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NO. 95814-9

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON,

Respondent,

v.

JEREMIAH JAMES GILBERT,

Appellant.

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**ANSWER TO BRIEFS OF AMICI CURIAE**

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A. INTRODUCTION

Several organizations have submitted amicus curiae briefs in support of Gilbert, who has challenged his 45-year minimum sentence under the Eighth Amendment to the United States Constitution. The State maintains that Gilbert's sentence is not the equivalent of a life-without-parole (LWOP) sentence. Moreover, RCW 10.95.030 and .035, directed the trial court only to reduce Gilbert's aggravated murder sentence to something less than LWOP, and there was no basis to disturb any other aspect of the judgment and sentence. The State offers the following response to the arguments of amici.

B. ARGUMENT

1. A 45-YEAR MINIMUM SENTENCE IS NOT EQUIVALENT TO LIFE WITHOUT PAROLE.

The premise of amici's arguments is that at resentencing, the trial court imposed a sentence that is equivalent to LWOP. But as argued in the State's supplemental brief, the great weight of authority is to the contrary. See Supp. Br. of Resp. at 17 & n.14. Across the country, as well as in Washington, most courts have concluded that sentences below 50 years do not constitute de facto life sentences when imposed on a juvenile. Id.; State v. Ronquillo, 190 Wn. App. 765, 768, 361 P.3d 779 (2015) (a 51.3-year sentence for juvenile homicide defendant is equivalent

to LWOP); State v. Keodara, 3 Wn. App. 1050, 2018 WL 2095683 at \*4 (May 7, 2018), rev. denied, 2018 WL 5668539 (Oct. 31, 2018) (40-year sentence for juvenile homicide defendant not de facto LWOP sentence).

Here, Gilbert was sentenced at age 15 to a combined minimum term of 45 years to life for two premeditated murders and a host of ancillary crimes. Gilbert will be 60 years old when he is eligible for release. There is no reason to believe he will not survive this minimum sentence, and little reason to doubt he will be adjudged releasable to the community at that time.<sup>1</sup> Accordingly, Gilbert has a meaningful opportunity for release within his lifetime.<sup>2</sup>

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<sup>1</sup> Amicus Korematsu Center for Law and Equality asserts that Gilbert “has been found releasable by the Indeterminate Sentence Review Board[.]” KC Br. at 7. The Center omits an important point: the Board did not find Gilbert releasable *to the community*; it found that he was releasable to begin serving a 20 year minimum sentence for murder in the first degree. Resp. 2d Supp. Br. Appx. at 1. Although the ISRB noted that Gilbert had a serious infraction—in which he was alleged to have assisted in the assault of a fellow inmate—as recently as May 2017, it appears the ISRB had a generally favorable view about his eventual release. Resp. 2d. Supp. Br. Appx. at 7 (encouraging Gilbert to take advantage of vocational opportunities “that will eventually help with his re-entry into the community”).

<sup>2</sup> When life expectancy is at issue in litigation, the Washington Pattern Jury Instructions contain a suggested pattern jury instruction addressing the issue. That instruction, WPIC 34.04 (6 Washington Practice: Washington Pattern Jury Instructions: Civil 34.04 (6th ed. 2012)), allows the jury to be instructed on a person’s life expectancy based on data routinely gathered by the Washington Insurance Commissioner. See 6A Washington Practice: Washington Pattern Jury Instructions: Civil Appendix B Life Expectancy Table, at 665-68 (6th ed. 2012). According to that data, a 15 year old male has an average life expectancy of nearly 77 years. See Life-expectancy table, Office of the Insurance Commissioner Washington State, <https://insurance.wa.gov/life-expectancy-table> (last visited 1/5/2019). State v. Keodara, 76232-0-I, 2018 WL 2095683, at \*4 (Wash. Ct. App. May 7, 2018), review denied, 191 Wn.2d 1024, 428 P.3d 1187 (2018).

