STATE OF MICHIGAN

IN THE

SUPREME COURT

ON APPEAL FROM THE MICHIGAN COURT OF APPEALS
SHAPIRO, P.J., AND BORRELLO AND, O'BRIEN J.J.

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

-vs-

MONTARIO TAYLOR,

Defendant-Appellant.
/

Supreme Court No. 166428

Court of Appeals No. 349544

Circuit Court No. 16-040564-FC

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PLAINTIFF-APPELLEE'S SUPPLEMENTAL BRIEF ON APPEAL

PURSAUNT TO THE OCTOBER 30, 2024, ORDER OF THIS COURT

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JUDGMENT APPEALED FROM AND RELIEF SOUGHT

On October 24, 2016, Defendant Montario Marquise Taylor, aged 20 years and 7 months old, walked into the home of Montel Wright and shot him eight times. A jury convicted him of first-degree premeditated murder, MCL 750.316(1)(a), and possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced to life imprisonment without parole for the murder conviction and a consecutive two-year term of imprisonment for the felony-firearm conviction. Defendant did not assert that his life without parole sentence was cruel and/or unusual punishment in the trial court. Defendant appealed his convictions as of right and challenged the constitutionality of his life without parole sentence for the first time in that appeal. The Court of Appeals rejected all of Defendant's arguments and affirmed his convictions. *People v Taylor*, unpublished per curiam opinion of the Court of Appeals, issued October 21, 2021 (Docket No. 349544), Defendant-Appellant's Appendix C.

On December 16, 2021, Defendant filed an Application for Leave to Appeal with this Court. On April 4, 2023, this Court vacated Part II.D of the judgment of the Court of Appeals regarding Defendant's sentence of lifetime imprisonment and remanded the case to the Court of Appeals for reconsideration in light of *People v Parks*, 510 Mich 225; 987 NW2d 161 (2022). *People v Taylor*, 995 NW 2d 360, Order of the Michigan Supreme Court, entered April 4, 2023 (Docket No. 166183), Defendant-Appellant's Appendix D. In all other respects, Defendant's Application for Leave to Appeal was denied. *Id*. The parties filed supplemental briefs, and on October 5, 2023, the Court of Appeals again affirmed Defendant's sentence and rejected the argument that his mandatory life without parole sentence for first-degree murder as a 20-year-old was unconstitutional. *People v Taylor (On Remand)*, unpublished per curiam opinion of the Court

of Appeals, issued October 23, 2023 (Docket No. 349544), Defendant-Appellant's Appendix E. Defendant now seeks leave to appeal the Court of Appeals' decision.

Defendant again contends that a mandatory lifetime without parole sentence is cruel and/or unusual punishment because the characteristics that make children a unique class apply "equally to 20-year-olds." Nonetheless, a sentence of mandatory life without parole for a 20-year-old adult is both facially constitutional and constitutional as-applied to Montario Taylor. In his Application for Leave to Appeal, the Defendant first raised the allegation that this Court erred in failing to expressly overrule *People v Hall*, 396 Mich 650; NW2d 377 (1976) or, alternatively, that *People v Parks* superseded *People v Hall*. In his Supplemental Brief, Defendant argues that this Court should expressly overrule *Hall* because it is obsolete and untenable. On the contrary, this Court has specifically stated that *People v Hall* remains unmodified as to those older than 18 years of age. *Parks*, 510 Mich at 225 n 9. It can similarly carve out an exception for 19- and 20-year-old Defendants. It is unnecessary for this Court to overrule *Hall*, and it should not do so.

STATEMENT OF JURISDICTION

The People do not contest this Court's jurisdiction.

COUNTER-STATEMENT OF QUESTIONS PRESENTED

I. Does Defendant's mandatory life-without-parole sentence as a 20-year-old adult offender violate the Michigan Constitution's prohibition against cruel or unusual punishment?

Plaintiff-Appellee contends the answer is: "No, whether considered as applied to Montario Taylor or categorically to all offenders aged 20 years old and younger."

Defendant-Appellant contends the answer is: "Yes."

The Trial Court was not asked to respond to this question.

The Court of Appeals answered: "No."

II. Is it necessary to overrule *People v Hall* in order to extend *People v Parks* to defendants who were 20 years of age when they committed premeditated murder and, if so, should this Court overrule it?

Plaintiff-Appellee contends the answer is: "No."

Defendant-Appellant contends the answer is: "Yes."

The Trial Court was not asked to respond to this question.

The Court of Appeals was not asked to respond to this question.

COUNTER-STATEMENT OF FACTS

In its October 21, 2021, Opinion, the Court of Appeals summarized the facts of this case as follows:

> Defendant's convictions arise from the October 24, 2016 shooting death of Montel Wright at his home on East Bundy Street in Flint. There were no eyewitnesses to the actual shooting, but witnesses described events they observed that day near the time Wright was shot.[1]
>
> The two key witnesses were Hosea Mosley and William Johnson. Mosley was Wright's roommate and Johnson was a friend who frequented the neighborhood where Wright and Mosley lived.
>
> Shortly before the shooting, Mosley and Rodney Hendricks were sitting in a vehicle parked in the driveway of Wright's house. The two were drinking and talking. Johnson approached the house from the street to speak to Wright about borrowing some money so he could buy a bottle of beer for his bus ride home. Johnson testified that Wright let him in the house and lent him the money. Mosley testified that around this time defendant approached Wright's home and acknowledged Hendricks as he passed. Johnson testified that as he walked away from Wright's home he passed defendant on the porch steps. Both Mosley and Johnson testified that they saw defendant go inside Wright's home and, within moments, heard rapid-fire gunshots.
>
> When the gunshots rang out, Hendricks and Mosley drove away, and Johnson took cover behind a nearby tree. Johnson testified that he saw defendant leave Wright's house, walk toward the street, engage in a motion with his hand similar to racking a gun, and then returned to the house. At that point, Johnson heard more rapid gunfire. He then saw defendant leave the house and run across the street and through a field. At some point, Hendricks, who had passed away by the time of trial, called 911 and identified defendant as the shooter. The 911 call was played for the jury.
>
> Wright died from multiple gunshot wounds to his chest, abdomen, and calf. Wright was shot eight times and the bullets entered his body from both the front and the back. The police recovered nine shell casings at the scene and ballistics testing confirmed that they were all fired from the same gun. The murder weapon was not recovered and there was no forensic evidence supporting defendant's convictions. [*People v Taylor*, unpublished per curiam opinion of the Court of Appeals, issued October 21, 2021 (Docket No. 349544), Defendant-Appellant's Appendix C.]

[1] Several of the witnesses or involved individuals had nicknames or street names by which they were known. Frequently, the witnesses at trial, as well as the parties, referred to these individuals by their street names. In particular, Rodney Hendricks was known as "Country," and William Johnson was known as "Dog." For ease of reference, we will refer to the witnesses by their surname. (Footnote original).

