

STATE OF MICHIGAN
IN THE SUPREME COURT

Appeal from the Michigan Court of Appeals

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v.

JOHN ANTONIO POOLE,

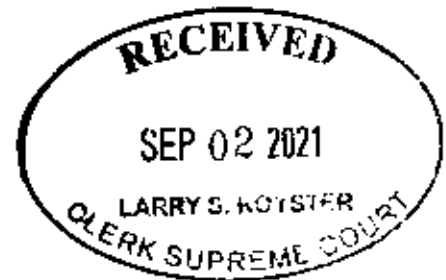
Defendant-Appellant.

Supreme Court No. 161529

C.O.A. No. 352569

LC No. 02-000893-02-FC

AMICUS CURIAE BRIEF IN SUPPORT OF
DEFENDANT-APPELLANT JOHN ANTONIO POOLE



James M. Brown
Pro Per For Amicus Curiae

James Matrice Brown #235699
Richard A. Handlan Correctional Facility
1728 West Bluewater Highway
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Statement of Questions Presented

1. Is Miller a sentencing challenge based on the newly discovered evidence that children have transient immaturity that makes the imposition of a state's most severe penalties on adolescents cruel and unusual and prohibited under the Eight Amendment? If so, is the newly discovered scientific evidence that reveal late adolescents (18-21 year-olds) exhibit the same hallmark characteristics of transient immaturity that underpines Miller, an exception to MCR 6.502(G) that permits a claim of an invalid sentence to proceed forth to establish entitlement to relief MCR 6.508(0)(3)(b)(iv)?

Amicus answers, "Yes."

Interest And Identity of Amicus Curiae

Amici James Martrice Brown, is a long standing member of National Lifers of America, Inc., a statewide organization operating in Michigan correctional facilities since 1981. NLA, Inc., seeks to assist "education in criminal justice and formulation of positive solutions towards reform and release of incarcerated persons" (NLA, Inc., Bylaws, 2015, p. 1).

Amici Brown is currently serving a mandatory life imprisonment sentence as a defendant convicted of first degree felony-murder at the age of 18 years and 12 weeks old. Hence, Amici Brown, as a member of the late adolescent class of offenders, supports GRANT of People v Poole, particularly, pursuant to the proposition of extending the protections of Miller based on the newly discovered scientific evidence that makes mandatory life sentences unconstitutional, and thus, challengeable as invalid MCR 6.508(D)(3)(b)(iv).

Therefore, Amici Brown asks this Court to determine if Miller is a sentencing challenge, and if so, decide if Poole can proceed to establish entitlement to relief where he claims that his sentence is invalid pursuant to the newly discovered scientific evidence that renders his sentence unconstitutional. Extension of Miller affords the State of Michigan the opportunity to grant sentencing discretion of youthful offenders convicted of murder according to the rehabilitative idea of incarceration. Judicial discretion would permit a sentencer the ability to determine if a mandatory sentence of life imprisonment of a late adolescent with transient immaturity violates the Eight Amendment and/ or Article 1, Section 16 of the Michigan Constitution.

Moreover, judicial discretion would also permit a sentencer the ability to determine if an individualized sentencing scheme is appropriate given the mitigating circumstance of each offender and offense. For, the continued imposition of this state's most severe penalty on adolescent offenders cannot proceed as though we were not children. Miller, 567 US 474.

Miller is a sentencing challenge based on the newly discovered evidence that children have transient immaturity that makes the imposition of a state's most severe penalties on adolescents cruel and unusual and prohibited under the Eighth Amendment. Newly discovered scientific evidence that reveal late adolescents (18-21 year-olds), exhibit the same hallmark characteristics of transient immaturity that underpins Miller, is an exception to MCR 6.502(G), and permits a claim of an invalid sentence to proceed forth to establish entitlement to relief. MCR 6.508(D)(3)(b)(iv).

The primary purpose of this amicus brief is to provide this Court with the rationale that newly discovered scientific evidence is an exception to 6.502(G) alongside the retroactive change in law exception that this Court is currently reviewing *People v Poole* under. When this Court granted Poole leave, this Court did so to consider if Miller can be extended to late adolescents, but did not grant leave to consider if the newly discovered scientific evidence that claims Poole's sentence is unconstitutional, therefore, invalid, is an exception to MCR 6.502(G) that would permit Poole to proceed to establish entitlement to relief from an invalid sentence MCR 6.508(D)(3)(b)(iv).

Since Miller is a sentencing challenge, amici request leave to include the secondary exception of 6.502(G) as well. A consideration of newly discovered scientific evidence permits Poole to establish entitlement to relief pursuant to the brain science, in addition to the national consensus that merit extension to and invalidates mandatory life sentences for late adolescent youths with transient immaturity.

