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S T A T E O F M I C H I G A N

IN THE SUPREME COURT OF MICHIGAN

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v.

JEREMY GREGORY EADS,
Defendant-Appellee.

Supreme Court Case No. 168205
Court of Appeals No. 357332
Lower Court No. 92-007359

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O R A L A R G U M E N T R E Q U E S T E D

PRO SE BRIEF AMICUS CURIAE

MOTION FOR LEAVE TO FILE BRIEF
AMICUS CURIAE, TO WAIVE CERTAIN REQUIREMENTS
TO FILE AMICUS CURIAE BRIEF, & FOR ORAL ARGUMENT

PROOF OF SERVICE

Respectfully Submitted,

Michael A. Kitchen (#189265)
Pro Se Amicus Curiae Brief

Rec'd via the Prisoner E-Filing Program on 10/10/25 at 1:53 p.m.

TABLE OF CONTENTS

Index of Authorities i

Introduction 1

Background & Procedural History 3

ARGUMENT I: TRIAL COURT'S FAILURE TO FACTOR EADS' YOUTH & ITS CHARACTERISTICS IN HIS SENTENCE AS MITIGATING FACTORS & IMPOSING AN EXTREMELY LONG INDETERMINATE SENTENCE VIOLATED THE UNITED STATES & MICHIGAN CONSTITUTIONS

A. FAILURE TO FACTOR IN JEREMY EADS' SENTENCE HIS YOUTH & ITS CHARACTERISTICS AS MITIGATING FACTORS VIOLATED U.S. & MICHIGAN CONSTITUTIONS 4

B. IMPOSITION OF LONG INDETERMINATE SENTENCE THAT AMOUNTS TO DE FACTO LIFE SENTENCE AGAINST JUVENILES VIOLATES THEIR RIGHT TO RECEIVE A MEANINGFUL OPPORTUNITY FOR RELEASE BASED ON DEMONSTRATED MATURITY & REHABILITATION 8

ARGUMENT II: THE COURT OF APPEALS DID NOT ERR IN FINDING THAT EADS WAS ENTITLED TO RELIEF UNDER THE SUPREME COURT'S DECISIONS IN STOVALL AND BOYKIN 11

Relief Requested 14

Rec'd via the Prisoner E-Filing Program on 10/10/25 at 1:53 p.m.

INDEX OF AUTHORITIES

Boykin, People v., 510 Mich 171 (2022) 11,12,13

Brown v. Precythe, 2018 U.S. Dist LEXIS 176272 (W.D. Mo.2018) 9

Bullock, People v. 440 Mich 15 (1992) 11

Casiano v. Comm'r of Corrections, 317 Conn 52 (2015) 10

Eads, People v., 2025 Mich App LEXIS 415 (2025) 7,9,12,13

Flores v. Stanford, 2019 U.S. Dist LEXIS 160992 (2019) 9

Graham v. Florida, 560 US 48 (2010) 5,6,8,9,10

Greiman v. Hodges, 79 F.Supp.3d 933 (S.D. Iowa 2015) 9

Hayden v. Keller, 134 F.Supp.3d 1000 933 (W.D.N.C. 2019) 9

Hyatt, People v., 316 Mich App 368 (2016) 5

Kitchen v. Whitmer, 616 F.Supp.3d 683 (E.D. Mich.2022) 1,10

LeBlanc v. Mathena, 2015 U.S. Dist LEXIS 86090 (2015) 10

Miller v. Alabama, 567 US 460 (2012) 4,5,6,7,8,9,11

Montgomery v. Louisiana, 136 S.Ct. 718 (2016) 9,10

Roper v. Simmons, 543 US 551 (2005) 5

Skinner, People v., 502 Mich 89 (2018) 4

Snow, People v., 386 Mich 855 (1972) 6

Steanhouse, People v., 500 Mich 453 (2017) 4

Stovall, People v., 510 Mich 301 (2022) 1,11,12,13

Virginia v. LeBlanc, 137 S.Ct. 1726 (2017) 10

Wershe v. Combs, 2016 U.S. Dist LEXIS 43150 (2016) 9

Wines, People v., 323 Mich App 343 (2020) 5,6,7,10

Rec'd via the Prisoner E-Filing Program on 10/10/25 at 1:53 p.m.