After approximately two hours of deliberation, the jury found Defendant Montario Taylor guilty of the first-degree premeditated murder of Montel Wright and felony firearm. 1/11/19 Tr, 157–158. Defendant was on felony probation under HYTA status for Possession with Intent to Deliver Cocaine Less Than 50 Grams when he killed Montel Wright. PSIR, Evaluation and Plan. His Presentence Investigation Report stated that he was lacking in several areas, such as education, employment, financial resources, and support in the community. *Id*.

Defendant's PSIR states that, at the time of sentencing, "the defendant is a 22-year-old male who appears to have no regard for human life." *Id*. Unlike other defendants who have been in front of this Court, Defendant described, "a happy childhood, free of substance use or abuse." *Id*. at Family. Defendant also reported no history of substance abuse or mental health diagnoses. *Id*. at Substance Use and Treatment and Health.

For the calculated, callous, unprovoked murder of Montel Wright, Defendant was sentenced to mandatory life imprisonment and a two-year sentence for felony firearms to be served prior to the time of the sentence for murder. 2/25/19 Tr, 3. He now argues that his mandatory life without parole sentence is cruel or unusual under Michigan's Constitution because his sentence should have considered the attributes of "youth" even though he was 20 years old, and by all accounts an adult, at the time he premeditated and carried out a murder. Defendant also argues for the first time in any pleading that *People v Hall* has been overruled *sub silentio* by precedents set by the United States Supreme Court and this Court and should be overruled because it is no longer good law. For the reasons outlined in the Brief below, Defendant's Application for Leave to Appeal should be denied.

ARGUMENT

I. Defendant's mandatory life-without-parole sentence as a 20-year-old offender does not violate the Michigan Constitution's prohibition against cruel or unusual punishment. Thus, this Court's holding in *People v Parks*, 510 Mich 225 (2022), should not be extended to all defendants who are 20 years of age at the time they commit a crime and are sentenced to mandatory life without parole nor this Defendant specifically.

A. *Issue Preservation*

To preserve an issue, the appellant must challenge it before the trial court on the same grounds as he challenges it on appeal. *People v Danto*, 294 Mich App 596, 605; 822 NW2d 600 (2011). Whether Defendant's sentence violates the Eighth Amendment to the United States Constitution or art 1, § 16 of the Michigan Constitution was not raised in the trial court. It was raised for the first time on appeal. Thus, it is unpreserved.

B. *Standard of Review*

Unpreserved claims of constitutional error are reviewed for plain error affecting the defendant's substantial rights. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999). To prevail, the defendant must demonstrate that the trial court committed a plain or obvious error and that the error affected the outcome of the lower court proceeding. *Id*. "Statutes are presumed to be constitutional, and the courts have a duty to construe a statute as constitutional unless its unconstitutionality is clearly apparent." *People v Benton*, 294 Mich App 191, 203; 817 NW2d 599 (2011) (quotation marks and citation omitted). It is the burden of the party challenging the constitutionality of the statute to prove its invalidity. *People v Sadows*, 283 Mich App 65, 67; 768 NW2d 93 (2009).

C. *Discussion*

As Justice Clement predicted in her dissent to *Parks*, defendants who are in their early 20's are arguing the protections of *Miller* should be equally applied to them. *People v Parks*, 510 Mich

225; 987 NW2d 161 (2022) (CLEMENT, J., dissenting). Such is the case here just two and a half years after *Parks* expanded the protections of *Miller* to 18-year-old murderers. Even in light of *Parks*, Defendant's sentence does not violate the Michigan Constitution because it is not cruel or unusual punishment for a 20-year-old adult convicted of first-degree *premeditated* murder to be sentenced to mandatory life without parole. It is proportionate to the crime. The Michigan Constitution prohibits cruel or unusual punishments, Const 1963, art 1, § 16. This Court has held in the past that a mandatory sentence of life without the possibility of parole, as applied to adult offenders, does not violate Michigan's prohibition against cruel or unusual punishments. See *People v Hall*, 396 Mich 650, 657–658; 242 NW2d 377 (1976).

Defendant argues his sentence of life without parole for the first-degree premeditated murder of Montel Wright is cruel or unusual punishment because he was a 20-year-old adult at the time of the murder. Thus, he asserts, the characteristics that warrant a categorical ban on mandatory sentences of life without the possibility of parole in *Miller* for juvenile offenders should apply equally to him because a 20-year-old brain is indistinguishable from a 19-year-old brain which is indistinguishable from an 18-year-old brain which is indistinguishable from a 17-year-old brain for the purposes of punishment, deterrence, and rehabilitation. The focus of Defendant's argument is the same scientific theories presented to this Court in *Parks* – namely the contention that the part of the human brain governing impulsivity is still maturing throughout the early 20's. This science was also brought before the United States Supreme Court in *Graham* and *Miller*, and those Courts still chose to draw the line at offenders who committed their offenses before turning 18 years of age.

Defendant argues that the characteristics which make children a unique class equally apply to 20-year-olds. The age of majority in Michigan is 18 years old. MCL 722.52(1). Defendant was

sentenced to lifetime imprisonment for his first-degree premeditated murder conviction under MCL 750.316(1)(a). This Court presumes that a statute is constitutional "unless the contrary clearly appears . . .; in case of doubt every possible presumption not clearly inconsistent with the language and the subject matter is to be made in favor of the constitutionality of legislation." *Cody v Detroit*, 289 Mich 499, 404; 285 NW2d 805 (1939). See also *In re Certified Questions from United States Dist Ct, W Dist of Michigan, S Div*, 506 Mich 332, 340; 958 NW2d 1 (2020). Legislatively mandated sentences are presumptively proportional and presumptively valid. *People v. Williams*, 189 Mich App 400, 404; 473 NW2d 727 (1991); See also *People v Benton*, 294 Mich App 191; 817 NW2d 599 (2011) (holding a mandatory 25-year minimum sentence for first-degree criminal sexual conduct is constitutional).

Montario Taylor's sentence, despite its mandatory nature, is proportionate and therefore it is constitutional under the Michigan Constitution. Individuals who have attained the age of 20 years old are not children and, for better or worse, are afforded nearly all the freedoms and responsibilities of adulthood that our society bestows upon those who reach the age of majority. Unlike in the case of *Graham*, the sentence of mandatory life without parole for premeditated murder for an adult was "endorsed through deliberate, express, and full legislative consideration" when it enacted MCL 750.316(1)(a). *Graham*, 560 US at 67.

