IN THE SUPREME COURT OF FLORIDA

CASE NO. SC15-2079

THOMAS KELSEY,

Petitioner,

V.

STATE OF FLORIDA,

Respondent.

ON DISCRETIONARY REVIEW FROM THE FIRST DISTRICT COURT OF APPEAL

BRIEF OF FSU PUBLIC INTEREST LAW CENTER, JUVENILE LAW CENTER, ACLU OF FLORIDA, CFFSY, THE CENTER ON CHILDREN AND FAMILIES AT UF, CHILDREN AND YOUTH LAW CLINIC AT UM, FACDL, FCF, FJRRP AT FIU, FLS, NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN, NAFPD, NJDC, SJDC, AND SPLC AS *AMICI CURIAE* ON BEHALF OF PETITIONER

Paolo Annino
Fla. Bar No. 0379166
Public Interest Law Center
FSU College of Law
425 W. Jefferson St.
Tallahassee, FL 32306
Tel: 850.644.9928
Fax: 850.644.0879
Pannino@law.fsu.edu

Marsha Levick
(*pro hac vice pending*)
PA Bar # 22535
Juvenile Law Center
1315 Walnut St.,
4th Floor
Philadelphia, PA 19107
Tel: 215.625.0551
Fax: 215.625.2808
Mlevick@jlc.org

Justin Karpf
Certified Legal Intern
Public Interest Law Center
FSU College of Law
425 W. Jefferson St.
Tallahassee, FL 32306
Tel: 850.644.9928
Fax: 850.644.0879
Jfk13b@my.fsu.edu

Counsel on Behalf of Amici Curiae

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

I. IDENTITY OF AMICI AND INTEREST IN CASE

The Florida State University College of Law Public Interest Law Center (PILC) has extensive experience in the field of juvenile justice reform. Founded in 1991, PILC, formerly known as the Children's Advocacy Center, advocates on behalf of youth in the child welfare and criminal and juvenile justice systems. In 1997, PILC established the Children in Prison Project, specifically to focus on the rights and interests of incarcerated children.

Juvenile Law Center, founded in 1975, is the oldest public interest law firm for children in the United States. Juvenile Law Center has worked extensively on the issue of sentencing of youth in adult court, filing amicus briefs in the U.S. Supreme Court in *Graham v. Florida*, 560 U.S. 48 (2010) and *Miller v. Alabama*, 132 S. Ct. 2455 (2012), and serving as co-counsel in *Montgomery v. Louisiana* (No. 14-80), argued before the U.S. Supreme Court this term.

Both PILC and Juvenile Law Center advocate on behalf of youth in the child welfare and criminal and juvenile justice systems to promote fairness, prevent harm, and ensure access to appropriate services. The organizations work to ensure that children's rights to due process are protected at all stages of juvenile court proceedings, from arrest through

appeal, and that juvenile and adult criminal justice systems consider the unique developmental differences between youth and adults to ensure the protection of youth's rights.

The American Civil Liberties Union Foundation of Florida ("ACLU") is a statewide, nonprofit, nonpartisan organization with approximately 15,000 members, and is part of a national organization with more than 500,000 members. It has litigated hundreds of cases in Florida's state and federal courts, both as a plaintiff, or on behalf of a plaintiff, and as amicus curiae. In addition, the ACLU has litigated cases implicating the constitutional rights of juvenile offenders, such as Roper v. Simmons, 543 U.S. 551 (2005), and cases involving the application of new sentencing rules, such as Dorsey v. U.S., 132 S.Ct. 2321 (2013). Given the organization's extensive experience, courts have regularly permitted it to file amicus briefs in Florida appellate courts on important constitutional issues such as the matter presently before the Court.

