Received 11/09/2026 02:33 PM Supreme Court Eastern District

Filed 11/09/2026 02:33 PM Supreme Court Eastern District
34 EAP 2026

IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

No. 34 EAP 2026

COMMONWEALTH OF PENNSYLVANIA,

Appellee,

v.

JEROME COFFEY,

Appellant.

BRIEF OF JUVENILE LAW CENTER AND YOUTH SENTENCING & REENTRY PROJECT AS *AMICI CURIAE* IN SUPPORT OF APPELLANT JEROME COFFEY

Eleanor W. Myers, No. 23003
YOUTH SENTENCING & REENTRY PROJECT
1528 Walnut St., Ste. 515
Philadelphia, PA 19102
(267) 703-8046
emyers@temple.edu

Jessica R. Feierman, No. 95114
Lia Knox-Hershey, No. 337762
JUVENILE LAW CENTER
1800 JFK Blvd, Ste. 1900B
Philadelphia, PA 19103
(215) 625-0551
jfeierman@jlc.org
lknox-hershey@jlc.org

Counsel for Amici Curiae

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

STATEMENT OF INTEREST 1

SUMMARY OF ARGUMENT 2

ARGUMENT 4

I. THE PENNSYLVANIA POST-*MILLER* RESENTENCING PROCESS DEMONSTRATES THE PRACTICALITY AND IMPORTANCE OF PROVIDING RETROACTIVE RELIEF TO THOSE SERVING UNCONSTITUTIONAL SENTENCES 4

A. The Post-*Miller* Process Created a Workable Mechanism for Resentencing 5

B. Post-*Miller* Resentencing Hearings Have Resulted in Positive Outcomes for Hundreds of Returning Individuals 7

II. RETROACTIVE RELIEF WILL PROVIDE CRITICAL PROTECTION FOR YOUNG ADULTS WHOSE DEVELOPMENTAL STAGE REDUCES THEIR CULPABILITY 13

III. RETROACTIVE RELEF IS PARTICULARLY CRITICAL FOR BLACK YOUNG ADULTS WHO ARE SIGNIFICANTLY OVER-REPRESENTED IN THE SECOND-DEGREE POPULATION 20

CONCLUSION 21

CERTIFICATE OF COMPLIANCE 23

TABLE OF AUTHORITIES

Cases

Commonwealth v. Batts, 163 A.3d 410 (Pa. 2017) 2, 4, 6

Commonwealth v. Felder, 269 A.3d 1232 (Pa. 2022) 4

Commonwealth v. Mattis, 224 N.E.3d 410 (Mass. 2024) 15

Graham v. Florida, 560 U.S. 48 (2010) 15, 17, 19

In re Monschke, 482 P.3d 276 (Wash. 2021) 15

J.D.B. v. North Carolina, 564 U.S. 261 (2011) 16

Jones v. Mississippi, 593 U.S. 98 (2021) 4

Miller v. Alabama, 567 U.S. 460 (2012) ..... *passim*

Montgomery v. Louisiana, 577 U.S. 190 (2016) 4, 6

People v. Taylor, Nos. 166428 & 166654, 2025 WL 1085247 (Mich. April 10, 2025) 15

Roper v. Simmons, 543 U.S. 551 (2005) 14, 19

Statutes

730 Il. Comp. Stat. 5/5-4.5-115 15

Ala. Code 15-22-28 15

Cal. Penal Code 305 15

D.C. Code Ann. 24-403.03 15

Md. Code Ann. Crim. Pro. 8-110 15

R.I. Gen. Laws 13-8-13 15

Legislative Materials

S.B. 850, Reg. Sess. (Pa. 2012) 6

Other Authorities

Andrea Lindsay & Clara Rawlings, Philadelphia Lawyers for Social Equity, *Life Without Parole for Second Degree Murder in Pennsylvania: An Objective Assessment of Race* (2021).....20

Andrea Lindsay, Philadelphia Lawyers for Social Equity, *Life Without Parole for Second-Degree Murder in Pennsylvania* (2021).....19

Ashley Nellis & Nikki Monazzam, The Sent'g Project, *Left to Die in Prison: Emerging Adults 25 and Younger Sentenced to Life Without Parole* (2023).....21

Brief of Defender Association of Philadelphia as Amicus Curiae Supporting Appellant, 357 A.3d 356 (Pa. 2026) (No. 3 WAP 2024).....8