I N T R O D U C T I O N

This is a brief amicus curiae filed pro se by Michael A. Kitchen (Kitchen), who is a prisoner sentenced when he was a minor to serve a 42-60 year prison sentence. Kitchen is now 56-years-old, and for nearly forty (40) years now has been under the jurisdiction of the Michigan Department of Corrections (MDOC). Kitchen is now confined at the Thumb Correctional Facility located in Lapeer, Michigan. Like James Gregory Eads (Eads), Kitchen was sentenced as an adult when he was seventeen (17) years old[1].

When Kitchen was sentenced to prison, Michigan's courts did not recognize or accept the youth of juvenile defendants and their attendant characteristics as mitigating factors, even in cases where they were sentenced to serve extremely long indeterminate sentences that, in effect, prevented them from ever being paroled during their lifetime or deprived them of a meaningful opportunity to get paroled. It was not until the year of 2022 that this Court acknowledged that those types of abusively long indeterminate criminal sentences when imposed on juvenile defendants possibly violated the United States and Michigan Constitutions[2]. Without question, this path began being paved for the Michigan Supreme Court about 40 years ago.

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[1] Kitchen was sentenced in 1987 after being convicted of armed robbery, criminal sexual conduct, and other charges when a 27-year-old female was inappropriately touched during a robbery planned by two adults to collect a drug debt. Kitchen was recruited by the adults to act as the "lookout". Trial testimony shows that the woman was penetrated in her vaginal area with a finger for two seconds. Kitchen v. Whitmer, 616 F.Supp.3d 683, 686 (E.D. Mich.2022), rev'd on other grounds, 106 F.4th 525 (6th Cir.2025). The sentencing guidelines in Kitchen's case recommended a range of 3-to-6 years in prison. For nearly 40 years, Kitchen's case has come before Michigan's high court on several occasions arguing issues that mirror those presented by Eads. But, the high court has declined to hear the case.

[2] See, People v. Stovall, 510 Mich 301, 314 n 3; 987 NW2d 85 (2022). The Stovall court declined at that time to decide whether a long term-of-years sentence imposed on a juvenile would violate the Michigan Constitution when the intent of the sentence would "theoretically deprive a defendant of any chance of being paroled during their lifetime".

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Specifically, under the courageous leadership of former Chief Justice Dorothy Comstock Riley, the Michigan Supreme Court was the first Court in the United States to undertake an investigation into and recommend innovative changes in the manner in which its trial courts were, among other things, sentencing children and others to prison (see, Supreme Court Administrative Order No. 1987-6, at 429 Mich xci), see also, Administrative Order 1990-3, 434 Mich xcli). Other high courts across the nation have recently began similar investigations and changes, but none on the scale ordered by Chief Justice Riley during her tenure.

Her leadership during that era was especially bold and ground breaking because at the time that she led the high court society was not particularly respectful of women and their abilities. Her extraordinary leadership not only uncovered widespread problems in trial courts and criminal sentencing practices that other courts across the country are just now taking notice of, but the high court began unprecedented changes that have paved the way for this Court's innovative and humane reforms for the sentencing of juvenile defendants.

Kitchen may not benefit from these remarkable changes. But, it is not too late for Eads and those juveniles coming after him. These changes are needed because in the overwhelming majority of cases where juveniles commit adult-like crimes similar to those crimes committed by Kitchen and Eads, they were wrongfully influenced or encouraged to do so by adult offenders. Therefore, this Court must uphold the decision of the Eads Court. Remarkably and for the first time in history, lower courts would be required to accept youth and its attendant characteristics as mitigating factors when sentencing juveniles, and they would be prevented from imposing on juveniles extremely long indeterminate sentences that prevents them from a meaningful opportunity for release or parole during their lifetime.