To conclude that this 45-year minimum sentence nonetheless violates the Eighth Amendment or article I, section 14 of the state constitution begs the question: at what point does a term of years sentence constitute a de facto life sentence? And on what basis should the Court make this determination? Neither Gilbert nor amici have offered any workable standard to define the concept. The only guidance the United States Supreme Court has given is that, except in rare cases, juvenile sentences must provide a reasonable opportunity for release within the offender's lifetime. The only guidance this Court has provided about the permissible length of a minimum sentence for a juvenile murderer is that it cannot literally be "life." State v. Bassett, \_\_\_ Wn.2d \_\_\_, 428 P.3d 343, 355 (2018). In the absence of a better standard, this Court should conclude that a sentence that permits eventual release is not the equivalent of LWOP and is not constitutionally barred unless otherwise disproportionate to the crime.<sup>3</sup> Since Gilbert's sentence affords the opportunity for release at age 60, this Court should reject those arguments of amici that rely on the erroneous proposition that Gilbert received a life sentence.

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<sup>3</sup> In Bassett, this Court applied a categorical bar analysis to conclude that LWOP sentences violate the state constitution when imposed on juveniles, but recognized that the traditional proportionality test articulated in State v. Fain, 94 Wn.2d 387, 617 P.2d 720 (1980), remains useful "for claims that a sentence was grossly disproportionate[.]" Bassett, 428 P.3d at 350.

2. AMICI'S READING OF HOUSTON-SCONIERS IS OVERBROAD.

Both amici rely heavily on broad language from this Court's decision in Houston-Sconiers<sup>4</sup> that suggests there can never be *any* mandatory component of sentencing with respect to *any* juvenile. But read within the context of the Eighth Amendment, on which it exclusively relied, Houston-Sconiers' rule of absolute discretion applies only when a juvenile's potential sentence implicates the Eighth Amendment. Under the United States Supreme Court's jurisprudence, that is only when the juvenile faces a sentence that permits no release. Because Gilbert's 45-year minimum sentence affords a meaningful opportunity for release in his lifetime, his sentence does not implicate the Eighth Amendment. Accordingly, Gilbert's and amici's reliance on Houston-Sconiers' absolute discretion rule is misplaced.

Houston-Sconiers involved teenagers who committed a series of Halloween robberies. 188 Wn.2d 413. Their exploits left no one dead or even injured, and the profits of their crime spree were negligible. Id. Although their potential sentences exposed them to 40 or 45 years in prison, all parties recognized that this extreme sentence—driven by mandatory firearm sentencing enhancements—was clearly excessive. Id.

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<sup>4</sup> 188 Wn.2d 1, 391 P.3d 409 (2017).

at 414. On the State's motion, therefore, the sentencing court imposed zero months on the substantive counts of the information. Id. at 416. In pointed contrast to Gilbert's case,<sup>5</sup> the trial court expressed frustration about the mandatory enhancements, but believed it was bound to impose the enhancement time, resulting in sentences of 26 and 31 years. Id. at 419.

This Court considered whether the mandatory firearm enhancements were unconstitutional under the Eighth Amendment. Even though the juvenile defendants in Houston-Sconiers did not actually receive life-equivalent sentences, it was clear that the consecutive enhancements could accumulate to reach a mandatory life sentence in violation of the Eighth Amendment. Noting that the firearm enhancement statute and the juvenile jurisdiction statutes did not reference each other, and observant of this Court's obligation to construe a statute as to uphold its constitutionality, this Court held that the enhancement statutes must be read as discretionary with respect to juveniles. Id.

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<sup>5</sup> The sentencing court in Houston-Sconiers imposed exceptional sentences and was frustrated its perceived inability to impose a shorter sentence. Here, Gilbert's original sentence for the non-aggravated murder—which he has never challenged—was in the middle of the standard range, strongly suggesting the court was not inclined to impose an exceptional sentence below the standard range. CP 2 (indicating standard range for first-degree murder was 240-320 months), 4 (imposing midpoint sentence of 280 months on that count).

While the court used broad language, the Eighth Amendment anchor of Houston-Sconiers means it must be limited to situations in which a juvenile faces a sentence that implicates the Eighth Amendment. The jurisprudence of the United States Supreme Court establishes that the Eighth Amendment is implicated when a juvenile faces death or a life sentence. See Graham v. Florida, 560 U.S. 48, 69, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (2010) (equating juvenile LWOP sentences to the death penalty in that LWOP “alters the offender’s life by a forfeiture that is irrevocable” and “means a denial of hope; it means that good behavior and character improvement are immaterial; it means that whatever the future might hold in store for the mind and spirit [of the convict], he will remain in prison for the rest of his days”) (quoting Naovarath v. State, 779 P.2d 944 (1989)); Miller v. Alabama, 567 U.S. 460, 132 S. Ct. 2455, 2466-68, 183 L. Ed. 2d 407 (2012) (emphasizing that the Court treats LWOP sentences for juveniles as “akin to the death penalty,” that mandatory penalties are forbidden “when a juvenile confronts a sentence of life (and death) in prison,” and limiting discussion to “the harshest possible penalty” for juveniles). That is because, in part, denying the defendant an opportunity to ever reenter the community “forfeits altogether the rehabilitative ideal.” Graham, 560 U.S. at 74.