Elizabeth S. Scott et al., *Young Adulthood as a Transitional Legal Category: Science, Social Change, and Justice Policy*, 85 Fordham L. Rev. 641 (2016).....3, 14, 15, 17

Emily Keller, *Constitutional Sentences for Juveniles Convicted of Felony Murder in the Wake of Roper, Graham & J.D.B.*, 11 Conn. Pub. Int. L.J. 297 (2012).....18

Former Juvenile Lifer Interviews (Mar. 2024) and additional communications (on file with Eleanor Myers, Esq, Senior Advisor, YSRP).....8

John Pace, *Disrupted: Injustice, Trauma, and Healing* (Represent Justice, 2024).....10

Laurence Steinberg, *Does Recent Research on Adolescent Brain Development Inform the Mature Minor Doctrine?*, 38 J. Med. & Phil. 256 (2013).....16

Leah Somerville, *Searching for Signatures of Brain Maturity: What are We Searching For?*, 92 Neuron 1164 (2016).....16

Let's Get Free, *Wide Open,* (YouTube, Nov. 14, 2020).....12

Nat'l Acads. of Scis., Eng'g & Med., *The Promise of*

Adolescence: Realizing Opportunity for All Youth (Richard J. Bonnie & Emily P. Backes eds., 2019) 14

Pennsylvania Dept. Corrections, *Data*, May 2026 ..... 3, 14

Returning Citizens: Life Beyond Incarceration: Testimony (PBS television broadcast Mar. 1, 2024) 12

Robert Kinscherff, Ctr. for L. Brain & Behav., *White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys and Policy Makers* (2022) 16, 17, 18

Tarika Daftary-Kapur & Tina Zottolli, *An Update on the Release and Recidivism of Juvenile Lifers in Philadelphia*, The Legal Decision Making Lab (April, 2025) 8

Tarika Daftary-Kapur & Tina Zottolli, *Resentencing of Juvenile Lifers: The Philadelphia Experience*, Dep't Just. Stud. Faculty Sch. & Creative Works (Spring 2020) 7

*The Command Center to Bring Women Hom*e (PBS, 2022) 12

The Felony Murder Reporting Project, *Data Pennsylvania* (March 2023) 3, 20

Tiffany Faith & Marsha Levick, *The Pennsylvania Response to Miller v. Alabama and Montgomery v. Louisiana: From Slow Death by Incarceration to Life in Community*, 11 PACDL For the Defense (forthcoming Dec. 2026) 7, 8

STATEMENT OF INTEREST[1]

Juvenile Law Center fights for rights, dignity, equity, and opportunity for youth. Juvenile Law Center works to reduce the harm of the child welfare and justice systems, limit their reach, and ultimately abolish them so all young people can thrive. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center's legal and policy agenda is informed by—and often conducted in collaboration with—youth, family members, and grassroots partners. Since its founding, Juvenile Law Center has filed influential *amicus* briefs in state and federal courts across the country to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are consistent with children's unique developmental characteristics and human dignity.

The **Youth Sentencing & Reentry Project** is a nonprofit organization based in Philadelphia that uses direct service and policy advocacy to transform the experiences of children charged and prosecuted in the adult criminal justice system, and to ensure fair and thoughtful resentencing and reentry for individuals who were sentenced to life without parole as children

[1] Pursuant to Rule 531(b)(2), no counsel for a party authored this brief in whole or in part. No person or entity, other than Amici, their members, or their counsel made a monetary contribution for the preparation or submission of this brief.

("juvenile lifers"). YSRP partners with court-involved youth and juvenile lifers, their families, and lawyers to develop holistic, humanizing narratives that mitigate the facts of each case; get cases transferred to the juvenile system or resentenced; and make crucial connections to community resources providing education, healthcare, housing, and employment. YSRP also provides trainings on mitigation, and recruits, trains, and supervises students and other volunteers to assist in this work. YSRP's ultimate goals are to keep children out of adult jails and prisons and to enhance the quality of representation juvenile lifers receive at resentencing as they prepare to reenter the community.

SUMMARY OF ARGUMENT

In *Commonwealth v. Lee*, this Court held that a mandatory life without parole sentence for an individual convicted of felony murder who did not kill or intend to kill violates Pennsylvania's ban on cruel punishment. 357 A.3d 356, 398 (Pa. 2026). As counsel for *Lee* has made clear, this decision should be applied retroactively.