Under the *Lorentzen* factors, Defendant's mandatory life without parole sentence for committing premeditated murder when he was 20 years old is not unconstitutionally cruel or unusual punishment even considering the holding in *Parks*. The *Lorentzen* test is used to determine whether a punishment is disproportionate, and thus, "cruel or unusual." According to *Parks*, the *Lorentzen* four-factor test requires the Court to consider: (1) the severity of the sentence relative to the gravity of the offense; (2) sentences imposed in the same jurisdiction for other offenses; (3)

sentences imposed in other jurisdictions for the same offense; and (4) the goal of rehabilitation, which is a criterion specifically "rooted in Michigan's legal traditions ...." *Parks*, 510 Mich at 254–255, citing *Bullock*, 440 Mich at 33–34.

Defendant relies upon the *Lorentzen* language regarding evolving standards of decency and progress to make his point: a punishment must reflect the "evolving standards of decency that mark the progress of a maturing society" because the definition of cruel or unusual is "progressive and is not fastened to the obsolete but may acquire meaning as public opinion becomes enlightened by a humane justice." *People v Lorentzen*, 387 Mich 167, 178–179; 194 NW2d 827 (1972) (quotation marks and citation omitted). The problem with Defendant's reliance upon this language is that we do not know what public opinion is on this matter because it is being addressed in the courts with very few people at the table instead of by a deliberative body where all the pertinent parties can have a voice, and comprehensive debate can take place.

1. Factor One: First-Degree Murder is the most serious offense that a defendant can commit under the laws of Michigan.

When evaluating criteria under the Michigan Constitution, first-degree murder, specifically premeditated murder, is the most serious crime a person can commit, dictating a severe penalty. "[F]irst-degree murder is…the gravest and most serious offense that an individual can commit under the laws of Michigan…[i]t is, therefore, unsurprising that the people of this state, through the Legislature, would have chosen to impose the most severe punishment authorized by the laws of Michigan for this offense." *People v Carp*, 496 Mich 440, 520; 852 NW2d 801 (2014), vacated on other grounds, *Carp v Michigan*, 577 US 1186; 136 S Ct 1355; 194 L Ed 2d 339 (2016). Because first-degree murder is the gravest of crimes, the Legislature exercised its legitimate judgment that the gravest of crimes warranted the most severe punishment allowable under state law. *Hall*, 396 Mich at 650.

As the deliberate taking of another human life without legal justification is the most heinous crime a person can commit, imposing the most severe punishment in this state is proportional. To represent the moral will of the people and to protect society, the *legislature* has determined mandatory life without parole is an appropriate punishment for an adult who commits first-degree murder. Mandatory life without parole also takes into consideration the unique impact of murder not just on society as whole, but on the victim's family. Indeed, Defendant still has a life to live, despite it being in prison, but because of Montario Taylor's deliberate actions, Montel Wright does not.

The United States Supreme Court recognized young adults' ongoing neurological development in 2005 when it found that the execution of juvenile offenders was unconstitutional in *Roper v Simmons*, 543 US 551; 125 S Ct 1183; 161 L Ed 2d 1 (2005), and still drew the line at 18 years of age, acknowledging:

> Drawing the line at 18 years of age is subject, of course, to the objections always raised against categorical rules. The qualities that distinguish juveniles from adults do not disappear when an individual turns 18. By the same token, some under 18 have already attained a level of maturity some adults will never reach. For the reasons we have discussed, however, a line must be drawn. [*Id*. at 574.]

A line must be drawn for certain categories and that line will sometimes lead to arbitrary results. Recently, the Unites States Supreme Court has upheld the imposition of a life without the possibility of parole sentence for those under 18 as constitutional so long as there is an individualized sentencing hearing. See *Jones v Mississippi*, 593 US 98; 141 S Ct 1307; 209 L Ed 2d 390 (2021); *Montgomery v Louisiana*, 577 US 190, 136 S Ct 718, 193 L Ed 2d 599 (2016). In doing so, the Court left undisturbed the age of 18 as the divisional line between juveniles, who must have the characteristics of their youth considered before a sentence of life without the possibility of parole can be imposed, and adults, who are not extended the same protections.

Federal circuits have held the same. See *United States v Gonzalez*, 981 F3d 11, 17–22 (1st Cir. 2020); *United States v Sierra*, 933 F3d 95, 97 (2nd Cir. 2019).

Even if a 20-year-old brain is not fully developed, it is *sufficiently* developed to appreciate the gravity of deliberately planning to and taking another human life. Society, via the legislature, has deemed 20-year-olds sufficiently mature enough to serve on a jury, join the military to engage in warfare, enter legal contracts for the purchase of property or to be indebted for thousands of dollars of nondischargeable student loans, open a credit card[2], vote, marry, purchase and openly carry a long gun, and purchase and openly carry a handgun from a private seller. This creates an odd juxtaposition where the legislature has determined that 20-year-olds are mature enough to purchase and openly carry a gun from a private seller, but this Court will conclude that they are not neurologically culpable enough to fully understand the consequences of their actions if they premeditatedly and deliberately kill someone with that gun. "Do not kill other people" is a very basic, universally known, and longstanding tenet of human society. A 20-year-old adult can sufficiently comprehend it and the consequences for doing so, especially when the act is not done in an emotionally aroused state.

A 20-year-old, particularly one like Montario Taylor who killed a 45-year-old in cold-blood, with no known reason or discernable peer pressure, was surely not as "hampered in his ability to make decisions, exercise self-control, appreciate risks or consequences, feel fear, and plan ahead" as a juvenile or even an 18-year-old when he did so. See *Parks*, 510 Mich at 250. Defendant claims mandatory life without parole is excessive and cruel. On the contrary, it is Defendant who was excessive and cruel. As the prosecutor in this case said,

[2] Defendant claims a person must be 21 to open a credit card without a co-signer pursuant to 15 USC 1637(c)(8), but that is not true. A person who is aged 18 can attain a credit card without a co-signer if he or she can prove an independent means of repaying the credit obligation. 15 USC 1637(c)(8)(B)(ii).

> [Montel] died alone in his house on the floor of his home underneath the photograph of his family. It was an awful killing. It was a vicious slaying and there is no leniency with respect to sentence. So there's no point in me belaboring it. He is going to go to prison and he is going to stay there forever and that's what should happen in a case like this where a senseless murder took place. [2/25/19 Tr, 7; Appx 005-b].

Montel Wright's niece told the trial court at sentencing,

> But what you did to our family is horrible, horrible. My uncle will never come back. Your family can talk to you. You have a son, I know that, and you are going to talk to your son. He have [sic] three kids that he will never talk to and that's because of you. [*Id*. at 6; Appx 004-b].

This factor weighs heavily in favor of finding that sentencing a 20-year-old to mandatory life without parole for first-degree murder is constitutional.