The Campaign for the Fair Sentencing of Youth (CFSY) is a national coalition and clearinghouse that coordinates, develops and supports efforts to implement just alternatives to the extreme sentencing of America's youth, with a focus on abolishing life without parole sentences for all youth. Our vision is to help create a society that respects the dignity and human rights of

all children through a justice system that operates with consideration of the child's age, provides youth with opportunities to return to community, and bars the imposition of life without parole for people under age eighteen. We are advocates, lawyers, religious groups, mental health experts, victims, law enforcement, doctors, teachers, families, and people directly impacted by this sentence, who believe that young people deserve the opportunity to give evidence of their remorse and rehabilitation.

The Center on Children and Families (CCF) at the University of Florida Fredric G. Levin College of Law in Gainesville, Florida, has a substantial interest in this case. CCF is an organization whose mission is to promote the highest quality teaching, research and advocacy for children and their families. Among other things, CCF works to ensure that children's rights to due process are protected and that the juvenile and adult criminal justice systems consider the unique developmental differences between youth and adults in enforcing these rights. Its faculty has many decades of experience in advocacy for children and youth in a variety of settings, including the Virgil Hawkins Civil Clinics and Gator TeamChild juvenile law clinic.

The Children & Youth Law Clinic (CYLC) is an in-house legal clinic staffed by faculty and students at the University of Miami School of Law.

Established in 1995, the CYLC serves the legal needs of children and adolescents in the child welfare and juvenile justice systems through individual and law reform advocacy. CYLC has appeared as amicus curiae in numerous federal and state court cases implicating significant due process and therapeutic interests of children in criminal and juvenile justice proceedings.

The Florida Association of Criminal Defense Lawyers ("FACDL") is a statewide organization representing 1,850 members, all of whom are criminal defense practitioners. FACDL is a non-profit corporation whose goal is to assist in the reasoned development of Florida's criminal justice system. Since the United States Supreme Court issued decisions in Graham v. Florida and Miller v. Alabama, FACDL members have taken on the pro bono representation of numerous juvenile offenders serving life without parole who have benefited from those decisions around the state.

FACDL has an ongoing interest in ensuring that the juvenile clients of its members are given every opportunity to demonstrate the rehabilitation and maturity necessary to obtain the early release mandated by Graham and Miller under such circumstances.

Florida's Children First (FCF) is Florida's preeminent legal advocacy organization, dedicated to the legal rights of children in the child welfare

system. Its mission is to advance these rights and to achieve improvements in all systems affecting children's lives. FCF advocates for legislative change, monitors executive branch actions, assists lawyers representing children, participates in litigation, and works to increase public awareness of children's issues.

The Florida Juvenile Resentencing and Review Project at the Florida International University College of Law was founded in 2015 following the legislative enactment of Chapter 2014-220, Law of Florida, and the release of this Court's opinions in *Falcon v. State,* 162 So. 3d 954 (Fla. 2015) and *Horsley v. State*, 160 So. 3d 393 (Fla. 2015). The Resentencing and Review Project was created with the goal of ensuring that each juvenile in the State of Florida who is either already serving or subject to adult sanctions as well as those entitled to judicial review receive a robust and comprehensive defense.

Florida Legal Services, Inc., (FLS) and its Florida Institutional Legal Services Project (FILS Project) advocate for children in a variety of forums and over a broad array of substantive legal issues. The FILS Project has represented children in various forms of institutionalization since 1978. The FILS Project works directly with children and people who were convicted

while children or for conduct that occurred while they were children and who are currently incarcerated in institutions across Florida.

Founded in 1977, the National Association of Counsel for Children (NACC) is a 501(c)(3) non-profit child advocacy and professional membership association dedicated to enhancing the well-being of America's children. NACC programs which serve these goals include training and technical assistance, the national children's law resource center, the attorney specialty certification program, policy advocacy, and the amicus curiae program. Through the amicus curiae program, the NACC has filed numerous briefs involving the legal interests of children and families in state and federal appellate courts and the Supreme Court of the United States.