Since the Eighth Amendment is implicated only by a sentence that provides no opportunity for release, and Houston-Sconiers relies exclusively on the Eighth Amendment, it follows that Houston-Sconiers' absolute discretion rule is limited to cases in which a juvenile faces an actual or potential LWOP sentence.<sup>6</sup> Where a juvenile has a meaningful opportunity for release within his lifetime, as Gilbert does at age 60, sentencing courts should not disregard the minimum punishment established by a duly-elected legislature. See State v. Ammons, 105 Wn.2d 175, 180, 713 P.2d 719 (1986). The legislature's power to fix punishments for criminal offenses is "plenary and subject only to constitutional provisions against excessive fines and cruel and inhuman punishment"; thus, it is "the function of the legislature and not of the judiciary to alter the sentencing process." Id.

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<sup>6</sup> Although the juveniles in Houston-Sconiers received sentences of 26 and 31 years "for Halloween robberies," far short of what can legitimately be called a life sentence, it is important to note that the mandatory consecutive enhancements at issue in that case may accumulate, resulting in an "enhancement" that "vastly exceeds the sentences for the substantive crimes, reaching lengths of 50 years or more." 188 Wn.2d at 25-26. Thus, while the Houston-Sconiers defendants did not receive life-equivalent sentences under this sentencing scheme, the possibility that the mandatory scheme would produce such sentences implicated the Eighth Amendment. Given the relatively trivial offenses at issue in Houston-Sconiers, this Court was clearly moved by the sheer disproportionality of the sentences to address the operation of the mandatory enhancement scheme regardless of the fact that the sentences at issue fell short of lifetime incarceration. See, e.g., 188 Wn.2d at 20 (noting that the Court had not considered Eighth Amendment implications "in exactly this situation, i.e., with sentences of 26 and 31 years for *Halloween robberies.*") (emphasis added).

Houston-Sconiers must be distinguished with respect to the crimes at issue, as well. In Graham, the United States Supreme Court emphasized that the crime of murder is qualitatively different from lesser crimes:

The Court has recognized that defendants who do not kill, intend to kill, or foresee that life will be taken are categorically less deserving of the most serious forms of punishment than are murderers. ... There is a line “between homicide and other serious violent offenses against the individual.” ... Serious homicide crimes “may be devastating in their harm ... but ‘in terms of moral depravity and of the injury to the person and to the public,’ ... they cannot be compared to murder in their ‘severity and irrevocability.’” ... This is because “[l]ife ... is over for the victim of the murderer,” but for the victim of even a very serious nonhomicide crime, “life ... is not over and normally is not beyond repair.” ... Although an offense like robbery or rape is “a serious crime deserving serious punishment,” ... those crimes differ from homicide crimes in a moral sense.

Graham, 560 U.S. at 69 (internal citations omitted). Indeed, this difference is the reason the Eighth Amendment permits discretionary LWOP sentences for *some* juveniles convicted of murder, but prohibits it in *all* nonhomicide cases.

Houston-Sconiers involved no physical injury, let alone murder. Indeed, this Court repeatedly characterized the armed robberies in that case in the most trivial terms, as “Halloween robberies” of fellow children for candy. 188 Wn.2d at 8, 20. In contrast, Gilbert coldly executed two innocent men—shooting one in the head while he begged for his life and

carefully steadying his rifle on the door frame to get a clean shot at the second—and tried to kill a third simply to obtain a vehicle with which “to visit a friend in Dufur, Oregon, after ... a fight with [his] parents.” State v. Gilbert, No. 13366-4-III, 1996 WL 576774 at \*1 (Wash. Ct. App. Oct. 8, 1996).