2. Factor Two: Nonhomicide offenses exist in Michigan that require a life without parole sentence.

Michigan similarly imposes mandatory life without parole sentences for both homicide and non-homicide offenses which, though reasonably viewed as less severe than first-degree murder, call for a sentence of life without parole. See MCL 791.234(6) (listing various offenses subject to mandatory life without parole including MCL 750.520b (first-degree criminal sexual conduct), MCL 750.16(5) (adulteration of drugs with intent to kill), MCL 750.18(7) (mixing drugs improperly with intent to kill), MCL 750.211a(2)(f) (possession with intent to unlawfully use an explosive device causing death); MCL 333.17764(7) (mislabeling drugs with intent to kill and causing death); MCL 750.200(2)(e) (possession of a harmful biological, chemical, radioactive, or electronic device causing death). If a person is sentenced to life for any of the above crimes, that person is not eligible for parole. MCL 791.234(6).

The Court of Appeals has also held that a punishment of life without parole is constitutional for several of the above crimes. See *People v Brown*, 294 Mich App 377, 390–392; 811 NW2d 531 (2011) (upholding life without parole for certain recidivist sex offenders); *People v Poole*, 218

Mich App 702, 716; 555 NW2d 485 (1996) (upholding life without parole sentence for certain recidivist controlled substances offenses); *People v O'Donnell*, 127 Mich App 749, 755; 339 NW2d 540 (1983) (upholding life without parole sentence for placing explosives with intent to destroy which causes injury to the person).

Defendant cites to the recent changes to the Holmes Youthful Trainee Act (HYTA) to allow people up to the age of 26 to avoid a criminal record as a reason why this factor weighs in favor of finding that mandatory life without parole sentences are unconstitutional. MCL 762.11. Allegedly, during the Michigan House Judiciary Committee's hearing on the HYTA expansion to age 26, legislators cited developments in brain science in support of the change. See Defendant's Supplemental Brief, p. 18. Again, this simply demonstrates that a decision as to what class of defendant is entitled to what punishment in accordance with evolving standards of decency should be in the hands of the legislature where all voices and points of view can be heard during a deliberative process. Even so, the defendants eligible for HYTA are not committing premeditated murder. Defendants who commit certain crimes, such a felony for which the maximum penalty is imprisonment for life, are excluded. See MCL 762.11(3).

Unlike the defendant in *Parks*, who this Court noted could be only "one day older" than another defendant who was subjected to a discretionary sentence under *Miller*, here the difference would be two additional years between a discretionary sentence and a mandatory sentence. In terms of neurological development, there is a meaningful distinction between those who are 18 years old and those who are 20 and half years old. Since Michigan imposes life without parole sentences for several other crimes that are arguably not as heinous as premeditated murder and the concerns of the *Parks* Court regarding 17-year-olds versus 18-year-olds are not present in the same

way as for an 18-year-old versus a 20-year-old, this factor weighs in favor of finding mandatory life without parole sentences for a 20-year-old constitutional.

3. Factor Three: Numerous other states mandate life without parole for first-degree murder, thus Michigan is not an outlier.

Many other jurisdictions allow mandatory life without parole sentences for 20-year-old offenders. Sixteen other states[3] and the federal government[4] permit mandatory life without parole sentences for offenders who were 18 and older at the time of commission of the murder. *Parks*, 510 Mich at 263–264. Six states mandate life without parole for individuals 18 and older who commit murder with aggravating circumstances.[5] Washington and Massachusetts mandate life without parole for individuals 21 and over who commit murder with aggravating circumstances. Other than the Washington and Massachusetts, it appears from Defendant's own brief that no other jurisdiction around the country has granted the relief for which he is seeking via the court system for adults who were 20 at the time they committed murder. Other courts, such as Illinois and California, have left the decision to the legislature.

Illinois already did not require mandatory life without parole so their newly enacted legislation regarding when people under the age of 21 are eligible for parole for first-degree murder convictions does not necessarily assist Defendant on this issue. It was also Illinois' legislature, not the courts, that made the determination to prospectively abolish life without parole sentences for

[3] Alabama, Ala Code 13A-6-2(c); Arizona, Ariz Rev Stat Ann 13-1105(D); Arkansas, Ark Code Ann 5-10-101; Colorado, Colo Rev Stat 18-3-102 and 18-1.3-1201; Delaware, Del Code Ann, tit 11, §§ 636(b)(1) and 4209(a); Florida, Fla Stat 782.04(1)(a) and (b) and 775.082(1)(a); Iowa, Iowa Code 707.2 and 902.1(1); Louisiana, La Rev Stat Ann 14:30; Minnesota, Minn Stat 609.185 and 609.106; Mississippi, Miss Code Ann 97-3-21; Missouri, Mo Rev Stat 565.020; Nebraska, Neb Rev Stat 28-303 and 29-2520; New Hampshire, NH Rev Stat Ann 630:1-a; North Carolina, NC Gen Stat 14-17(a); Pennsylvania, 18 Pa Cons Stat 2502 and 1102; and South Dakota, and SD Codified Laws 22-16-4 and 22-6-1.

[4] 18 USC 1111.

[5] California, Cal. Penal Code 190.2; Connecticut, Conn. Gen. Stat. 53a-35a and 53a-54b; Hawai'i, Haw. Rev. Stat. 706-656 and 706-657; Kansas, Kan. Stat. Ann. 21-6620, 21-5401(a)(6), and 21-6617; Texas, Tex. Penal Code Ann. 12.31 and 12.32; and Vermont, Vt. Stat. Ann., tit 13, §§ 2303 and 2311.

most people aged 20 or younger. Through the legislative process, all the stakeholders would have had the opportunity to make their voices heard, a meaningful dialogue would take place, and necessary compromises made.

Defendant also cites to California's recognition of the mitigating factors of youth by its extension of parole hearings to include those under the age of 26 at the time of their offense. Youthful Offender Parole in California was enacted by the state legislature in 2013 to establish a parole mechanism for people who committed crimes before the age of 25 to provide them with the opportunity to obtain release if they can show they have been rehabilitated and gained maturity. But not all youthful offenders are eligible for parole hearings. The statute excludes, amongst others, offenders who are serving sentences of life in prison without the possibility of parole for a crime committed after the age of 18. Cal Penal Code 3501, *et seq*. Notably, in March of 2024, the California Supreme Court rejected a murderer's claim that California's Penal Code § 3501's exclusion of young adult offenders sentenced to life without parole was constitutionally invalid either on its face or as applied. *People v Hardin*, 15 Cal 5th 834 (2024).

The *Parks* Court found that this factor only weighed slightly in favor of an individualized sentencing procedure for the 18-year-old defendant in that case. *Parks*, 510 Mich at 262. Regarding a 20-year-old, this factor weighs in favor of finding mandatory life without parole constitutional.

4. Factor Four: Though the goal of rehabilitation is minimally present for a life without parole sentence, there is still a possibility of pardon or commutation. The goals of deterrence and punishment justify this sentence for the taking of a human life by an adult in a premeditated fashion.