Amici write separately to highlight that applying *Lee* retroactively is both practical and critical. This Court's guidance in *Commonwealth v. Batts*, 163 A.3d 410 (Pa. 2017) ("*Batts II*") and the subsequent successful resentencing, release, and reintegration of hundreds of individuals

previously sentenced to juvenile life without parole demonstrates the feasibility of large-scale resentencing proceedings. The success stories of those released highlight the importance of the issue.

We also write to underscore the critical importance of applying the *Lee* decision retroactively to young adults given their developmental stage and reduced culpability. *See* Elizabeth S. Scott et al., *Young Adulthood as a Transitional Legal Category: Science, Social Change, and Justice Policy*, 85 Fordham L. Rev. 641, 642 (2016). Of the 1,115 individuals serving mandatory life without parole sentences for second degree murder in Pennsylvania, two-thirds (65%) were aged 25 or younger at the time of their offense. Pennsylvania Dept. Corrections *Data*, May 2026 ("DOC Data") (on file with YSRP).

We further write to highlight that retroactive application of *Lee* will ameliorate racial inequities, as Black young adults are disproportionately represented in the population of those serving unconstitutional life without parole sentences for second degree homicide in Pennsylvania. The Felony Murder Reporting Project, *Data Pennsylvania* (March 2023), https://felonymurderreporting.org/states/pa/.

ARGUMENT

This Court has previously set forth a successful framework for resentencing individuals condemned to die in prison; it should similarly hold *Lee* retroactive and set the stage for resentencing for these unconstitutional sentences. This will protect the rights of all Pennsylvanians, and in particular the many young adults, and in particular Black young adults, currently serving life without parole sentences for second degree murder convictions.

I. THE PENNSYLVANIA POST-*MILLER* RESENTENCING PROCESS DEMONSTRATES THE PRACTICALITY AND IMPORTANCE OF PROVIDING RETROACTIVE RELIEF TO THOSE SERVING UNCONSTITUTIONAL SENTENCES

In the wake of the U.S. Supreme Court's prohibition on mandatory life without parole sentences for youth under 18 in *Miller*, 567 U.S. 460, 489 (2012), and *Montgomery*, 577 U.S. 190, 208 (2016), this Court set forth a process for resentencing hundreds of individuals previously condemned to die in prison. *Batts II*, 163 A.3d at 472. Although subsequent case law later abrogated *Batts II, Commonwealth v. Felder*, 269 A.3d 1232, 1246 (Pa. 2022) (finding that *Batts II* was abrogated by *Jones v. Mississippi*, 593 U.S. 98 (2021)), by then, trial courts had already completed most resentencing hearings.[2] More importantly, the resentencing process was effective,

[2] As of October 2026, only 38 individuals had been resentenced following the abrogation of Batts. Data on file with Juvenile Law Center. Moreover, the abrogation has no bearing on the interpretation of the Pennsylvania Constitution.

resulting in hundreds of individuals being released from prison and thriving in the community.

A. The Post-*Miller* Process Created a Workable Mechanism for Resentencing

In *Miller v. Alabama*, the U.S. Supreme Court held that mandatory life without parole sentences imposed on children under 18 violate the Eighth Amendment's prohibition on cruel and unusual punishment. *Miller*, 567 U.S. at 479. As the Court explained, "in imposing a State's harshest penalties, a sentencer misses too much if he treats every child as an adult." *Id.* at 477. Mandatory sentencing was found unconstitutional precisely because it precluded consideration of key characteristics of a young person's individual culpability, *Id.* at 477, including:

> chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences[;] . . . family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional[;] . . . the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him[;] . . . that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys[;] . . . [and] the possibility of rehabilitation even when the circumstances most suggest it.

Id. at 477-78.

After the U.S. Supreme Court held *Miller* retroactive, *Montgomery,* 577 U.S. at 212, observing that states could comply through resentencing hearings or legislative fixes, this Court set forth a sentencing framework to ensure that youth resentencing comported with the requirements of the Eighth Amendment. Recognizing that the Pennsylvania legislature had not yet acted in the wake of *Montgomery* and there were hundreds of individuals serving illegal life without parole sentences, this Court concluded it was squarely within its constitutional authority "to set forth the manner in which resentencing will proceed." *Batts II*, 163 A.3d at 469.