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BACKGROUND & PROCEDURAL HISTORY

In May of 1992, then 16-year-old James Gregory Eads (Eads) fatally shot 17-year-old Eric Kincaid because he was wearing what was said to be a T-shirt that displayed his affiliation with a rival gang. After coming to a stop in front of a home in Detroit, Eads fired several shots at a group of young men while they were approaching the car where Eads was a passenger. A bullet struck and killed Kincaid.

At trial, Eads argued self-defense. He stated that he fired at the group because, due to his gang affiliation, he believed that the car he was in was being "rushed by rival gang members" and that his "life was in danger."[3] Eads was charged with first-degree murder and felony-firearm, but a jury found him guilty of the lesser-included offense of second-degree murder and felony-firearm. Eads was tried as an adult.

In November 1992, a sentencing hearing was held for Eads. The sentencing guidelines in his case recommended a range of 12-25 years imprisonment or life. The victim's family asked the court to sentence Eads to prison for life, and the prosecution asked the court to depart from the guidelines and sentence Eads to a whopping 60-120 years imprisonment. The court sentenced Eads to 52-75 years in prison. The sentencing record shows that the trial court did not accept Eads' youth and its attendant characteristics as mitigating factors during sentencing. Subsequent appeals and requests to review the 50-75 year sentence were unsuccessful.

Eads' case, like many cases involving juvenile offenders, underscores the importance of youth and its attendant characteristics being accepted by courts

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[3]The word "rushed" is a slang term used amongst gang members and other youths to describe someone running or quickly coming towards them in an aggressive manner.

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as mitigating factors during sentencing, especially when trial courts seek to impose an extremely long indeterminate sentence. The United States and Michigan Supreme Courts have stressed the importance of youth being considered a mitigating factor, and with good reason.

For this reason, this Court should uphold the decision in Eads and require that all trial courts accept youth and its attendant characteristics as a mitigating factor when imposing indeterminate sentences on defendants under the age of eighteen (18). This Court should also uphold the ruling that Eads' 50-75 year sentence violates the Cruel or Unusual Punishment clause under the Michigan Constitution because the extreme length of the sentence deprive Eads, and was meant to deprive him, of a meaningful opportunity to get released based on demonstrated maturity and rehabilitation.

A R G U M E N T S

ARGUMENT I

THE TRIAL COURT'S FAILURE TO FACTOR EADS' YOUTH & ITS CHARACTERISTICS IN HIS SENTENCE AS MITIGATING FACTORS AND IMPOSING AN EXTREMELY LONG INDETERMINATE SENTENCE VIOLATED THE UNITED STATES & MICHIGAN CONSTITUTIONS

STANDARD OF REVIEW

Sentencing decisions of a trial court are reviewed for an abuse of discretion. People v. Steanhouse, 500 Mich 453, 471; 902 NW2d 327 (2017). When imposing a sentence, trial courts must impose one that is "proportionate to the seriousness of the circumstances surrounding the offense and the offender." People v. Skinner, 502 Mich 89, 131-32; 917 NW2d 292 (2018).

A. FAILURE TO CONSIDER JEREMY EADS' YOUTH & ITS CHARACTERISTICS AS MITIGATING FACTORS VIOLATED UNITED STATES & MICHIGAN CONSTITUTIONS

In Miller v. Alabama, 567 US 460 (2012), the U.S. Supreme Court held that "criminal procedure laws that fail to take defendants' youthfulness into

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account at all would be flawed". Id., at 473-74 (quoting Graham v. Florida, 560 US 48, 76 (2010)). Miller require trial courts to consider mitigating factors when imposing a sentence on a juvenile defendant because "a judge or jury must have the opportunity to consider mitigating circumstances before imposing the harshest possible penalty for juveniles". Id., at 489. This is important because mitigating evidence must be considered even when a juvenile is found to have committed a terrible crime. Id., at 472; see also, People v. Wines, 323 Mich App 343, 352; 916 NW2d 855 (2018), rev'd in part on other grounds, 506 Mich 954 (2020).