Finally, this Court considers whether the punishment helps offenders to rehabilitate. While a mandatory lifetime sentence may not lend itself to the goal of rehabilitation, that does not necessarily make it unconstitutionally cruel or unusual punishment for an adult who committed the most heinous of crimes. Additionally, there are other goals of sentencing, such as "securing a

just and proper punishment as determined by a self-governing people and their representatives; the general deterrence of other potential criminal offenders; and the individual deterrence, and incapacitation, of the individual offender himself." *People v Manning*, 506 Mich 1033, 1036; 951 NW2d 905 (2020) (MARKMAN, J., concurring); See also *People v Fernandez*, 427 Mich 321, 339; 398 NW2d 311 (1986).

Allowing adults who committed murder the opportunity to receive parole and live a life, when they prevented someone else from living their life, intrinsically values the life of the murderer more than the victim. Life imprisonment, despite not being focused on rehabilitation, serves as deterrence and is a just punishment. This factor weighs in favor of finding mandatory life without parole constitutional.

5. Life without parole is a constitutional punishment as applied to Montario Taylor.

Defendant claims that his challenge to the constitutionality of mandatory life without parole is as applied. Defendant's Supplemental Brief, p 28. To the People's reading, however, Defendant's Supplemental Brief never makes an argument specific to him – just to 20-year-old "late adolescents" in general.[6]

Perhaps this is because Montario Taylor is not generally a sympathetic defendant. His mother apparently died when he was nine, but he also reported a happy and abuse-free childhood. PSIR, Family, p 6. At sentencing, the judge noted that Defendant's expression at trial never changed and said, "I don't know how someone so young can be so hardened as you were at this trial." 2/25/19 Tr, 9; Appx 006-b. An allegedly unstable childhood also does not justify premeditated murder. Montario Taylor walked into 45-year-old Montel Wright's home and shot

[6] Maybe one sentence in Defendant's conclusion is the as applied argument, but the People cannot discern if this is so.

him eight times for no known reason. Prior to that, on May 26, 2015, he was given HYTA with 24 months of probation for Possession with Intent to Deliver Cocaine Less than 50 grams. See Defendant's PSIR. He was arrested for the same charge on September 23, 2016, but it was dismissed after he was convicted of murder. *Id*. HYTA was revoked, and he was released from probation without improvement, on November 14, 2016. *Id*. Defendant was already given HYTA, a program designed for youthful offenders and failed to benefit. *Id*.

Defendant's PSIR described him as "a 22-year-old male who appears to have no regard for human life." *Id*. He admitted to the regular use of marijuana and, despite being 20 years old, had no regular employment. *Id*. While the victim's niece was addressing the court during sentencing and describing the hurt that he caused her family, she said,

> *And I see your smirks and all that. I can tell it really don't matter to you no more*. It really don't. But it matter to us because my children love Montel. We love Montel. Montel never hurt a fly. Never… But what you did to our family is horrible, horrible. My uncle will never come back. Your family can talk to you. You have a son, I know that, and you are going to talk to your son. He have [sic] three kids that he will never talk to and that's because of you. [2/25/19 Tr, 6; Appx 004-b (emphasis added)].[7]

As noted by the victim's niece, at the time of sentencing, Defendant had a three-year-old son. Thus, Defendant argues that when he was of an age where society deemed him capable and mature enough to parent a child, he was also so young that he possessed the attributes of youth that diminish the penological justifications for imposing the harshest sentences available under Michigan law. On the contrary, justice has been served by sentencing Defendant to life without parole.

[7] The victim's niece perfectly captures why a sentence of mandatory life without parole is proportional in the circumstances of premeditated murder both facially and as applied in this case. While Defendant may spend his life in prison, he can still visit with his family, know his son, and possibly pursue an education, work a prison job, or attend religious services, if he so chose. Montel Wright does not have those opportunities. Defendant took that from him.

Defendant's sentence is not unconstitutionally cruel or unusual punishment under the Michigan Constitution because his case does not meet the *Lorentzen* factors. This is true as both a facial challenge and an as applied challenge and even in light of *Parks*. There is no disputing Defendant was an adult, and had been for years, before he murdered Montel Wright in cold blood. The mitigating factors of youth need not be considered for his sentence.

6. Whether science can be used to justify considering the alleged mitigating factors of youth when sentencing a 20-year-old adult for premeditated murder is a policy issue that should not be dictated by a conjunction.

While it is true that both the United States Supreme Court and the Michigan Supreme Court have accepted certain brain science regarding the developing brain, that science should not be relied upon by the courts to extend the protections of *Miller* and *Parks* to a 20-year-old adult. That decision should be left to the public via the legislature. The People acknowledge that this argument was already rejected by this Court in *Parks*, so it is unlikely to be persuaded by it now. See *Parks*. 510 Mich at 255–256. This Court partially justified expanding the protections of *Miller* to 18-year-olds in *Parks* because the Michigan Constitution's use of the conjunction "or" instead of "and" makes it "broader" in scope than its federal counterpart. *Id*. at 241–242. It then used this conjunction to declare a legitimate policy determination made by the legislature unconstitutional. *Id*. at 247. The policy regarding how long 20-year-olds should be imprisoned for committing premeditated murder should not be left to most of this Court and a conjunction.

The *Parks* Court specifically noted the prosecution did not "attempt to refute the scientific consensus that, in terms of neurological development, there is no meaningful distinction between those who are 17 years old and those who are 18 years old" and now Defendant claims there is no meaningful distinction in terms of neurological development between 18-year-olds and 20-year-

olds. *Parks*, 510 Mich at 252.[8] Defendant refers to himself as a "late adolescent," but he is an adult who should be held responsible for his actions (the premeditated and deliberate murder of Montel Wright) in the manner the legislature has decided is appropriate for a person of his age (a lifetime of imprisonment without the possibility of parole). While the idea that the brain, specifically the prefrontal cortex, does not fully mature until age 25 has become an accepted generalization, the scientific community itself has no consensus as to when the brain is mature and how the maturity of the brain should even be evaluated.

Functional magnetic resonance imaging (hereinafter "fMRI") is the basis of cognitive neuroscience research. Logothetis, *What we can do and what we cannot do with fMRI*, Nature (NYC: MacMillan Publishers, 2008), p 869. [Appx 007-b]. While fMRI is widely used in cognitive neuroscience to look for changes in neural activity that correlate with particular cognitive processes, the conclusions are limited. *Id*. Even with increased sophistication and power, fMRI cannot itself be used to explain detailed neural mechanisms underlying cognitive capacities. [Appx 008-b]. Many have questioned whether the scientific community has overgeneralized the lack of self-control among adolescents because it is a big leap to go from a laboratory setting to the real world. Johansson et al, *CNS 2013, Press Release: Memory, the Adolescent Brain and Lying; Understanding the Limits of Neuroscientific Evidence in Law*, Cognitive Neuroscience Society (April 15, 2013), p 2 https://www.cogneurosociety.org/cns-2013-press-release-memory-the-adolescent-brain-and-lying-understanding-the-limits-of-neuroscientific-evidence-in-the-law/ (accessed December 10, 2024). [Appx 031-b]. Additionally, most neurological studies are at the group level and cannot speak to a particular individual in a particular situation. *Id*.

