



1 **MLEV**
2 CHRISTOPHER M. PETERSON
3 Nevada Bar No. 13932
4 **AMERICAN CIVIL LIBERTIES**
5 **UNION OF NEVADA**
6 4362 W Cheyenne Ave.
7 North Las Vegas, NV 89032
8 Telephone: (702) 366-1226
9 Facsimile: (702) 718-3213
10 Email: peterson@aclunv.org

11 *Counsel for proposed amicus curiae ACLU*
12 *of Nevada and Juvenile Law Center*

13 **EIGHTH JUDICIAL DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 JOHNNY EARL BAGGETT,

16 Petitioner,

17 vs.

18 JEREMY BEAN, ET AL.,

19 Respondents.

Case No.: A-24-894507-W

Department: XXIII

HEARING NOT REQUESTED

20 **AMERICAN CIVIL LIBERTIES UNION OF NEVADA AND JUVENILE LAW**
21 **CENTER'S MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE IN**
22 **SUPPORT OF PETITIONER**

23 The American Civil Liberties Union of Nevada and Juvenile Law Center by and through
24 their attorney of record, hereby respectfully move this Court for an order granting leave to file a
25 brief as amicus curiae in support of Petitioner. The proposed amicus brief is attached as an
26 exhibit to this motion.

27 **MEMORANDUM IN SUPPORT OF MOTION**

The Nevada Supreme Court has previously determined that district courts may grant leave to file amicus curiae briefs. *See Hairr v. First Jud. Dist. Ct.*, 132 Nev. 180, 188, 368 P.3d 1198,

1 1203 (2016) (upholding district court’s order authorizing an amicus brief in lieu of permissive
2 intervention). As the *Hairr* Court observed, “where he presents no new questions, a third party can
3 contribute usually most effectively and always most expeditiously by a brief *amicus curiae*” rather
4 than more invasive forms of participation such as intervention. *Id.* (quotation omitted). Other
5 courts have recognized that under circumstances where “there is no inherent right to file an amicus
6 curiae brief with the Court,” a court may in its discretion “grant leave to appear as *amicus* if the
7 information offered is timely and useful.” *League to Save Lake Tahoe v. Tahoe Reg’l Plan. Agency*,
8 No. 3:09-CV-478-RCJ-RAM, 2011 WL 3847185, at *15 (D. Nev. Aug. 30, 2011) (ruling on a
9 motion to leave when the local rules of practice did not address when an amicus brief may be
10 filed), vacated and remanded on other grounds, 497 F. App’x 697 (9th Cir. 2012) (quoting *Long v.*
11 *Coast Resorts, Inc.*, 49 F. Supp. 2d 1177, 1178 (D. Nev. 1999)). The proposed amicus brief in the
12 instant case is both timely and useful.

13 **The American Civil Liberties Union of Nevada (ACLU NV)** is a state affiliate of the
14 national ACLU, a nonprofit, nonpartisan organization that has been the nation’s guardian of liberty
15 for over 100 years. ACLU NV works to defend and preserve the individual rights and liberties that
16 the Constitution and the laws of the United States guarantee everyone in this country. As part of
17 this mission, the ACLU NV regularly engages in litigation and advocacy on behalf people, both
18 accused and convicted, in Nevada’s criminal legal system and prisons, which would include people
19 entitled to protection under Article 1, Section 6, of the Constitution of the State of Nevada. ACLU
20 NV also actively litigates claims brought pursuant Nevada’s state constitution and has an interest
21 in ensuring that the Nevada’s constitution is properly interpreted to provide all Nevadans with the
22 rights and protections they are entitled to under state law.

23 **Juvenile Law Center** fights for rights, dignity, equity, and opportunity for youth. Juvenile
24 Law Center works to reduce the harm of the child welfare and justice systems, limit their reach,
25 and ultimately abolish them so all young people can thrive. Founded in 1975, Juvenile Law Center
26 is the first non-profit public interest law firm for children in the country. Juvenile Law Center’s
27 legal and policy agenda is informed by—and often conducted in collaboration with—youth, family

1 members, and grassroots partners. Since its founding, Juvenile Law Center has filed influential
2 amicus briefs in state and federal courts across the country to ensure that laws, policies, and
3 practices affecting youth advance racial and economic equity and are consistent with children's
4 unique developmental characteristics and human dignity.