To guide the resentencing process, this Court set forth a presumption against life without parole for youth, a burden on the Commonwealth to prove beyond a reasonable doubt that a youth offender was permanently incorrigible and unable to be rehabilitated, and a requirement that a sentencer must expressly account for age-related characteristics, including the *Miller* factors and those outlined in Section 1101.1(d) of the Crimes Code.[3] *Id*. at 484. This approach laid the groundwork for a successful

[3] Following *Miller*, the Pennsylvania Legislature passed Senate Bill 850, amending Section 1102.1 of the Crimes Code to, among other changes, include a list of age-related characteristics for sentencing courts to consider before sentencing youth under 18 to life without parole sentences. S.B. 850, Reg. Sess. (Pa. 2012).

resentencing process in Pennsylvania for youth serving unconstitutional life without parole sentences that brought hundreds of Pennsylvanians safely home.

B. Post-*Miller* Resentencing Hearings Have Resulted in Positive Outcomes for Hundreds of Returning Individuals

When *Miller* was decided, Pennsylvania had the largest population of juvenile lifers in the country (at least 521, with up to 325 in Philadelphia), but it also became "the nation's leader in releasing them." Tarika Daftary-Kapur & Tina Zottolli, *Resentencing of Juvenile Lifers: The Philadelphia Experience*, 3, Dep't Just. Stud. Faculty Sch. & Creative Works (Spring 2020). In response to *Miller*, *Montgomery*, and *Batts II*, Pennsylvania state courts reviewed 510 unconstitutional sentences, which led to 499 new sentences, 10 exonerations, and one commutation. Tiffany Faith & Marsha Levick, *The Pennsylvania Response to Miller v. Alabama and Montgomery v. Louisiana: From Slow Death by Incarceration to Life in Community*, 11 PACDL For the Defense (forthcoming Dec. 2026) (manuscript on file with authors; data on file with Juvenile Law Center). Only seven individuals were resentenced to life without parole. *Id.* The rest received a sentence that allowed for the possibility of release to parole after a minimum term of years served. *Id.* Of those who have reached parole eligibility after serving the

mandatory minimum, 310 have been released, 246 of whom were released within one year of becoming parole eligible. *Id.*

In Philadelphia, as of March 2025, all but ten of the 325 individuals serving life without parole sentences had been resentenced, with 236 of them released. Tarika Daftary-Kapur & Tina Zottolli, *An Update on the Release and Recidivism of Juvenile Lifers in Philadelphia*, The Legal Decision Making Lab (April, 2025), https://30c74989-3b0f-47d1-9ae4-cac416299991.filesusr.com/ugd/2455f9_47986b6b416d4b1fb8afc10f7a55252a.pdf. Of those released, only 13 individuals (4.5%) have been charged with a new crime. *Id.* Of those convicted of a new offense, three were convicted of misdemeanors and three were convicted of non-violent felonies. *Id.*

The stories of individuals who have returned home post-*Miller,* after convictions of second-degree homicide and decades of incarceration, further underscore why the Court should grant retroactive relief to the many people currently mandated to die in prison; these stories demonstrate the returning individuals' growth, resilience, and contributions to the community.[4]

[4] Former Juvenile Lifer Interviews (Mar. 2024) and additional communications (on file with Eleanor Myers, Esq, Senior Advisor, YSRP); Brief of Defender Association of Philadelphia as Amicus Curiae Supporting Appellant, 357 A.3d 356 (Pa. 2026) (No. 3 WAP 2024). These stories, based on interviews and other communications with returning individuals, have been shared here with their permission.

Many returnees have dedicated their time to mentorship, support, and advocacy. Abd'Allah was imprisoned at age 16 for a second-degree murder case for which he served over three decades of incarceration. Now released, Abd'Allah is the Co-Deputy Director of The Campaign for the Fair Sentencing of Youth (CFSY), a national nonprofit that leads efforts to ban extreme prison sentences for children. His nationwide policy work, public speaking, organizing and advocacy, and media appearances highlight the importance of honoring young people's dignity, healing, and humanity. Prior to this position, Abd'allah was active in Philadelphia's Reentry Think Tank, connecting returning citizens with artists and advocates to transform the stereotypes, social services, and platforms that influence our communities. Abd'Allah has served on multiple boards of directors, including that of Juvenile Law Center, Center for Employment Opportunities (CEO) (national board) and New Leash on Life (USA) and has received multiple awards for his work.