[8] In *Parks*, the Prosecution acknowledged the science referenced in previous case law and argued the Legislature should make the policy decision of where to set the age of majority for adult criminal sanctions, as is also asserted in this Brief and Justice Clement's dissent.

Structural and functional changes to the brain happen throughout a human's lifetime and there is no scientific agreement about the specific markers in the brain that define the boundary between adolescence and adulthood or immature and mature. Somerville, *Searching for Signatures of Brain Maturity: What Are We Searching For?* in Neuron (Cambridge, MA: CellPress, 2016), p 1164. [Appx 033-b]. In fact, "brain maturation is a multi-layered process that does not map on to a single developmental timeline." *Id*. Most of the science relied upon by *Parks* highlights brain plasticity but there is also an extraordinary amount of variation between individual brains and structural development happens for an extended period where some brain regions do not plateau even by the age of 30. *Id*. Gray matter pruning in the prefrontal cortex and brain development plasticity could also be based on experience to accommodate situational needs, and where needs vary across socioeconomic status, environment, and culture, the pruning and brain organization that happens during development could result in very different patterns. See Romer et al., *Beyond stereotypes of adolescent risk taking; Placing the adolescent brain in developmental context* in Developmental Cognitive Neuroscience (Philadelphia, PA: Elsevier, 2017), p 20. [Appx 038-b]. So, the gray matter pruning that happens in the prefrontal cortex could result "from the experience that adolescents gain during this period rather than a direct marker of increasing behavioral control." *Id*. at 19.

All this is to say, the human brain is very complex and the conclusions that can be drawn from the science are limited in a judicial setting. This is especially true when a court is trying to apply broad scientific studies to individual defendants. As Justice Clement argued in her *Parks* dissent, the judiciary is not well suited to venture into neuroscience. *Parks*, 510 Mich at 297.

Additionally, merely because a brain's maturation may be neurobiologically incomplete does not mean it is cruel or unusual punishment for a 20-year-old to be sentenced to life

imprisonment without the possibility of parole for premediated murder. Culturally and socially, a person is an adult in the United States at the age of 18 and, with very few exceptions, has all the privileges and responsibilities that come with that designation. To quote Judge Boonstra in his concurring *Czarnecki* opinion,

> [I]f the Supreme Court elects to overturn or further erode *Hall*, I would respectfully suggest that the people of Michigan deserve a clear and cogent articulation of why legal adults (or even minors) are categorically deemed under the law to be of sufficient maturity to exercise decision-making in the most weighty and consequential matters they will confront in our society during their lifetimes—with respect to such matters as voting, entering into marriage, entering into binding contracts, making a will, aborting the unborn, engaging in procreative activity, or taking measures to alter one's gender—but are not similarly deemed to be of sufficient maturity to be held accountable for the most grievously-imaginable criminal wrongdoing.
>
> It takes little imagination to foresee that the next scientific studies that will make their way into appellate briefing may posit that the human brain continues to develop until the age of 30, or perhaps 35, or possibly 60, or that in fact we all continue to develop and mature in our decision-making capabilities until we take our last breath. All the more reason for the judiciary to leave the evaluation of such matters to the people's policy-making representatives (who also should consider the need for consistency in the law), as Justice Scalia suggested in *Roper*, rather than for those of us in black robes to issue pronouncements that override them. *Czarnecki*, ___ Mich App ___ slip op at 6 (BOONSTRA, J., concurring in judgment).

Although slippery slope arguments are disfavored, the human brain matures and changes throughout a human's life. One could seriously query whether defendants with cognitive decline or neurodegenerative diseases at the time of their crime could soon claim that they too are neurologically less culpable and less deserving of the harshest punishment for the most severe crimes without individualized consideration. Brain development is a continuous process that does not adhere to a strict timeline and the brain remains plastic throughout life.

There is also a slippery slope argument regarding how much neuroimaging should be used to make legal conclusions. For example, it is currently possible for scientists to utilize fMRI to draw conclusions regarding whether a suspect is lying via brain-based lie detection, whether a

suspect has a memory of the crime via brain-based memory detection, and whether a suspect could be dangerous in the future via neuroprediction. Ligthart, *Coercive neuroimaging, criminal law, and privacy: a European perspective*, Journal of Law and the Biosciences (Oct 2019), p 3. [Appx 057-b]. If fMRI of human brains can be used to conclude that 18-, 19-, and 20-year-olds are not fully culpable for premeditated murder, then what is preventing the police from seeking consent from suspects to utilize these same technologies to conclude whether someone is guilty or for parole boards to predict whether a particular inmate is a recidivism risk if released.

Adulthood is an amalgamation of biological, social, psychological, and legal markers. Expanding the *Miller* factors, meant for juveniles, to 20-year-olds has additional ramifications.[9] It implies that the only true indicator of adulthood is brain development and that the other societal and legal benefits and responsibilities placed upon 19 and 20-year-olds are improper. As numerous courts have noted, the line needs to be drawn somewhere between an adult and a juvenile and 20 years old is too far. Defendant's sentence is constitutional, and his Application for Leave to Appeal should be denied.

[9] Because the *Miller* factors were designed for juveniles, the People wonder how fitting their application is to 20-year-olds. For example, it is unclear which family and home life the trial court would need to evaluate since many 20-year-olds in the judicial system live on their own and have children. Should the trial court evaluate the family and home life 20-year-olds had in their childhood, the family and home life they have created for themselves at the time of the murder if they live independently, or both? Surely, a 20-year-old is more capable than a 17-year-old of extricating themselves from a dysfunctional family and home life as they have the legal capacity to work full time, sign a residential lease, and obtain student loans to attend college.

II. It is unnecessary to overrule *People v Hall* for this Court to expand *People v Parks* to defendants who were 20 years of age at the time they commit premeditated murder, and this Court should not do so.

A. *Issue Preservation and Standard of Review*

Defendant raised this issue for the first time in his application for leave to appeal. It was not raised in the lower courts. It is therefore unpreserved. Unpreserved claims of constitutional error are reviewed for plain error. *People v Carines*, 460 Mich at 764. "To avoid forfeiture under the plain error rule, three requirements must be met: 1) error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights." *Id*. at 763. A de novo standard of review is applied to issues of law. *People v Anderson*, 322 Mich App 622, 634–635; 912 NW2d 607 (2018).