The National Association for Public Defense (NAPD) is an association of nearly 11,000 professionals critical to delivering the right to counsel. NAPD members include attorneys responsible for executing the constitutional right to effective assistance of counsel for both adults and juveniles, including regularly researching and providing advice to clients on the consequences of specific convictions. Our collective expertise represents state, county, and local systems through full-time, contract, and assigned counsel delivery mechanisms, dedicated juvenile, capital and appellate offices, and through a diversity of traditional and holistic practice models.

The National Juvenile Defender Center (NJDC) is a non-profit, non-partisan organization dedicated to promoting justice for all children by ensuring excellence in juvenile defense. NJDC provides support to public defenders, appointed counsel, law school clinical programs, and non-profit law centers to ensure quality representation in urban, suburban, rural, and tribal areas. NJDC has participated as amicus curiae before the United States Supreme Court, as well as federal and state courts across the country in support of this position.

The Southern Juvenile Defender Center (SJDC) is the regional center affiliated with the National Juvenile Defender Center, serving and supporting the juvenile defender community in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina. SJDC conducts extensive training in best practices in child advocacy, advancing systemic change, and understanding the nature of the maturation process and the effect of adolescent brain development on juveniles' cognition, behavior, and accountability.

The Southern Poverty Law Center is dedicated to fighting hate and bigotry and to seeking justice for the most vulnerable members of our society. This case is of interest to the Southern Poverty Law Center because of the Center's advocacy on behalf of children tried as adults and its belief

that individualized sentencing determinations that recognize that children are different for sentencing purposes should be provided to all children who have been tried as adults in Florida.

II. CONSENT OF THE PARTIES

The Petitioner and Respondent have not objected to this filing. The Petitioner's Initial Brief on the Merits was filed on January 8, 2016.

III. SUMMARY OF ARGUMENT

Roper, *Graham*, and *Miller* establish that juvenile offenders are entitled to specific constitutional protections in sentencing that adult offenders are denied. In making "demonstrated maturity and rehabilitation" the standard for release, the U.S. Supreme Court intended for juvenile offenders to have an opportunity to be released back into society to lead productive lives. "Lengthy term-of-years sentences" deny juvenile offenders a "meaningful opportunity" to contribute to society upon their release. "Lengthy" has not been defined in Florida, but Iowa's approach is instructive, and this Court should adopt Iowa's definition.

Graham and *Miller*, as well as this Court's precedent, require that juvenile offenders with lengthy term-of-years sentences receive new sentences under chapter 2014-220, Laws of Florida. In addition, social

science shows that life expectancy is difficult to calculate and recidivism rates decrease significantly as juveniles mature.

IV. ARGUMENT

A. Juvenile Offenders Are Entitled to Special Constitutional Protections

The United States Supreme Court has consistently held that juvenile offenders are constitutionally different from adults and are categorically less deserving of the harshest forms of punishment. In holding that the death penalty was unconstitutional for homicide crimes committed by a juvenile offender, the Court recognized three major difference between juveniles and adults: a lack of maturity, greater susceptibility to negative influences, and a character not as well-formed as that of an adult. *Roper v. Simmons*, 543 U.S. 551, 569-70 (2005). Emphasizing developments in social science that demonstrate juveniles' ability to mature, the Court noted that "[it] is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption." *Id.* at 573.

Extending *Roper*'s recognition of a juvenile offender's ability to grow and mature, the Court in *Graham* struck down life without the opportunity of parole sentences for juvenile offenders who commit non-homicide offenses. *Graham v. Florida*, 560 U.S. 48 (2010). In *Graham*, the Court