In fact, Michigan law requires trial courts to consider mitigating evidence when imposing a sentence on a criminal defendant. Particularly, MCL § 769.25(7) states that trial courts must "specify on the record the aggravating and mitigating circumstances considered by the court and the court's reasons supporting the sentence imposed ..." Futhermore, the Miller court "specifically invoked the 'mitigating qualities of youth' in explaining why individualized sentencing was necessary for the imposition of the harshest possible penalty available for juveniles." People v. Hyatt, 316 Mich App 368, 410; 891 NW2d 549 (2016), aff'd in part and rev'd in part, 500 Mich 929 (2017).

Considering the distinctive attributes of youth as mitigating factors "rest[s] not only on common sense---on what "any parent knows"---but on science and social science as well". Miller, 567 US at 471 (quoting Roper v. Simmons, 543 US 551, 569 (2005)). When looking at why the youth of defendants must be considered during sentencing, the Roper court relied on scientific studies proving that "'only a relatively small proportion of adolescents' who engage in illegal activity 'develop entrenched patterns of problem behavior'". Id., at 570. For that reason, "transient rashness, proclivity for risk, and inability to assess consequences---both 'lessened a child's "moral culpability" and

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enhanced the prospect that, as the years go by and neurological development occurs, his 'deficiencies will be reformed.'" Id.; see also, Study conducted by Steinberg & Scott, Less Guilty By Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty, 58 Am. Psychologist 1009, 1014 (2003), relied on by U.S. Supreme Court in Miller and Graham.

The Michigan Supreme Court first articulated the objectives relevant to sentencing in People v. Snow, 386 Mich 855; 194 NW2d 314 (1972). When sentencing, the Snow Court held that courts must consider: (1) the reformation of the offender; (2) protection of society; (3) punishment of the offender; and (4) deterrence of others from committing like offenses. Id., at 592. At the time, Michigan's courts made no distinction between the age of the defendant when applying the Snow factors---the factors were applied against adults and juveniles alike. But, that began to change in recent years as the Michigan Supreme Court struggled with defining juvenile sentencing.

Now, when the Snow factors are applied to juvenile defendants, a trial court is suppose to relate them to the distinctive attributes of youth. Wines, 323 Mich App at 351. In short, in Michigan the goal when sentencing offenders under the age of eighteen became different from the goal in sentencing adult offenders. With juveniles, the goal became primarily that of reform. So, when considering the reformation of the offender and protection of society, trial courts was suppose to consider a youth's diminished culpability and greater prospects for reform. Id. When considering deterrence and punishment, trial courts were suppose to equate that with the "diminish[ed] ... penological justification[] for imposing the harshest sentence on juvenile offenders". Id., at 352 (quoting Miller, 567 US at 472). In short, "[t]aking the distinctive attributes of youth into account [when sentencing juvenile

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defendants] is consistent with both Michigan's long-stated sentencing objectives and the United States Supreme Court's judgment that 'youth matters'". Wines, supra, at 351 (quoting Miller).

The U.S. and Michigan Supreme Courts insistence that youth matters in sentencing decisions could not be overstated in this case. The lower court record demonstrates that the trial court failed to appreciate the significance of Eads' age, and completely overlooked or simply did not understand Eads' background. Specifically, Eads had a very traumatic upbringing. His father died when he was only eleven years old, and Eads suffered depression to such an extent that before even reaching his pre-teen years he persistently used alcohol and marijuana. People v. Eads, 2025 Mich App LEXIS 415, *4 (Mich.Ct.App. January 16, 2025). Eads was also subjected to neglect, poverty, homelessness, and gang involvement. Id.