3. THE PLAIN LANGUAGE OF THE RELEVANT STATUTES REQUIRES CONSECUTIVE SENTENCES.

WACDL argues that the aggravated murder sentencing statute, RCW 10.95.030, does not require consecutive sentences because the legislature failed to expressly so state within that statute. Amici contrast this with language of the unlawful firearm possession statute and burglary anti-merger statute. But such specific language was unnecessary given the existing provisions of RCW 9.94A.589, which amici concede “expressly delineate[] when multiple felony sentences must be served consecutively and when they must be concurrent.” WACDL Br. at 9.

RCW 9.94A.589(1)(b) applies “[w]henver a person is convicted of two or more serious violent offenses arising from separate and distinct criminal conduct.” In those circumstances, the legislature decided greater punishment was warranted and thus, “[a]ll sentences imposed under this subsection (1)(b) shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.” RCW

9.94A.589(1)(b). First-degree murder is a “serious violent offense.”

RCW 9.94A.030(46). Accordingly, the presumption is that the sentences for two murders will be served consecutively.<sup>7</sup> There was no need for the legislature to require consecutive sentences within the aggravated murder statute as well, so the absence of such language does not demonstrate that the legislature intended multiple murder sentences to be served concurrently.

WACDL also claims that RCW 10.95.030 does not pertain exclusively to sentences for aggravated murder because a different statute, RCW 10.95.035, more broadly refers to “A person, who was sentenced

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<sup>7</sup> Amici appears to assert that Gilbert’s sentences should have been concurrent under RCW 9.94A.589(3). WACDL Br. at 14 n.2. That section provides as follows:

*(3) Subject to subsections (1) and (2) of this section, whenever a person is sentenced for a felony that was committed while the person was not under sentence for conviction of a felony, the sentence shall run concurrently with any felony sentence which has been imposed by any court in this or another state or by a federal court subsequent to the commission of the crime being sentenced unless the court pronouncing the current sentence expressly orders that they be served consecutively.*

RCW 9.94A.589(3) (emphasis added). That provision does not apply to Gilbert. It is the counterpart to subsection (2), which provides that “whenever a person while under sentence for conviction of a felony commits another felony and is sentenced to another term of confinement, the latter term shall not begin until expiration of all prior terms.” RCW 9.94A.589(2)(a). Read together, these provisions establish that when a person commits a new felony while under sentence, his sentences must be consecutive, but when a person is convicted of a felony that predates the one for which he is under sentence, the sentence should be concurrent. It does not apply to Gilbert, who had no prior conviction when he committed the plethora of crimes in this case. Instead, Gilbert was subject to subsection (2), which applies when someone is sentenced for multiple serious violent offenses arising from separate and distinct criminal conduct, like murdering two individuals. See *State v. Cubias*, 155 Wn.2d 549, 552, 120 P.3d 929 (2005) (where crimes involve separate victims, they necessarily arise from separate and distinct conduct).

prior to June 1, 2014.” WACDL Br. at 10-11. This argument ignores the fact that RCW 10.95.035 only provides for resentencing “consistent with RCW 10.95.030,” which, as its title plainly indicates, applies solely to “Sentences for aggravated first degree murder.”

WACDL contends that a sentencing court always must consider whether multiple sentences should be served concurrently or consecutively, and that the resentencing court did so in this case, but simply declined to articulate the reason for making the sentences consecutive. That is misleading.<sup>8</sup> The resentencing court explained that it agreed with the State’s position that it lacked authority to do anything other than reduce Gilbert’s aggravated murder sentence from LWOP to a minimum of 25 years. RP 20 (“I am adopting the State’s position in-toto and I am agreeing with their analysis of the law and the statute”).

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<sup>8</sup> Also misleading is amici’s suggestion that Gilbert sought an exceptional mitigated sentence during his resentencing hearing. WACDL Br. at 7-8. Although Gilbert’s attorney did argue that the sentences should be concurrent, his argument was that the multiple serious offense policy of RCW 9.94A.589(2) did not apply because aggravated murder is outside of the Sentencing Reform Act. See CP 35-36; RP 9-12; State’s Supp. Br. at 13 n.9. Gilbert never argued that the multiple serious offense policy resulted in a sentence that is clearly excessive, warranting a mitigated sentence under RCW 9.94A.535(1)(g). Notably, he also never explained how his youth sufficiently diminished his culpability to warrant a mitigated sentence. See CP 33-37 (arguing that Gilbert is “worthy” of concurrent sentences based on an assessment of the risk he *presently* poses, not because youth diminished his culpability at the time of the murders).