5 The proposed amicus brief is relevant to the disposition of this case because it highlights
6 current scientific research on brain development in older adolescents relevant to Nevada law and
7 policy. It provides support for interpreting Article I, Section 6 of the Nevada Constitution as more
8 protective than the Eighth Amendment of the U.S. Constitution and outlines why a mandatory life
9 without parole sentence for youth under 21 is cruel or unusual punishment in violation of the
10 Nevada Constitution. Nev. Const. art. I, § 6; U.S. Const. amend. VIII. The brief highlights
11 persuasive authority on the issue, offers legislative examples underscoring the trend across the
12 country to afford heightened sentencing protections to youth under age 21, and highlights how
13 Nevada and other states already recognize the importance of unique protections for young adults.

14 The proposed amicus brief is timely. The Court has not yet rendered a decision on the
15 petition, and the parties' briefing in regard to the petition is ongoing. To the extent the Court
16 considers it persuasive authority, the amicus brief is timely per the Nevada Rules of Appellate
17 Procedure 29(f).

18 **WHEREFORE**, the ACLU NV and Juvenile Law Center respectfully request this Court
19 grant leave to file the attached brief as amicus curiae in support of Petitioner and docket the amicus
20 brief as timely filed.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

DATED this 12th day of January 2026.

This document does **not** contain the Social Security number of any person. Pursuant to NRS 53.045, I declare under penalty of perjury that the foregoing is true and correct.

/s/ Christopher Peterson
CHRISTOPHER M. PETERSON
Nevada Bar No. 13932
AMERICAN CIVIL LIBERTIES UNION OF NEVADA
4362 W Cheyenne Ave.
North Las Vegas, NV 89032
Telephone: (702) 366-1226
Facsimile: (702) 718-3213
Email: peterson@aclunv.org

*Counsel for proposed amicus curiae
ACLU of Nevada and Juvenile Law Center*

Exhibit 1

**BRIEF OF AMICUS CURIAE
AMERICAN CIVIL LIBERTIES UNION
OF NEVADA AND JUVENILE LAW
CENTER IN SUPPORT OF
PETITIONERS' PETITION FOR WRIT
OF HABEAS CORPUS**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

BREF
CHRISTOPHER M. PETERSON
Nevada Bar No. 13932
AMERICAN CIVIL LIBERTIES
UNION OF NEVADA
4362 W Cheyenne Ave.
North Las Vegas, NV 89032
Telephone: (702) 366-1226
Facsimile: (702) 718-3213
Email: peterson@aclunv.org

*Counsel for proposed amicus curiae ACLU
of Nevada and Juvenile Law Center*

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

JOHNNY EARL BAGGETT, Petitioner
vs.
JEREMY BEAN, *et al.*, Respondents,

Case No. A-24-894507-W
Dept. No. XXIII

BRIEF OF *AMICUS CURIAE*
AMERICAN CIVIL LIBERTIES
UNION OF NEVADA AND
JUVENILE LAW CENTER IN
SUPPORT OF PETITIONERS’
PETITION FOR WRIT OF HABEAS
CORPUS

TABLE OF CONTENTS

1

2 **STATEMENT OF INTEREST**..... 1

3 **ARGUMENT**..... 2

4 **I. Article 1, Section 6 of the Nevada Constitution, which prohibits “cruel or unusual**

5 **punishments,” should be read as offering broader protection than the Eighth**

6 **Amendment.** 3

7 **A. A plain reading of Article 1, Section 6 demonstrates that the “cruel or unusual”**

8 **provision of Nevada Constitution is more protective than the Eighth Amendment.**

9 4

10 **B. Other states’ precedent supports interpreting Nevada’s “cruel or unusual”**