reiterated that juveniles are different from adult offenders. *Id.* at 68 ("*Roper* established that because juveniles have lessened culpability they are less deserving of the most severe punishments."). Recognizing their capacity to mature, the Court held that the State must provide juvenile offenders "some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation," but left the specific mechanism up to the State, such as parole or a judicial review. *Id.* at 75. In adopting this categorical rule, the Court intended that juveniles who demonstrate maturity and rehabilitation be provided a meaningful opportunity to re-enter society; a life sentence without the opportunity of parole denies juvenile offenders "any chance to later demonstrate that [they are] **fit to rejoin society** based solely on a nonhomicide crime that [they] committed while [they were] a child in the eyes of the law." *Id.* at 79 (emphasis added). In *Miller*, the Court extended these principles even further, barring mandatory life without parole sentences for juvenile homicide offenders. *Miller v. Alabama*, 132 S. Ct. 2455 (2012). In *Miller*, the United States Supreme Court relied heavily on *Graham*'s focus on juvenile offenders' "lessened culpability" and "capacity for change." *Id.* at 2461.

The Florida Supreme Court has recognized these principles and extended *Graham* to lengthy term-of-years sentences imposed on juveniles;

in *Henry*, this Court struck down consecutive term-of-year sentences amounting to ninety years for a nonhomicide offense, holding that "*Graham* prohibits the state trial courts from sentencing juvenile nonhomicide offenders to prison terms that ensure these offenders will be imprisoned without obtaining a meaningful opportunity to obtain future **early release** during their natural lives based on their demonstrated maturity and rehabilitation." *Henry v. State*, 175 So. 3d 675, 680 (Fla. 2015) (emphasis added). Similarly, this Court held in *Gridine* that a seventy-year sentence for a nonhomicide offense was unconstitutional under *Graham* because it did not afford "a meaningful opportunity for **early release** in the future." *Gridine v. State*, 175 So. 3d 672, 674-75 (Fla. 2015) (emphasis added). Through these cases, this Court has ruled that the Eighth Amendment requires a "meaningful opportunity" for "early release" for juvenile offenders once they can demonstrate "maturity and rehabilitation." *Id*; *Henry*, 175 So. 3d 675.

In *Horsely*, this Court held that the proper remedy for a juvenile felony murder sentence under *Miller* is to give the juvenile offender a new sentence under chapter 2014-220, Laws of Florida:

> To give effect to the commandment of the United States Supreme Court in *Miller* and the unanimous pronouncement of the Florida Legislature as to how to comply with the *Miller* decision, we

> conclude that the proper remedy is to apply chapter 2014–220, Laws of Florida, to all juvenile offenders whose sentences are unconstitutional under *Miller*. Our conclusion is guided by the recent, unequivocal expression of legislative intent in chapter 2014–220, Laws of Florida, which provides for individualized sentencing consideration prior to the imposition of a life sentence on a juvenile offender.

Horsley v. State, 160 So. 3d 393, 395 (Fla. 2015).

Though *Horsley* refers specifically to *Miller*, its holding extends to juvenile offenders sentenced in contravention of *Graham* because this Court recognized that *Graham* and *Miller* are meant to be interpreted in conjunction with one another. *Id.* at 398 ("While this case involves a homicide rather than a nonhomicide offense, *Graham* is instructive because, as the Supreme Court acknowledged two years later in *Miller*, *Graham* stands for the proposition that the Eighth Amendment prohibits certain punishments without "considering a juvenile's 'lessened culpability' and greater 'capacity for change.'"). This Court again recognized the important relationship between *Graham* and *Miller* in its *Falcon* decision, which held that *Miller* applies retroactively. *Falcon v. State*, 162 So. 3d 954, 959 (Fla. 2015) ("A discussion of *Miller* appropriately begins with the Supreme Court's prior decision in *Graham*, which laid the jurisprudential foundation upon which the subsequent *Miller* decision was based"). Furthermore,

chapter 2014-220, Laws of Florida, which *Horsley* determined was the remedy for unconstitutional sentences for juvenile offenders, was intended to address both the *Graham* and *Miller* decisions. *See* Fla. H. Crim. Just. Committee, Final Bill Analysis: CS/HB 7035 (June 27, 2014) (http://www.flsenate.gov/Session/Bill/2014/7035/Analyses/h7035z1.CRJS.PDF) ("The bill addresses the *Graham* **and** *Miller* decisions.") (emphasis added).