While Poole explicitly asked this Court to retroactively apply and extend Miller protections to late adolescents in Michigan according to Miller, the Eighth Amendment, and Art 1,

Sect. 16, amici argues there is also new scientific evidence invalidating mandatory life sentences for late adolescents with the same hallmark transient immaturity as early and middle adolescents that made a lifetime of imprisonment unconstitutional. Moreover, amici argues that Poole's reference to brain science preserves a newly discovered scientific evidence exception claim because Poole as a layman, fairly presented the issue to the courts as a issue of law for which all the relevant facts were presented *People v Giovannini*, 271 Mich App 409, 414-15 (2006).

Amici also argues the secondary exception can be heard because the question is one of law and all the facts necessary for its resolution have been presented for a proper determination of the case. *Providence Hosp v Nat'l Labor Union Health & Welfare Fund*, 162 Mich App 191, 194-195 (1987).

Poole referred to Cruz. In *Cruz v United States*, 2018 U.S. Dist. LEXIS 52924, Dr. Steinberg testified, "In the mid-to late-2000s, virtually no research looked at brain development during late adolescence or young adulthood. People began to do research on that period of time toward the end of that decade and as we moved into 2010 and beyond, there began to accumulate some research on development in the brain beyond 18, so we didn't know a great deal about brain development during late adolescence until more recent." *Id.* at 26.

Dr. Steinberg rendered testimony, data, and evidence that transient immaturity continues into late adolescents as an emerging science from testimony drawing a bright line under 18.

Hence, amici argue that his sentencing challenge based on the newly discovered scientific evidence establishes the actual prejudice required to invalidate a sentence of mandatory life for late adolescents. MCR 6.508(D)(3)(b)(iv).

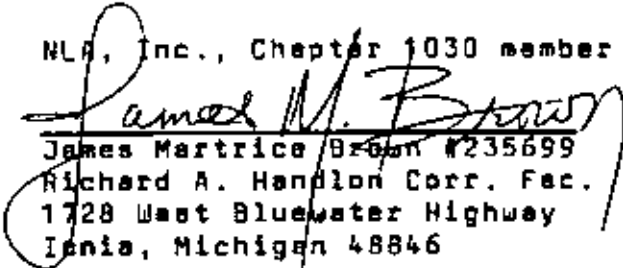
Amici direct this Court to MCR 7.316(A)(3) & (4) which permits amici to supply "reasons or grounds of appeal to be amended or new grounds to be added that should have been included."

Summary and Relief

Wherefore, amicus respectfully requests for the foregoing reasons, that this Honorable Court decide that Miller is a sentencing challenge based on newly discovered scientific evidence, and newly discovered scientific evidence reveal late adolescents possess the same hallmark characteristics of transient immaturity that renders their sentence unconstitutional and invalid, and thus as an exception to 6.5.02(G) are able to proceed forth to establish entitlement to relief as a sentencing challenge.

Respectfully submitted,

NLA, Inc., Chapter 1030 member


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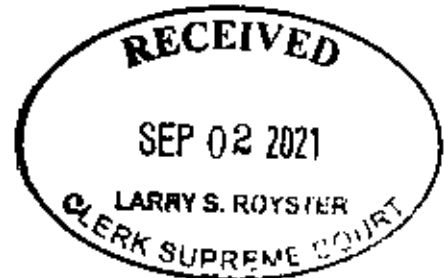
Defendant-Appellant.

PROOF OF SERVICE

I certify that on August 30, 2021, I mailed a copy of the foregoing Amicus Curiae documents to the attorney on record for John Anton Poole, State Appellate Defender Office, at 645 Griswold St. Ste. 3300, Detroit, Michigan 48226; and a copy to the Wayne County Prosecutor, at 1441 St. Antoine St., Detroit, Michigan 48226.

Respectfully submitted,


James Martrice Brown #235699



COVER LETTER

August 30, 2021

Clerk
Michigan Supreme Court
P.O. BOX 30052
Lansing, Michigan 48909

RE:PEOPLE OF THE STATE OF MICHIGAN v. JOHN ANTONIO POOLE,


Supreme Court No. 161529
Court of Appeals No. 352569
Trial Court No. 02-000893-02-FC
Dear Clerk:

Enclosed please find the original of the pleadings below. I am indigent and cannot provide additional copies. Please file them.

i. Amicus Curiae Brief in Support of People v. John Antonio Poole,

ii. Proof of Service

Thank you.


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Copy sent to:

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