B. *Discussion*

This Court would not need to overturn *People v Hall* to extend *Parks* to 20-year-old defendants who committed premeditated murder, and this Court should not do so. In *Parks*, this Court stated that *Hall's* holding was not affected as to those older than 18. Thus, the Court of Appeals appropriately relied upon *Hall* to hold that sentences of mandatory life without parole are constitutional for those aged 19[10], 20[11], and 21[12]. In *People v Adamowicz (On Second Remand)*, 346 Mich App 213, 12 NW3d 35 (2023), the Court of Appeals not only held that *Hall* controlled its determination that a mandatory life without parole sentence was constitutional for a 21-year-old, but it also examined the *Lorentzen* factors and *People v Bollock*, as used in *Parks*, and came to the same conclusion. The Court of Appeals said, "But even if *Hall* was not binding, under our analysis of the *Lorentzen* factors, we would still hold that defendant's sentence was facially

[10] *People v Czarnecki (On Remand)*, ___ Mich App ___; ___ NW2d ___ (2023) (Docket No. 348732).
[11] In the case at hand – *People v Taylor (On Remand)*.
[12] *People v Adamowicz (On Second Remand)*, 346 Mich App 213, 12 NW3d 35 (2023).

constitutional, as well as constitutional as applied to him." *Adamowicz (On Second Remand)*, 346 Mich App at 232. This Court declined Adamowicz's application for leave to appeal. *People v Adamowicz*, 513 Mich 869, 995 NW2d 551 (2023).

Hall is still good law. This Court specifically stated in *Parks* that *Hall* remains unmodified for those individuals over the age of 18. This Court should not expressly overrule *Hall*.

1. *Hall* was narrowed by *Miller* and *Parks* but is still binding precedent.

People v Hall is still good law that has not been overruled *sub silentio* by the United States Supreme Court decisions and was only narrowed by *Parks*. The Supreme Court of the United States determined that the Eighth Amendment limits the authority of the state to impose a mandatory penalty of life without the possibility of parole on juvenile offenders. In *Graham v Florida*, 560 US 48; 130 S Ct 2011; 176 L Ed 2d 825 (2010), the United States Supreme Court stated, "[t]he age of 18 is the point where society draws the line for many purposes between childhood and adulthood," so those who were below that age when the offense was committed may not be sentenced to life without parole for a nonhomicide crime. *Graham v Florida*, 560 US at 74–75. In *Miller v Alabama*, 567 US 460; 132 S Ct 2455; 183 L Ed 2d 407 (2012), the United States Supreme Court explained that a mandatory sentence of life without the possibility of parole violated the Eighth Amendment when applied to juvenile offenders, "[b]y making youth (and all that accompanies it) irrelevant to imposition of that harshest prison sentence, such a scheme poses too great a risk of disproportionate punishment." *Id*. at 479. The Court stated that its categorical rule applied only to those offenders who committed their offenses before turning 18 years of age. *Id*. at 465.

In *Hall*, this Court found that mandatory life without parole sentences did not amount to cruel and/or unusual punishment under the United States or Michigan Constitutions. See *People v*

Hall, 396 Mich 650, 657–658; 242 NW2d 377 (1976) (upholding life without parole sentence for first-degree felony murder). In *Parks*, however, this Court held that it is cruel or unusual punishment under Michigan's Constitution to sentence 18-year-old defendants to mandatory life without parole because the sentence lacked proportionality since it failed to consider the mitigating characteristics of youth. *Parks*, 510 Mich at 267–268. According to this Court, "no meaningful neurological bright line exists between age 17 and 18" and so treating those two classes of defendants differently in the sentencing scheme was disproportionate to the point of being cruel under the Michigan Constitution. *Id*. at 266.

Hall has not been abrogated or overruled *sub silentio* by *Miller* or *Parks*. Even if defendant Hall was released after a *Miller* hearing, the facts of *Hall* do not change the legal holding of the case. *Parks* essentially narrowed the holding of *Hall* an additional year to a certain class of people (18-year-olds), but it did not affect the holding as to those older than 18. The *Parks* Court specifically observed, "our opinion today does not affect *Hall's* holding as to those older than 18." *Parks*, 510 Mich at 225 n 9.

2. The *Lorentzen* analysis in *Hall* is still applicable today.

Although *Parks* noted that *Hall* was decided prior to *Miller* and its progeny and without the scientific literature cited in *Parks*, this Court relied upon the same *Lorentzen* factors as *Hall* and still concluded that *Hall* is good law for individuals over the age of 18. *Parks*, 510 Mich at 241. The *Parks* Court agreed with the *Lorentzen* Court that the factors are informed by "evolving standards of decency that mark the progress of a maturing society" and the definition of this standard is "progressive and is not fastened to the obsolete but may acquire meaning as public opinion becomes enlightened by a humane justice." *Id*.; *People v Lorentzen*, 387 Mich 167, 178; 194 NW2d 827 (1972). Despite being decided in 1976, the punishment of mandatory lifetime

imprisonment is still a proportionate punishment for premeditated murder committed by those over the age of 18, Michigan is not necessarily an outlier in this punishment,[13] and rehabilitation and release are still possible by commutation or outright pardon. *Hall*, 396 Mich at 658. Thus, the analysis of the *Lorentzen* factors in *Hall* are not so out of date as to be inapplicable.

Hall also did not apply an outdated or non-binding standard for determining whether defendant's sentence was cruel or unusual. It held that "under *People v Lorentzen*,…the punishment exacted is proportionate to the crime." *Hall*, 396 Mich at 657–658. Pursuant to *Parks* and *Bullock*, the proportionality of the punishment is still central to determining whether it is cruel and or unusual. *Parks*, 510 Mich 254; *People v Bullock*, 440 Mich 15, 33–34; 485 NW2d 866 (1992). Although the *Hall* Court stated that mandatory life without the possibility of parole for the crime of felony murder does not shock the conscience, which was part of the standard of the time, that was not the full analysis or basis of the conclusion. The basis of the conclusion was that the punishment was proportionate to the crime. Thus, the analysis of *Hall* is still applicable today.

3. The Court of Appeals has appropriately relied upon *Hall* when deciding that mandatory sentences of lifetime imprisonment without the possibility of parole for committing the crime of premeditated murder are constitutional for individuals over the age of 18.

Defendant faults the Court of Appeals for relying upon *Hall*, alleging this the lower court "has repeatedly misinterpreted *Hall* as barring as-applied challenges." Defendant's Supplemental Brief, p 33. But, this Court has not *clearly* overruled or superseded *Hall*, and unless it does, the Court of Appeals is required to follow it as binding precedent. *Associated Builders & Contractors v City of Lansing*, 499 Mich 177, 191–192; 880 NW2d 765 (2016).[14] Even if the Court of Appeals

[13] This does not even take into consideration the large number of states that still allow the death penalty to be imposed for murder cases.