B. *Graham*, *Henry*, and *Gridine* Require That Juvenile Offenders Have an Opportunity for Early Release

In the instant case, the First District Court of Appeal mischaracterized this Court's precedent with respect to *Graham* defendants, holding that "[a]s to *Graham* defendants, the supreme court has required re-resentencing only where the initial resentence is life or de facto life." *Kelsey v. State*, 40 Fla. L. Weekly D1291, 2015 WL 3447138 (Fla. 1st DCA Nov. 9, 2015). The First District Court of Appeal erred in limiting this Court's requirement of resentencing only to life and de facto life sentences because this Court has held that all juvenile offenders with lengthy term-of-years sentences are entitled to a resentencing under chapter 2014-220, Laws of Florida. In *Henry* and *Gridine*, this Court held that the standard for *Graham* defendants is not whether their sentence was *de facto* life, but whether they have an opportunity for "early release." *Henry*, 175 So. 3d 675; *Gridine*, 175 So. 3d 672.

In deciding *Graham* and *Miller*, the United States Supreme Court intended for juvenile offenders to potentially rejoin society. *Graham*, 560 U.S. at 79. By emphasizing the individual juvenile offender's "demonstrated maturity and rehabilitation" the Court recognized juvenile offenders' ability to learn and change. *Id.* at 75. This Court has extended *Graham*'s holding to lengthy sentences that were not life sentences because they did not provide a "meaningful opportunity for release based on demonstrated maturity and rehabilitation." *Id.; see also Henry*, 175 So. 3d 675; *Gridine*, 175 So. 3d 672. This Court has made clear that *Graham* applies to "lengthy" sentences that inhibit juvenile offenders' ability to "obtain future **early release** during their natural lives based on their demonstrated maturity and rehabilitation." *Henry*, 175 So. 3d at 679, 680 ("In the time since the Supreme Court issued its opinion in *Graham*, our district courts of appeal have not agreed on how to decide if **lengthy** term-of-years sentences of juvenile nonhomicide offenders should be evaluated for whether such sentences violate *Graham.*") (emphasis added). Notwithstanding the First District Court of Appeal's erroneous interpretation, this Court requires a resentencing under chapter 2014-220, Laws of Florida for all juveniles who receive "lengthy term-of-years sentences," and not just life or *de facto* life sentences. *Id.*

C. This Court Should Adopt Iowa's Definition of "Lengthy Term-of-Years" Sentences

Though this Court has extended *Graham* to "lengthy term-of-years sentences," Florida has not defined how long a sentence must be to be considered "lengthy." *Id.* The Supreme Court of Iowa has defined a lengthy sentence for purposes of *Graham* and *Miller* as any sentence that "effectively deprive[s] [a juvenile offender] of any chance of an earlier release and the possibility of leading a more normal adult life." *State v. Pearson*, 836 N.W.2d 88, 96 (Iowa 2013). The Supreme Court of Iowa's approach to juvenile offenders with lengthy sentences is instructive in the "changing landscape of juvenile justice." *Pearson*, 836 N.W.2d at 98 (Cady, C.J., concurring specially). In requiring a new sentence for a juvenile offender who received a sentence of fifty-two and a half years for second-degree murder and first-degree robbery, the Iowa Supreme Court articulated the dangers lengthy term-of-years sentences pose for juveniles' re-entry:

> [W]e believe that while a minimum of 52.5 years imprisonment is not technically a life-without-parole sentence, such a lengthy sentence imposed on a juvenile is sufficient to trigger *Miller*-type protections. Even if lesser sentences than life without parole might be less problematic, we do not regard the juvenile's potential future release in his or her late sixties after a half century of incarceration sufficient to escape the rationales of *Graham* or *Miller*. The **prospect of geriatric**

> **release,** if one is to be afforded the opportunity for release at all, does not provide a "meaningful opportunity" to demonstrate the "maturity and rehabilitation" required to obtain release and reenter society as required by *Graham*.