4. THIS COURT HAS ALREADY REJECTED WACDL'S ARGUMENTS CONCERNING THE ALLOCATION OF THE BURDEN OF PROOF WITH RESPECT TO EXCEPTIONAL SENTENCES FOR JUVENILE MURDERERS.

“Pursuant to the SRA, the offender carries the burden of proving that an exceptional sentence below the standard range is justified.” State v. Ramos, 187 Wn.2d 420, 445, 387 P.3d 650 (2017). Amici argue this allocation of the burden of proof is inappropriate because children are different and therefore a sentence below the standard range is automatically justified. WACDL Br. at 15-19. This Court rejected that argument in Ramos, concluding that Miller does not require a presumption against otherwise applicable sentences, and refusing to hold that “the SRA’s allocation of the burden of proof for exceptional sentencing is constitutionally impermissible as applied to juvenile homicide offenders.” 187 Wn.2d at 445-46. On these points, amici does not acknowledge Ramos, distinguish it, or argue that it was wrongly decided.

It is appropriate to place the burden on the juvenile defendant to show that an exceptional sentence is warranted. The juvenile brain research that supports the “children are different” truism does not speak to the maturity and culpability of any particular juvenile. See Terry Maroney, *The Once and Future Juvenile Brain, Choosing the Future for American Juvenile Justice* (Franklin E. Zimring & David S. Tanenhaus

eds., 2014) at 205-06 (“As the scientists themselves have taken pains to point out, the current generation of studies shows only group trends. While all humans will pass through the same basic stages of structural maturation at more or less the same stages of life, the timing and manner in which they do will vary. Further, while functional capacity will in some way track structural maturation, we do not yet have a firm grip (or anything close to it) on that relationship.”). Thus, the bare fact that a person is under 18 says nothing about his or her capacity or maturation. Nor does that simple fact place any scientific or moral limit on an individual’s culpability for aggravated murder.<sup>9</sup> As the Supreme Court’s Eighth Amendment jurisprudence has repeatedly acknowledged, there do exist some juvenile offenders whose crimes reflect such irretrievable depravity that life without parole is justified. Montgomery v. Louisiana, \_\_\_ U.S. \_\_\_, 136 S. Ct. 718, 733-34, 193 L. Ed. 2d 599 (2016) (citing Miller, 132 S. Ct. at 2469). Indeed, that is why the Court did not categorically bar life sentences for all juvenile homicide defendants. See Montgomery, 136 S. Ct. at 734.

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<sup>9</sup> Nor, unfortunately, does the offender’s youth guarantee future rehabilitation. See Stacia Glenn, *2012 Halloween robber back in jail a month after inspirational speech to students*, Tacoma News Tribune (November 28, 2018), available at <https://www.thenewstribune.com/news/local/crime/article222305135.html> (last visited 1/7/2019) (Zyion Houston-Sconiers, now 23 years old, charged with unlawful possession of a controlled substance with intent to deliver and first-degree unlawful possession of a firearm).

When a juvenile defendant's capacity is not appreciably diminished by youthful attributes, the justification for more lenient juvenile sentences evaporates. For this reason, Ramos properly held it is appropriate to place the burden on the juvenile to show that his culpability was actually diminished by his youth.

5. KOREMATSU CENTER'S STATE CONSTITUTIONAL ARGUMENT IS UNPERSUASIVE.

Gilbert has never argued that his sentence violates article I, section 14 of the Washington State Constitution. This Court nevertheless granted amicus curiae Korematsu Center for Law and Equality ("Center") leave to make this argument. As with amici's arguments under the Eighth Amendment, the underlying premise for the Center's claim is that Gilbert's sentence affords no meaningful opportunity for release. As explained above, the premise is faulty.<sup>10</sup> Gilbert may be released when he is 60 years old, when he has the better part of two decades before reaching his average life expectancy. Arguments dependent on the idea that he is serving a life sentence should be rejected.

The Center also argues that interpreting RCW 10.95.030(3)(a) to require mandatory consecutive minimum sentences would violate article I, section 14. The State does not seek such an interpretation. RCW

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<sup>10</sup> Indeed, even the Center merely asserts that it is "arguable" that Gilbert's 45-year minimum sentence qualifies as de facto life. Korematsu Center Br. at 6 n.2.