If there was ever a case that clearly demonstrated that a child was lost, Eads' case is the perfect example. The record shows that Eads' background was so traumatic that the clinical psychologist who assessed him recommended that he receive a light sentence and serve his time in a juvenile detention center where he could get the help that he so desperately needed. Id. Unless a person come from or is familiar with poverty-stricken neighborhoods where crime is rampant and adults use and abuse children, you will not understand the life of a child raised in one especially if the child does not have the guidance of his parents. It is impossible to imagine a circumstance where a child's life is in more dire straits. Of course, this does not excuse the behavior of juveniles like Eads whom were raised under such horrific conditions. But, it does explain it. Juveniles like Eads almost never make it to prison because they often die in the back alley on the streets.

The public is crying out for the Court to uphold the decision of the Court

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of Appeals. It is grounded in reason, tradition, and the long-stated objectives of the State of Michigan that youth matters in sentencing practices.

B. IMPOSITION OF LONG INDETERMINATE SENTENCES THAT AMOUNT TO DE FACTO LIFE SENTENCES AGAINST JUVENILES VIOLATE THEIR RIGHT TO RECEIVE A MEANINGFUL OPPORTUNITY FOR RELEASE BASED ON DEMONSTRATED MATURITY AND REHABILITATION

Long indeterminate sentences imposed on juvenile offenders is intended to be solely about punishment and preventing the juvenile from ever being paroled during his lifetime. Even if a juvenile survives to see his first parole date, the long indeterminate sentence worked to deprive him of a meaningful opportunity to be released based on demonstrated maturity and rehabilitation. These types of sentences violate the United States and Michigan Constitutions.

Long indeterminate sentences treat juvenile offenders just like adult offenders, and the U.S. Supreme Court has clearly condemned this practice. "Children", the Miller court held, "are different". Miller, 567 US at 481. "Developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds." Graham, 560 US at 68. Youth "is a time of immaturity, irresponsibility, impetuousness, and recklessness". Miler, 567 US at 471. Therefore, it is unconstitutional to treat those under the age of eighteen (18) during sentencing like adults, and the Miller court explained why that was unconstitutional:

> "... Children have a lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking. Second, children are more vulnerable to negative influences and outside pressures, including from their family and peers; they have limited control over their own environment and lack the ability to extricate themselves from horrific, crime-producing settings. And, third, a child's character is not as well formed as an adult; his traits are less fixed and his actions less likely to be evidence of irretrievable depravity." Id.

Id., at 471. Miller indicated that harsh sentences imposed on juvenile offenders unconstitutionally focused only on punishment. While punishment can be the focus when sentencing adults offenders, it cannot be the focus when

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sentencing juvenile offenders because "a greater possibility exists that a minor's character deficiencies will be reformed". Graham, 560 US at 68. So, it would be "misguided" to treat defendants under the age of eighteen in the same fashion as an adult. Id.

Even worse, long indeterminate sentences imposed on juvenile offenders deprives them of their right to a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation. When sentencing Eads, the trial court was acutely aware of that, and intended for the 50-75 year sentence to operate in that fashion. Notably, after acknowledging that Eads life expectancy was 53.11 years, the trial court said that he did not want Eads to get out of prison until he was at least 50 years old, stating:

> "I think that [the imposed sentence] gives Mr. Eads a chance for parole at an age where he would not be a danger to society. His life expectancy really now is 53.11 years. I really think he should not be out until he reaches about 50 years of age ..."

See, Eads, supra, 2025 Mich App LEXIS at *6-7. The trial court intended in all respects for the 50-75 year sentence to work as a de facto life sentence, and the constitutional violation here could not be more blatant.