Sentenced to die in prison at age 17, John was released after 31 years and now serves as the Associate Director of Reentry & Engagement at Youth Sentencing & Reentry Project (YSRP), where he supports juvenile lifers and justice-involved youth returning from incarceration. He established and continues to coordinate YSRP's Intergenerational Healing Circles, a

facilitated space where juvenile lifers and justice-involved youth come together to promote healing from trauma and to provide mutual support. He also continues to work with the Temple University Inside-Out Prison Exchange Program, supporting the training of instructors throughout the world in the Inside-Out pedagogy. John has engaged in consulting work with several universities and organizations and currently serves on the Board of the Philadelphia Bail Fund (PBF). With Represent Justice, John also directed and produced a documentary called *Disrupted: Injustice, Trauma, and Healing*.[5]

Incarcerated for second-degree murder at age 17, Giovanni served over 26 years prior to his release. Since then, he has won multiple awards, including the Philadelphia Reentry Coalition's Reentry Star of the Year. At Temple University, he is part of the Inside-Out program, which sponsors college courses for incarcerated people and university students to study together. Giovanni provides nationwide training to prospective university faculty and participates in YSRP's Intergenerational Healing Circle and Speakers Bureau.

[5] John Pace, *Disrupted: Injustice, Trauma, and Healing* (Represent Justice, 2024), https://www.representjustice.org/disrupted.

Incarcerated at age 15, Stacey served 30 years in prison prior to release. He now serves as the Fountain Fund Community Outreach Coordinator, supporting formerly incarcerated people in starting their own businesses. He also participates in YSRP's Intergenerational Healing Circles and Speakers Bureau, participates in the Campaign for the Fair Sentencing of Youth (CFSY), and incorporated the Free Mind Entrepreneurial Network to train, equip, and place those returning from prison in construction jobs. He is regularly profiled in national media. Through every public engagement, Stacey pursues a singular mission: "I want people to have an easier path than I did."

Prior to his release, Marlo was incarcerated for 25 years for a second-degree murder charge based on an incident that occurred when he was 16 years old. He now regularly assists organizations such as the Urban League and Impact Philadelphia to find Commercial Drivers' License training opportunities for formerly incarcerated people.

At age 16, Charlie was incarcerated on a second-degree murder conviction, serving more than 36 years prior to his release. He is now active in Families Against Mandatory Minimums (FAMM), and Incarcerated Children's Network.

Tamika was incarcerated for more than 22 years for second-degree murder for an incident that occurred when she was 16 years old. Since her release, she has engaged in YSRP's Speakers Bureau, and other opportunities for speaking and interacting with young people. She was featured in an episode of the PBS documentary series *Returning Citizens: Life Beyond Incarceration*, as well as the films *The Command Center to Bring Women Hom*e and *Wide Open. Returning Citizens: Life Beyond Incarceration: Testimony* (PBS television broadcast Mar. 1, 2024); *The Command Center to Bring Women Hom*e (PBS, 2022); Let's Get Free, *Wide Open,* (YouTube, Nov. 14, 2020), https://www.youtube.com/watch?v=Ot1AL9lKmcg.

Those returning to their communities also support their families and enrich their religious communities. Since her return, Tamika has gotten married, reconciled with her mother, and established close connections with her nine nieces and nephews. She also regularly visits her father, who suffers from dementia. Giovanni is active in his mosque, Sister Clara Muhummad, where he assists previously incarcerated people coming home by providing them with essentials and other financial support through his own personal means; he has assisted dozens of individuals to date. He also cared for his ailing father for almost seven years before his passing. Stacey engages in

the fellowship at Bibleway Baptist Church, mentoring and playing basketball with incarcerated youth. Charlie is a member of the Fellowship at Bibleway Baptist Church, where he travels to Philadelphia city prisons to play basketball and talk with and mentor young adults. He is in the process of organizing a legal clinic at the church to assist incarcerated individuals with their legal claims. Marlo regularly mentors formerly incarcerated people through the Greater Canaan Church of God in Christ. He explains, "I use my second chance to help you have a second thought before you do something that will change your life."