State v. Null, 836 N.W.2d 41, 71 (Iowa 2013) (emphasis added).

Extending the principle that juvenile offenders are entitled to more than the mere "prospect of geriatric release," the Iowa Supreme Court granted a juvenile offender with a sentence of thirty-five years for nonhomicide offenses a resentencing. *Id.; Pearson*, 836 N.W.2d at 96 ("Though *Miller* involved sentences of life without parole for juvenile homicide offenders, its reasoning applies equally to Pearson's sentence of thirty-five years without the possibility of parole"). The *Pearson* Court, though partially relying on Iowa's state constitutional prohibition against cruel and unusual punishment in interpreting the standards laid out in *Miller* and *Graham*, vacated Pearson's sentence and remanded for resentencing. *Id.*

This Court should adopt Iowa's definition of "lengthy term-of-years sentences" (any sentence that impedes the opportunity of leading a more normal adult life), because it is consistent with the principle of "early release" articulated in *Henry* and *Gridine*. *Henry*, 175 So. 3d 675; *Gridine*, 175 So. 3d 672. An opportunity for "early release" is essential for juveniles to re-enter society after demonstrating "maturity and rehabilitation."

Graham, 560 U.S. at 75. As the Iowa Supreme Court noted in *Pearson*, "applying the teachings of *Roper*, *Graham*, and *Miller* only when mortality tables indicate the offender will likely die in prison without ever having the opportunity for release based on demonstrated maturity inadequately protects the juvenile's constitutional rights." *Pearson*, 836 N.W.2d at 98 (Cady, C.J. concurring specially).

D. Early Release Cannot Be Calculated Based On Life Expectancy Data

A sentence that exceeds a juvenile offender's life expectancy clearly fails to provide a meaningful opportunity for early release, but, as the Iowa Supreme Court has held, whether an opportunity for release is sufficiently meaningful should not depend on anticipated dates of death. First, incarceration generally increases the risk of poor health outcomes, making measures of life expectancy of incarcerated juveniles imprecise. Jason Schnittker et al., *Incarceration and the Health of the African American Community*, 8 DU BOIS REV. 133, 138 (2011). Indeed, juveniles may have even shorter life expectancies than adults serving the same extreme sentence. *See* ACLU of Michigan, Juvenile Life without Parole Initiative, *Michigan Life Expectancy Data for Youth Serving Natural Life Sentences*, (http://fairsentencingofyouth.org/wp-content/uploads/2010/02/Michigan-Life-Expectancy-Data-Youth-Serving-Life.pdf) (youth in Michigan who

received a natural life sentence had a life expectancy of only 50.6 years). Moreover, even if such data were accurate, 50% of people will die *before* the age indicated by the statistic. Adele Cummings & Stacie Nelson Colling, *There Is No Meaningful Opportunity in Meaningless Data: Why It Is Unconstitutional to Use Life Expectancy Tables in Post-Graham Sentences*, 18 U.C. DAVIS J. JUV. L. & POL'Y 267, 283 (2014).

E. Allowing Opportunities For Early Release Is Consistent With Research On Adolescent Development And Recidivism

Allowing possible release from prison before a juvenile offender reaches his geriatric years is consistent with research showing that juvenile recidivism rates drop off significantly long before late adulthood. As the U.S. Supreme Court has recognized, "'[f]or most teens, [risky and antisocial] behaviors are fleeting; they cease with maturity as an individual identity becomes settled. Only a relatively small proportion of adolescents who experiment in risky or illegal activities develop entrenched patterns of problem behavior that persist into adulthood.'" *Roper*, 543 U.S. at 570 (quoting Steinberg & Scott, *Less Guilty by Reason of Adolescence: Development Immaturity, Diminished Responsibility, and the Juveniles Death Penalty*, 58 Am. Psychologist 1009, 1014 (2003)). Notably, in a study of juvenile offenders, "even among those individuals who were high-frequency offenders at the beginning of the study, **the majority had**