The Supreme Court's decision in Graham created a liberty interest in juvenile offenders getting a meaningful opportunity to gain release based on demonstrated maturity and rehabilitation. See, Flores v. Stanford, 2019 U.S. Dist LEXIS 160992, *27 (S.D.N.Y., Sept. 20, 2019) (Supreme Court's decisions in Graham, Miller, and Montgomery v. Louisiana, 136 S.Ct. 718 (2016), provides juveniles with a cognizable liberty interest in being considered for parole); Hayden v. Keller, 134 F.Supp.3d 1000, 1007 (WDNC 2019) (same); Greiman v. Hodges, 79 F.Supp.3d 933, 938-945 (S.D. Iowa 2015) (same); Brown v. Precythe, 2018 U.S. Dist LEXIS 176272, *13-14 (W.D. Mo., 2018) (same); and Wershe v. Combs, 2016 U.S. Dist LEXIS 43150, *3 (W.D. Mich., March 31, 2016). "Allowing [juvenile offenders] to be considered for parole [at a meaningful time] ensures

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that juveniles whose crimes reflected only transient immaturity---and who have since matured---will not be forced to serve a disproportionate sentence in violation of the Eighth Amendment." Montgomery, 136 S.Ct. at 736.

This "meaningful opportunity" means something more than the juvenile offender getting released with just a few years left to live in society, such as what the trial court intended for young Eads. That amounts to a geriatric release, and a "geriatric release" is not the type of "meaningful opportunity" for release envisioned by the Supreme Court in Graham. Whitmer, supra, 616 F.Supp.3d 696-697; see also, e.g., LeBlanc v. Mathena, 2015 U.S. Dist LEXIS 86090, *38 (E.D. Vir., July 1, 2015), rev'd on other grounds, Virginia v. LeBlanc, 137 S.Ct. 1726 (2017). And it should be no doubt that the 50-75 year sentence imposed on Eads would result in a geriatric release. In Wines, the court held that a "40-year minimum sentence virtually ensures that the defendant will not be released until he or she is geriatric ..." Wines, supra, 323 Mich App at 351. So, a 50 year minimum sentence would certainly result in a geriatric release, assuming that Eads lives that long.

Therefore, the 50-75 year sentence imposed on Eads most certainly violates the U.S. and Michigan Constitutions, especially since it went well beyond its objective. The LeBlanc court could not have put it better when analyzing criminal sentences like that imposed on Eads:

> "'a juvenile offender is typically put behind bars before he has a chance to exercise the rights and responsibilities of adulthood, such as establishing a career, marrying, raising a family or voting.' Even assuming that a juvenile offender does live to be released after a half century of incarceration, he will have irreparably lost the opportunity to engage meaningfully in many of these activities, and the offender 'will be left with seriously diminished prospects for his quality of life for the few years he has left.'" LeBlanc, supra, at *39 (quoting Casiano v. Comm'r of Corrections, 317 Conn 52, 115 A.3d 1031 (2015).

Therefore, the undersigned strongly urges this Court to uphold the Court of Appeals' decision in Eads.

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A R G U M E N T I I

THE COURT OF APPEALS DID NOT ERR IN FINDING THAT EADS WAS ENTITLED TO RELIEF UNDER THE SUPREME COURT'S DECISIONS IN STOVALL & BOYKIN

In its order granting application for leave to appeal in the above-entitled case, the Michigan Supreme Court require all parties and interested persons to address whether the Court of Appeals erred by concluding that Eads was entitled to relief under Stovall and People v. Boykin, 510 Mich 171; 987 NW2d 58 (2022). This writer argues that the Court of Appeals did not err, and so urges this Court to uphold the decision.

In Boykin, the defendant was convicted of first-degree murder and originally sentenced to life without parole. However, following the Supreme Court's decision in Miller, Boykin was resentenced under MCL § 769.25a to a 40-60 year sentence. When imposing the sentence, however, the trial court failed to consider youth as a mitigating factor as required by Miller. So, Michigan's high court reversed, holding that "[y]outh matters in sentencing decisions for tailoring a sentence to an individual defendant and for giving reasons for imposing each sentence in order to facilitate appellate review". Id., at 192. Boykin did not decide whether trial courts were required to consider youth as a mitigating factor in cases where long indeterminate sentences were not imposed under MCL 769.25a.