[14] The Michigan Supreme Court stated, "Although one can determine with relative ease whether a case was overruled by this Court, we acknowledge that it is not always easy to determine whether a case has been 'clearly overruled or superseded' by intervening changes in the positive law." *Associated Builders & Contractors*, 499 Mich at 191 n 32.

applied *Parks* instead of *Hall*, it correctly affirmed Defendant's sentence to mandatory lifetime imprisonment without parole for premeditated murder because *Parks* held that Const 1963, art 1, § 16 barred mandatory life without parole sentences for 18-year-old homicide offenders and Defendant was 20 years old and 7 months when he killed Montel Wright. *Parks* itself recognized *Hall* controlled as to defendants over the age of 18. *Parks*, 510 Mich at 255 n 9. Therefore, the Court of Appeals correctly noted in this case that, "[a]bsent further extension of *Parks* by the Supreme Court, we are bound by *Hall* and *Adamowicz* to reject defendant's argument that his mandatory life-without-parole sentence for first-degree murder is unconstitutional." *Taylor (On Remand)*, unpub op at 2.

Given the gravity of the crime and the cruelty in which he committed it, even if the Court of Appeals had used an as-applied analysis in this case, it would have found Defendant's sentence constitutional as it did for a 21-year-old in *Adamowicz*. The *Adamowicz* Court specifically analyzed the *Lorentzen* factors post-*Miller* and its progeny, post-*Parks*, and with the science relied upon by those cases, and found a mandatory sentence of lifetime imprisonment for first-degree murder was constitutional.

4. This Court should not overrule *Hall*.

This Court does not have to overrule *Hall* to expand the protections of *Miller* and *Parks* to 19- and 20-year-olds and it should not do so. If it is so inclined, it should simply carve out an exception for 19-and 20-year-olds as it did for 18-year-olds in *Parks*. *Hall* still applies to adults. Even if this Court concludes that those aged 19- or 20-years-old are not fully culpable adults for the purpose of a mandatory life without parole sentence, *Hall* applies to everyone else aged 21 and older. If this Court overrules *Hall*, it leaves the door open for all adults in Michigan to file motions and argue that their sentence of mandatory life without parole is unconstitutional and they are

entitled to a hearing – upending the finality victims' families across the state previously enjoyed and wreaking chaos in the judicial system. This is especially true for those aged 21–25 since the science this Court relied upon to expand the protections of *Miller* in *Parks*, at this time anyhow, concludes that there is substantial neurological development until at least age 25.

Additionally, neither is *Hall* out of step with societal norms, as asserted by Defendant.[15] This Court was the entity that expanded the protections of *Miller* to 18-year-olds by a 4-3 margin, not the Legislature. The United States Supreme Court has drawn the line of adulthood at 18 regarding mandatory lifetime punishments. The Legislature is the body that reflects the views of the electorate, gathers facts from a wide range of sources, and engages in a deliberative process to decide policy that reflects the norms of society. At this time, there has been no statewide ballot initiative, referendum, constitutional amendment, or legislation that has adopted the stance that people aged 19- or 20-years-old should not be subject to mandatory lifetime imprisonment for committing the most heinous crime of pre-meditated murder. Indeed, there has been no seemingly consequential public outcry that *Parks* did not go far enough.

The unanimous[16] *Hall* decision is also not poorly reasoned. In conformity with other opinions issued by the Michigan Supreme Court in 1976, it may be considered sparse by today's standards, but that does not make it ill-reasoned. The *Hall* Court properly utilized and analyzed the *Lorentzen* factors. *Hall*, 396 Mich at 657–658. Defendant's claim that no litigant, lower court,

[15] Defendant cites to a poll that shows participants in Colorado do not believe mandatory life without parole is morally justified in the case of unintentional killings in the course of a felony (inapplicable as felony-murder requires malice in Michigan) or felony murder scenarios with heightened culpability to make this point. Defendant's Supplemental Brief, p 38. The point is inapposite here, however, since this case does not involve felony murder. It involves the premeditated and deliberate murder of another human being. Montario Taylor intentionally walked into Montel Wright's house, shot him at least 8 times for no known reason, and left the scene. As far as the People can tell, Defendant cannot cite to a poll that shows the people of Michigan believe life without the possibility of parole is morally unjustified for adult cold-blooded murderers.

[16] Two justices concurred separately regarding prosecutorial misconduct, not life without parole. *Hall*, 396 Mich at 659.

or Legislature could predict whether a particular sentence is cruel or unusual or identify the relevant legal standards after reading *Hall* are clearly untrue. There are dozens of cases that have relied upon and cited to *Hall* to analyze whether a statute imposes cruel and/or unusual punishment. *People v Meeks*, 92 Mich App 433, 439–442; 285 NW2d 318 (1979); *O'Donnell*, 127 Mich App at 754–755; *Brown*, 294 Mich App at 390; 811 NW2d 531 (2011); and *Adamowicz*, 346 Mich App at 220–232. Defendant cites to many of the cases that rely upon *Hall* in his Brief and faults the Court of Appeals for doing so. Defendant's Supplemental Brief, p 33, fn 30.

It is unnecessary for this Court to overrule *Hall*. If this Court chooses to expand the protections of *Miller* to 19- and 20-year-old defendants, it should do so by further carving out an exception to *Hall*, as it did for *Parks*. If this Court elects to do so, it should also expressly address why 19- and 20-year-olds who have been deemed legally and socially mature enough to make many of the most consequential decisions of a lifetime at their age are apparently unable to be held accountable for the premeditated and deliberate murder of another human being via a mandatory life without parole sentence.

CONCLUSION

Defendant's mandatory life-without-parole sentence as a 20-year-old adult offender does not violate the Michigan Constitution's prohibition against cruel or unusual punishment in light of *Parks*. Even without *Hall*, Defendant's argument does not pass muster as cruel or unusual punishment under the *Lorentzen* factors either facially or as applied. Furthermore, the brain science relied upon by Defendant does not support his argument that his sentence is unconstitutional given the heinous crime he committed. Human brains both develop and decline. MCL 750.316(1)(a) is not *clearly* unconstitutional. This Court must presume it is constitutional, proportional, and valid. Defendant has not overcome the presumptions.

Defendant murdered Montel Wright. His family has had to endure his absence since 2016. As of 2019, they had some semblance of closure regarding his death. Resentencing Defendant to something less than lifetime imprisonment without parole would undo the justice obtained for Montel Wright and his family.

RELIEF

WHEREFORE, the People of the State of Michigan, through David S. Leyton, Prosecuting Attorney in and for the County of Genesee, by Katie R. Jory, Assistant Prosecuting Attorney, respectfully requests that this Honorable Court DENY Defendant's Application for Leave to Appeal.

Respectfully Submitted,

DAVID S. LEYTON
PROSECUTING ATTORNEY
GENESEE COUNTY

/s/ Katie R. Jory
Katie R. Jory (P78698)
Assistant Prosecuting Attorney

DATED: December 13, 2024

WORD COUNT CERTIFICATION

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/s/ Katie R. Jory
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