Applying *Miller* retroactively has created vital opportunities for individuals previously sentenced to die in prison to make important contributions to society through their commitment to their work, advocacy, families, and communities; applying *Lee* retroactively can create similar opportunities.

II. RETROACTIVE RELIEF WILL PROVIDE CRITICAL PROTECTION FOR YOUNG ADULTS WHOSE DEVELOPMENTAL STAGE REDUCES THEIR CULPABILITY

Most individuals sentenced to life without parole for second-degree murder were under age 25 at the time of the offense, with many under age

21.[6] The average age at time of offense for all individuals serving mandatory life without parole for second degree murder in Pennsylvania is 23.7, with roughly two-thirds (65%) age 25 or younger, and roughly one-third (32%) were age 18 to 21. DOC Data, *supra.* These young adults share many of the same developmental characteristics as youth under 18 that impact their decision-making and reduce their culpability. *See* Scott et al., *supra*, at 642. *See also* Nat'l Acads. of Scis., Eng'g & Med., *The Promise of Adolescence: Realizing Opportunity for All Youth* 22 (Richard J. Bonnie & Emily P. Backes eds., 2019) (emphasis omitted), https://nap.nationalacademies.org/read/25388/chapter/1. (A "unique period of brain development and heightened brain plasticity. . . continues into the mid-20s," and "most 18-25-year-olds experience a prolonged period of transition to independent adulthood, a worldwide trend that blurs the boundary between adolescence and 'young adulthood,' developmentally speaking.") Indeed, many courts and legislatures have set forth distinct legal protections for older adolescents and young adults, recognizing that it would be "arbitrary in developmental terms to draw a cut-off line at age 18." *Id*. [7] While this case does not require the

[6] In this brief, we refer to all young people between the ages of 18 and 25 as young adults, while referring to those between the ages of 18 and 21 specifically as older adolescents.
[7] It is settled constitutional law that youth are developmentally different from adults and sentencing practices must conform to and reflect these differences. *See, e.g.*, *Roper v.*

Court to consider the appropriate legal standard for this age group, holding *Lee* retroactive for all individuals will have the important benefit of providing resentencing opportunities for hundreds of individuals initially sentenced as young adults.

The parts of the brain active during the commission of a crime, including those governing impulse control, propensity for risky behavior, vulnerability, and susceptibility to peer pressure, continue developing at least into an individual's early 20's. Scott et al., *supra*, at 642 ("Over the past decade, developmental psychologists and neuroscientists have found that biological and psychological development continues into the early twenties,

---

Simmons, 543 U.S. 551, 578 (2005); *Graham v. Florida*, 560 U.S. 48, 82 (2010); *Miller v. Alabama*, 567 U.S. 460, 465 (2012). Recognizing that the unique developmental characteristics of youth extend into an individual's mid-to late- 20's, many state courts have extended constitutional protections to older adolescents. *See, e.g.*, *In re Monschke*, 482 P.3d 276, 284-88 (Wash. 2021); *Commonwealth v. Mattis*, 224 N.E.3d 410, 415 (Mass. 2024); *People v. Taylor*, Nos. 166428 & 166654, 2025 WL 1085247, at *1 (Mich. April 10, 2025). This is consistent with legislative trends as well. *See, e.g.*, Ala. Code 15-22-28(e)(2) (all persons convicted of murder or other enumerated Class A felonies are eligible for parole after completing 85 percent of sentence or 15 years, whichever is less); Cal. Penal Code 3051(b) (young people who committed an offense before age 26 are eligible for parole after serving 15, 20, or 25 years); 730 Il. Comp. Stat. 5/5-4.5-115(b) (with limited exceptions, older adolescents under 21 at the time of committing an offense other than first-degree murder are eligible for parole after serving 10 years, and are eligible after serving 20 years for first degree murder); Md. Code Ann. Crim. Pro. 8-110 (young people convicted of a crime while under 25, with limited exceptions, are eligible to apply for a sentence reduction after serving 20 years); R.I. Gen. Laws 13-8-13(e) (young people who committed an offense before age 22 are eligible for parole after serving 20 years, unless they are serving life without parole); D.C. Code Ann. 24-403.03(a) (allowing for judicial sentence reduction for young people who committed a crime before age 25 after serving 15 years).