9.94A.589 required consecutive sentences in this case, but an exception allowing concurrent sentences would have applied if Gilbert could have shown that operation of the multiple violent offense policy resulted in a sentence that was clearly excessive in light of the purposes of the SRA. RCW 9.94A.535(1)(g). Gilbert has never made that argument.

Boiled down, amici's arguments are that youth is a per se mitigating factor that not only justifies, but *requires*, an exceptional mitigated sentence of concurrent terms in any case where a juvenile has committed multiple serious violent offenses. Taken to its logical end, this argument leads to absurd results. Consider the not-so hypothetical example of a school shooting. These distressingly common events typically include multiple killings. For example, in a 2014 shooting at Marysville-Pilchuck High School, a 15-year-old shot four students to death and shot one other in the face.<sup>11</sup> Had the shooter not turned the gun on himself, he would have faced four counts of aggravated murder. Amici's position would require all four aggravated murder sentences to be imposed concurrently: one 25-year minimum no matter

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<sup>11</sup> See <https://www.seattletimes.com/seattle-news/5-marysville-school-friends-invited-to-lunch-then-shot-sheriff-says/> (last visited 1/4/2019).

how many lives were taken.<sup>12</sup> That is inconsistent with long-standing principles of proportionality that run through Washington law. It is inconsistent with the SRA, which seeks to “[e]nsure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender’s criminal history.” RCW 9.94A.010(1). This Court acknowledged in Ramos that “a properly conducted Miller hearing does not in any way permit sentencing courts to disregard the number of victims in determining an appropriate sentence. Miller explicitly requires sentencing courts ‘to take into account the differences among defendants *and crimes*.’” 187 Wn.2d at 438 (citing Miller, 132 S. Ct. at 2469 n.8) (emphasis supplied by Ramos court).

C. CONCLUSION

Ultimately, amici would have this Court cap minimum sentences for juveniles at 25 years regardless of the number and severity of their

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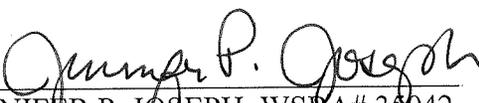
<sup>12</sup> Proponents of juvenile sentencing reform frequently cite the Supreme Court’s language about the *diminished* penological justifications for imposing life sentences on juveniles (e.g., retribution, deterrence, incapacitation, and rehabilitation) to support arguments suggesting that there is *no* penological justification for lengthy or mandatory juvenile sentences. But while typical juveniles may not be perfectly deterred in all cases by the specter of severe punishment, that does not mean that all juveniles are heedless of the legal consequences of their conduct. Consider State v. Anderson, 112 Wn. App. 828, 51 P.3d 179 (2002) and State v. Baranyi, 101 Wn. App. 1054 (2000) (unpublished). There, two teenagers killed an entire family of four for no discernable reason. Anderson, 112 Wn. App. at 830. Evidence admitted at trial showed that “Baranyi knew he could not be sentenced to death because he was a juvenile” and “may have been willing to participate in the murders because the worst punishment he might receive would be imprisonment.” Baranyi, No. 44032-2 at \*3. Clearly, some juvenile killers are not only capable of understanding the consequences of their actions, they are motivated by them.

crimes. This is well below any state or federal court's opinion about what constitutes a de facto life sentence. Some might view such a change to be good public policy. But neither Gilbert nor amici have offered a legal rationale for reducing life sentences several-fold, down to 25 years. If the legislative power to punish must be curtailed for constitutional purposes, surely it should be curtailed only to the extent required to avoid the constitutional harm – a life sentence. A several-times decrease in the sentence for the most serious offenders is not compelled by the state or federal constitution. There is no principled way to choose 25 years instead of 45 years. Thus, to adopt amici's argument is to arrogate to the court the legislature's authority to define punishments for criminal offenses. For this, and the reasons expressed in the State's supplemental brief, this Court should affirm Gilbert's 45-year minimum sentence for the aggravated murder of Loren Evans and the premeditated murder of Robert Gresham.

DATED this 8<sup>th</sup> day of January, 2019.

Respectfully submitted,

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**KING COUNTY PROSECUTOR'S OFFICE - APPELLATE UNIT**

**January 08, 2019 - 11:38 AM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 95814-9  
**Appellate Court Case Title:** State of Washington v. Jeremiah James Gilbert  
**Superior Court Case Number:** 92-1-00108-1

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