limited all activities related to marijuana use, growth, and sales to "persons 21 years of age or older" N.J. Const. art. IV, § 7, ¶ 13, recognizing that "young peoples' developmental immaturity leads them to take more risks, including experimentation with marijuana[.]" Committee Meeting of Senate Judiciary Committee, Feb. 15, 2021 (testimony of Prof. Laura Cohen). Significantly, all state governments that have legalized marijuana have done so only for people older than 21. Amanda Harmon Cooley, The Impact of Marijuana Legalization on Youth & the Need for State Legislation on Marijuana-Specific Instruction in K-12 Schools, 44 Pepp. L. Rev. 71, 80 (2016).

Collectively, these statutes show a long-standing and consistent societal "understanding of a juvenile's neurological and psychological development," People v. Parks, ---N.W.2d ___, 2022 WL 3008548, *14 (Mich. 2022), namely, that it does not stop at 18. Young people older than 18 differ from adults in the same

way as their younger counterparts and thus deserve equivalent legal treatment and protections. See Comer II, 249 N.J. at 395.

2. Other courts' jurisprudence similarly reflects an understanding that young people continue to develop after 18.

The consensus that young people continue to develop after 18 is also evident in other state court decisions addressing youth sentencing. For example, in 2021 the Washington Supreme Court held that mandatory life-without-parole sentences for young people 18 to twenty at the time of their crime violates its state constitution. In re Monschke, 197 Wash. 2d 305, 325-26 (2021). The court reasoned that "no meaningful neurological bright line exists between . . . age 17 on the one hand, and ages 19 and 20 on the other hand." Monschke, 197 Wash. 2d at 326. The court explained that courts must have discretion to consider the mitigating qualities of youth outlined in Miller and related watershed cases before imposing punishment on youth older than 18. Id. at 326-28.

More recently, the Michigan Supreme Court held under the Michigan Constitution that "mandatory life without parole is unconstitutional as applied to 18-year-old offenders." Parks, 2022 WL 3008548 at *14.⁶ Like the Washington Supreme Court, the Parks, court reviewed research in neurological and psychological

⁶ The Court did not preclude the possibility the same result would apply to youth over 18; that issue simply was not before it. See id. at * 10.

development, and determined that “there is no meaningful distinction” between 17- and 18-year-olds. Id. The Parks court also cited Michigan statutes similar to the New Jersey laws cited above that restrict young people between the ages of 18 and 21 from accessing alcohol, guns, cannabis and other activities. Id. According to the Court, such statutes reflected an “evolving understanding of a juvenile's neurological and psychological development.” Id.

And especially pertinent here, a trial-level court in Massachusetts, following an evidentiary hearing, declared that life-without-parole sentences for youth ages 18 through 20 violates the Massachusetts Declaration of Rights. Commonwealth v. Mattis, Commonwealth v. Robinson, Superior Ct. Suffolk Cnty., (July 20, 2022).⁷ This followed a decision by Massachusetts’s highest court in 2020 acknowledging research showing that important brain operations do not fully develop until at least age 22—which it deemed potentially relevant “to the constitutionality of life without parole for individuals other than juveniles.” Commonwealth v. Watt, 484 Mass. 742, 755 (2020) (quoting Diatchenko v. Dist. Att’y, 466 Mass. 655 (2013)). The

⁷ Available at <https://media.wbur.org/wp/2022/07/Robinson-Jason-Finding-of-Facts-on-Brain-Development-and-Social-Behavior-07-20-22-1.pdf>. The Supreme Judicial Court’s final ruling on the matter is pending.

court remanded the case to develop the record on the latest research on adolescent development. Id. at 756.

This Court should join these courts in correctly recognizing that because there is no meaningful developmental difference between youth under 18 and their slightly older peers, there is no constitutionally acceptable basis for imposing harsher sentences beginning at age 18.

B. Lengthy Sentences that Fail to Take Account of the Hallmark Features of Youth Beyond Age 18 are Grossly Disproportionate and Unnecessary to Accomplish Any Valid Penological Objective.

The New Jersey Supreme Court's holdings that lengthy sentences with parole ineligibility violate Article I, Section 12 apply just as forcefully to youth older than 18. Indeed, in light of the brain science and societal consensus, the Court's reasoning cannot be arbitrarily cabined to those younger than 18.

First, the Court has recognized that sentences that deny young people the opportunity to reform and build a life outside of prison are wholly disproportionate given the diminished culpability of youth. Comer II, 249 N.J. at 397; Zuber, 227 N.J. at 447. In fact, the Court has pointedly noted that youth convicted of felony murder—like Ms. Bellamy—may be even less blameworthy given that such crimes often result from “rash behavior and an inability to appreciate risks and consequences” or, in other words, the “hallmark characteristics” of youth. Comer II, 249 N.J. at 397.

Second, the New Jersey Supreme Court held that the purposes of punishment do not apply as readily to young people as it does to adults given that their youthful characteristics lessen the case for retribution, deterrence, and incapacitation, and heighten the possibility of rehabilitation. Id. at 398-400; see also Miller 567 U.S. at 473 (recognizing that extreme sentences “forswear[] the rehabilitative ideal”) (quoting Graham, 560 U.S. at 74). For that reason, the Court in Zuber required courts to evaluate the Miller factors before sentencing juveniles to a lengthy term of parole ineligibility, emphasizing that “[t]he focus at a juvenile’s sentencing hearing belongs on the real-time consequences of the aggregate sentence.” Zuber, 227 N.J. at 447.

The concerns and reasoning of New Jersey’s high court apply equally to young people over age 18. See Defendant’s Br. at 48-54. Consequently, the penological purposes of punishment do not apply as readily to this group of young people given that their youthful characteristics similarly lessen the case for retribution, deterrence, and incapacitation, and heighten the possibility of rehabilitation. See Comer II, 249 N.J. at 398-400. Until they are fully developed, young people—even past age 18 — tend to be impetuous, susceptible to peer influence, and “often fail to appreciate the long-term consequences of their actions.” See id., 249 N.J. at 368.

Therefore, because “there is no meaningful distinction” neurologically and psychologically between youth and young people older than 18 like Ms. Bellamy, Parks, 2022 WL 3008548, at *14, there is no reasoned basis for coming to a different conclusion when assessing the penological justifications for lengthy terms of parole ineligibility. Accordingly, “the imposition of lengthy sentences with substantial periods of parole ineligibility” Comer II, 249 N.J. at 401, on youth over age 18 violates Article 1 Paragraph 12 of the New Jersey Constitution.

CONCLUSION

As jurists recognize, “where [a] court perceives that the federal constitution has been construed to protect the fundamental rights and liberties of our citizens inadequately, it cannot shrink from its duties to act.” State v. Hunt, 91 N.J. 338, 358 (1982) (Pashman, J. concurring in part and dissenting in part). This Court should reject any mandatory minimum sentence for Ms. Bellamy as unconstitutional. It should—as required to comply with Article I, Paragraph 12—weigh her youth and attendant circumstances in mitigation the same way it would if she were under 18, and sentence her to a term that provides for parole after no more than twenty years.

Respectfully Submitted,

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