well beyond the age of majority." (citing Laurence Steinberg, *Age of Opportunity: Lessons from the New Science of Adolescence* 5 (2014)); *see also* Laurence Steinberg, *Does Recent Research on Adolescent Brain Development Inform the Mature Minor Doctrine?*, 38 J. Med. & Phil. 256, 263-64 (2013). Indeed, "[m]aturation of brain structure, brain function, and brain connectivity continues throughout the early twenties." Robert Kinscherff, Ctr. for L. Brain & Behav., *White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys and Policy Makers* 2 (2022) (citing Leah Somerville, *Searching for Signatures of Brain Maturity: What are We Searching For?*, 92 Neuron 1164, 1164-67 (2016)), https://clbb.mgh.harvard.edu/wp-content/uploads/CLBB-White-Paper-on-the-Science-of-Late-Adolescence-3.pdf.

These developmental changes also influence decision-making. As the U.S. Supreme Court has observed, adolescents "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them." *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011) (quoting *Bellotti v. Baird*, 443 U.S. 622, 635 (1979)). The ability to think ahead and consider future consequences continues to improve until young adulthood. "While adults tend to integrate potential consequences of decisions, middle adolescents and late adolescents exhibit less future-

oriented decision-making." Kinscherff, *supra*, at 14-16. The ability to prioritize longer-term gains over immediate ones (delayed gratification) also continues to develop into adulthood, which can lead young adults to engage in riskier behaviors that provide short-term rewards. *Id.* at 2, 14-16 (discussing older adolescents ages 18-21); Scott et al., *supra*, at 645 (same). Young adults are like youth in their propensity for "sensation-seeking" behavior, which can increase risky behaviors. *See id.* at 2 (citing Laurence Steinberg*, Adolescent Brain Science and Juvenile Justice Policymaking*, 23 Psych. Pub. Pol'y & L. 410 (2017)).

> [T]he relatively high rate of risky activity observed in late adolescence and young adulthood—including criminal offending—is likely due to a combination of high reward seeking and poor self-control, leading individuals to make impetuous, short-sighted decisions that privilege the potential rewards or risky choices and underestimates the potential costs.

Scott et al., *supra*, at 647. Like youth under 18, older adolescents ages 18-21 have been shown to take more risks when their peers are present. Kinscherff, *supra*, at 24, rendering them "less deserving of the most severe punishments." *See Miller*, 567 U.S. at 471 (quoting *Graham*, 560 U.S. at 68).

Importantly, also like youth under 18, young adults up through age 25 are still in "a window of opportunity for prosocial learning and adaption." Kinscherff, *supra*, at 36. The prolonged period of heightened brain

"plasticity," which "describ[es] the brain's ability to change and adapt in response to experience," extends into young adulthood. *Id*.

The neurological developments that differentiate young people from adults are especially salient in the context of felony murder. Liability for felony murder need not depend on an intent to kill: a person can be convicted of felony murder even if the killing was "accidental, unforeseeable, or committed by another participant in the felony." Emily Keller, *Constitutional Sentences for Juveniles Convicted of Felony Murder in the Wake of Roper, Graham & J.D.B.*, 11 Conn. Pub. Int. L.J. 297, 302-03 (2012). Liability is justified by a theory of "transferred intent;"—the intent to kill is inferred from an individual's intent to commit the underlying felony because a reasonable person would know that death is a possible result of dangerous felonious activities. *Id.* at 305. However, as Justice Breyer explained in his concurring opinion in *Miller v. Alabama*, this rationale fails when applied to youth:

> [a]t base, the theory of transferring a defendant's intent is premised on the idea that one engaged in a dangerous felony should understand the risk that the victim of the felony could be killed, even by a confederate. Yet the ability to consider the full consequences of a course of action and to adjust one's conduct accordingly is precisely what we know juveniles lack capacity to do effectively.

567 U.S. at 492 (Breyer, J., concurring) (citation omitted).

Additionally, "if the point of life sentences is deterrence—that is, that the punishment is sufficiently harsh enough to prevent crime in the first place," that, too, carries less weight for "nearly three-quarters of the second-degree population given that youth are much more likely to act impulsively with little foresight into consequences." Andrea Lindsay, Philadelphia Lawyers for Social Equity, *Life Without Parole for Second-Degree Murder in Pennsylvania* 21 (2021), https://www.plsephilly.org/wp-content/uploads/2021/01/PLSE-Second-Degree-Murder-Audit-Jan-19-2021.pdf; *see also Graham*, 560 U.S. at 72 (youths' developmental characteristics render them "less susceptible to deterrence." (quoting *Roper*, 543 U.S. at 571)). And the mandatory life sentence itself "forswears altogether the rehabilitative ideal." *Graham*, 560 U.S. at 74.