The Supreme Court's decision in Stovall is a little different. There, the high court was asked to determine whether a life with parole sentence for second-degree murder imposed on a juvenile defendant violated the Michigan Constitution. Stovall, 510 Mich at 308. Relying on the factors set forth in People v. Bullock, 440 Mich 15; 485 NW2d 866 (1992), the Supreme Court held that it did, stating that the penalty "is particularly severe when imposed on a juvenile, given the important mitigating ways that children are different from

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adults. Stovall, at 314-316. Michigan's Supreme Court also noted that the severity of a life without parole sentence imposed on a juvenile is further "heightened by the fact" that juveniles convicted of second-degree murder do not receive the same "significant procedural safeguard[s]" guaranteed to juveniles convicted of first-degree murder by MCL 769.25 and MCL 769.25a.

The high court went on to point out its common sense approach to the sentencing issue. A juvenile convicted of second degree murder could receive the same, or even a more severe, sentence than a juvenile convicted of first-degree murder, but "with less process" although "they have been convicted of a less serious offense." Id., at 316-318. That simply did not make sense. Even more significantly, however, the Stovall Court acknowledged that "[a] trial court could impose a long term-of-years sentence that would theoretically deprive a defendant of any chance of being paroled during their lifetime," but declined at that time to decide "on whether a long term-of-years sentence imposed on a juvenile would violate Const 1963, Art 1, § 16." Id., at 314 n 3.

In short, Stovall and Boykin followed precedent to abide by Michigan's long-stated sentencing objectives for juvenile offenders. Particularly, Stovall and Boykin reasoned that juveniles were different than adult offenders. Criminal sentences imposed on juveniles are suppose to be primarily concerned with reform in stead of only punishment, because Michigan's long-stated sentencing objectives is that youth matters in sentencing. While the issue in Eads did not involve life without parole sentences or sentencing issues under MCL 769.25a, the Eads court took the common sense approach in its decisionmaking and extended the reasoning in Stovall and Boykin to apply to the Eads case. As the Eads court aptly pointed out:

> "while Eads received a long term-of-years sentence rather than life with the possibility of parole like the defendant in Stovall, we cannot find sound reason to deem his sentence constitutionally permissible when the parolable life sentence at issue in Stovall was not."

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The approach by the Eads court makes sense because the sentence imposed on Eads amounted to a de facto life sentence. The importance of the Court of Appeals' decision is underscored by the recommended sentencing guideline range in Eads' case. His guidelines recommended a sentence of 12-25 years after taking into account such factors like Eads' youth and its characteristics. But, the trial court sentenced him to a whopping 50-75 years after excluding from consideration youth as a mitigating factor.

Therefore, the decision by the Eads court that Eads was entitled to relief under Stovall and Boykin was a well reasoned and intelligent decision, and should be upheld by this Court.

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R E L I E F R E Q U E S T E D

WHEREFORE, for the foregoing reasons, the undersigned prays that this Honorable Court find that the Court of Appeals did not err in finding that Eads was entitled to relief under its decision in Stovall and Boykin. The undersigned further prays that this Honorable Court find that it is unconstitutional to impose any indeterminate sentence on a juvenile defendant without factoring into that sentence the juvenile's youth and its attendant characteristics.

In addition, the undersigned prays that this Honorable Court find that it violates the U.S. and Michigan Constitution to sentence any juvenile to a long indeterminate sentence that theoretically deprives the juvenile from ever getting released or being considered for parole during his lifetime and/or of which effectively deprives him of a meaningful opportunity to seek parole and/or get paroled based on demonstrated maturity and rehabilitation consistent with Graham v. Florida, supra.

Respectfully Submitted,

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Dated: October 10, 2025