stopped these behaviors by the time they were 25." Laurence Steinberg, *Give Adolescents the Time and Skills to Mature, and Most Offenders Will Stop*. Chicago, IL: MacArthur Foundation, p. 3 (2014) (emphasis added), http://www.pathwaysstudy.pitt.edu/documents/MacArthur%20Brief%20Give%20Adolescents%20Time.pdf. Therefore, most juvenile offenders pose no public safety risk once they reached their mid-twenties, let alone later in their lives.

Because most juveniles will outgrow antisocial and criminal behavior as they mature into adults, review of the juvenile's maturation and rehabilitation should begin relatively early in the juvenile's sentence, and the juvenile's progress should be assessed regularly. *See, e.g., Research on Pathways to Desistance: December 2012 Update*, Models for Change, p. 4, (http://www.modelsforchange.net/publications/357) (finding that, of the more than 1,300 serious offenders studied for a period of seven years, only approximately 10% report continued high levels of antisocial acts. The study also found that "it is hard to determine who will continue or escalate their antisocial acts and who will desist[,]" as the "original offense . . . has little relation to the path the youth follows over the next seven years."). Early and regular assessments enable the reviewers to evaluate any changes in the juvenile's maturation, progress and performance. Regular review also

provides an opportunity to confirm that the juvenile is receiving education, training, programming and treatment that foster rehabilitation. *See, e.g., Graham*, 560 U.S. at 74 (noting the importance of "rehabilitative opportunities or treatments" to "juvenile offenders, who are most in need of and receptive to rehabilitation").

V. CONCLUSION

Petitioner's sentence of forty-five years is unconstitutional because it is a lengthy term-of-years sentence that deprives him of the opportunity to re-enter society after demonstrating maturity and rehabilitation. *Roper*, *Graham*, and *Miller* make clear that juvenile offenders' capacity to change and grow, combined with their reduced blameworthiness and inherent immaturity of judgment, set them apart from adult offenders in fundamental – and constitutionally relevant – ways. This Court's holdings in *Henry* and *Gridine* echo those principles. This Court should hold that all juvenile offenders who receive a lengthy term-of-years sentence, defined as any that inhibits leading a more normal adult life, are entitled to a new sentence under chapter 2014-220, Laws of Florida.

Respectfully Submitted,

Paolo Annino
Fla. Bar No. 0379166
Public Interest Law Center
FSU College of Law
425 W. Jefferson St.
Tallahassee, FL 32306
Tel: 850.644.9928
Fax: 850.644.0879
pannino@law.fsu.edu

/s/ Marsha Levick
Marsha Levick
(*pro hac vice pending*)
PA Bar # 22535
Juvenile Law Center
1315 Walnut St.,
4th Floor
Philadelphia, PA 19107
Tel: 215.625.0551
Fax: 215.625.2808
Mlevick@jlc.org

Justin Karpf
Certified Legal Intern
Public Interest Law Center
FSU College of Law
425 W. Jefferson St.
Tallahassee, FL 32306
Tel: 850.644.9928
Fax: 850.644.0879
Jfk13b@my.fsu.edu

Counsel on Behalf of Amici Curiae

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this brief was served to Glen P. Gifford, Assistant Public Defender, Leon County Courthouse 301 S. Monroe St. Ste. 401 Tallahassee, FL 32301, glen.gifford@flpd2.com and Virginia Harris, Office of the Attorney General, the Capitol, PL-01, Tallahassee, FL 32399-1050, Virginia.harris@myfloridalegal.com on this 19th day of January, 2016.

Paolo Annino

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this Brief was prepared in Times New Roman, 14-point font, in compliance with Rule 9.210(a)(2) of the Florida Rules of Appellate Procedure.

Paolo Annino