Moreover, those sentenced at a young age face a harsher penalty than older adults. Lindsay, *supra*, at 20 ("[Y]oung people 'on average serve more years and a greater percentage of [their] life in prison' such that 'a 16-year-old and a 75-year-old each sentenced to life without parole receive the same punishment in name only." (alteration in original) (quoting *Graham*, 560 U.S. at 70)); *see also Graham*, 560 U.S. at 74 (finding life without parole not appropriate given youths' "capacity for change and limited moral culpability").

Young adults are not as culpable for their actions as adults; they face lengthier sentences than adults; they are capable of and do in fact change and reform. Applying *Lee* retroactively will have the salutary impact of keeping these young adults from being condemned to die behind bars.

III. RETROACTIVE RELEF IS PARTICULARLY CRITICAL FOR BLACK YOUNG ADULTS WHO ARE SIGNIFICANTLY OVER-REPRESENTED IN THE SECOND-DEGREE POPULATION

Imposing life without parole for felony murder disproportionately harms Black young adults. Black individuals are significantly overrepresented in the population confined for second-degree murder. As of 2023, 71% of those serving life for second-degree murder in Pennsylvania were Black, although Black people made up only 12% of the statewide population. The Felony Murder Reporting Project, *Data Pennsylvania* (March 2023), https://felony murderreporting.org/states/pa/. They are also over 17 times more likely than white people to be incarcerated for felony murder. *Id.* White people, in contrast, are significantly *under*-represented. *Id.* "[T]he data are clear that the second-degree murder statute—along with its mandatory life without parole sentence—contributes to racial disparities, particularly for young people of color." Andrea Lindsay & Clara Rawlings, Philadelphia Lawyers for Social Equity, *Life Without Parole for Second Degree Murder in Pennsylvania: An Objective Assessment of Race* 20 (2021),

https://www.plsephilly.org/wp-content/uploads/2021/04/PLSE_Second DegreeMurder_and_Race_Apr2021.pdf.

This disproportionate sentencing of Black individuals in Pennsylvania mirrors national data revealing that Black people comprised over half of all people serving life without parole in 2020 and that 66% of all young adults sentenced to life without parole were Black. Ashley Nellis & Nikki Monazzam, The Sent'g Project, *Left to Die in Prison: Emerging Adults 25 and Younger Sentenced to Life Without Parole* 6-7 (2023) (analyzing sentencing data from across 20 states that account for roughly 70% of the country's entire life without parole population). The retroactive application of *Lee* can thus play a critical role in addressing racial inequities in sentencing.

CONCLUSION

Wherefore, for the foregoing reasons, *Amici* urge this Court to hold retroactive its determination in *Lee* that mandatory life without parole sentences for second degree murder violate Article 1 Section 13 of the Pennsylvania Constitution.

Respectfully submitted,

/s/ Jessica R. Feierman
Jessica R. Feierman, No. 95114
/s/ Lia Knox-Hershey
Lia Knox-Hershey, No. 337762
JUVENILE LAW CENTER
1800 JFK Blvd, Ste. 1900B

Philadelphia, PA 19103
(215) 625-0551
jfeierman@jlc.org
lknox-hershey@jlc.org

/s/ Eleanor W. Myers
Eleanor W. Myers
YOUTH SENTENCING &
REENTRY PROJECT
1528 Walnut St., Ste. 515
Philadelphia, PA 19102
(267) 703-8046
emyers@temple.edu

Counsel for Amici Curiae

Dated: November 9, 2026

CERTIFICATE OF COMPLIANCE

I certify that the foregoing brief complies with the word count limitation of Rules 531 (b)(3) and 2135 of the Pennsylvania Rules of Appellate Procedure and contains 4,438 words. In preparing this certificate, I relied on the word count feature of Microsoft Word.

I further certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Jessica R. Feierman
Jessica R. Feierman

Dated: November 9, 2026