11 **provision as more protective than the Eighth Amendment.** 7

12 **C. History and state-specific context further support a broader, more protective,**

13 **reading of the “cruel or unusual” provision.** 11

14 **1. History of the “cruel or unusual” provision**..... 12

15 **2. Nevada’s history of protecting individual rights** 14

16 **II. Neuroscientific research relied upon by several state supreme courts supports**

17 **affording older adolescents the same sentencing protections afforded to youth**

18 **under 18 years of age** 15

19 **III. Evolving standards of decency recognize the need for unique protections for older**

20 **adolescents** 19

21 **A. Many jurisdictions and professional associations afford older adolescents**

22 **heightened protections in the criminal legal system.**..... 20

23 **B. States and the federal government have set the age of adulthood above 18 for the**

exercise of many rights and responsibilities. 21

IV. CONCLUSION 24

TABLE OF AUTHORITIES

Cases

Anderson v. State, 109 Nev. 1129 (1993) 5

Armstrong v. Harris, 773 So. 2d 7 (Fla. 2000)..... 6, 7

ASAP Storage, Inc. v. City of Sparks, 123 Nev. 639 (2007)..... 4, 12

Atwater v. Lago Vista, 532 U.S. 318 (2001)..... 14

City of Reno v. Citizens for Cold Springs, 126 Nev. 263 (2010)..... 4

Coast Hotels & Casinos, Inc. v. Nevada State Labor Comm’n, 117 Nev. 835 (2001) 4, 5

Commonwealth v. Mattis, 224 N.E.3d 410 (Mass. 2024)..... 7, 15

Dawson v. State, 554 S.E.2d 137 (Ga. 2001)..... 11

Dist. Attorney for Suffolk Dist. v. Watson, 381 Mass. 648 (1980)..... 9, 10

Fleming v. Zant, 386 S.E.2d 339 (Ga. 1989)..... 10

Fletcher v. State, 532 P.3d 286 (Alaska Ct. App. 2023)..... 10

Foster v. State, 116 Nev. 1088 (Nev. 2000) 15

Fredricks v. City of Las Vegas, 76 Nev. 418 (1960)..... 6

Gallagher v. City of Las Vegas, 114 Nev. 595 (1998) 4

Graham v. Florida, 560 U.S. 48 (2010) 2, 19

Harmelin v. Michigan, 501 U.S. 957 (1991) 5, 8

Jensen v. Sheriff, White Pine Cty., 89 Nev. 123 (1973)..... 5

Matter of Monschke, 197 Wash.2d 305 (Wash. 2021) 7

McCarran Int’l Airport v. Sisolak, 122 Nev. 645 (2006) 15

Mickle v. Henrichs, 262 F. 687 (D. Nev. 1918)..... 6

Miller v. Alabama, 567 U.S. 460 (2012)..... 2

Montgomery v. Louisiana, 577 U.S. 190 (2016) 2

Naovarath v. State, 779 P.2d 944 (Nev. 1989) 3

Oregon v. Kennedy, 456 U.S. 667 (1982)..... 14

People v. Anderson, 493 P.2d 880 (Cal. 1972)..... 10, 13

People v. Briscoe, 105 Cal. App. 5th Dist. 479 (2024)..... 20

People v. Taylor, Nos. 166428 & 166654, 2025 WL 1085247 (Mich. Apr. 10, 2025).... 7, 8, 9, 15

Roberts v. State, 110 Nev. 1121 (1994)..... 14

Roper v. Simmons, 543 U.S. 551 (2005)..... 2, 19

1	<i>S.O.C., Inc. v. Mirage Casino-Hotel</i> , 23 P.3d 243 (Nev. 2001)	3
2	<i>Spencer v. Klementi</i> , 136 Nev. 325, 466 P.3d 1241 (2020).....	5
3	<i>State v. Bassett</i> , 192 Wash. 2d 67 (2018)	8, 9
4	<i>State v. Bayard</i> , 119 Nev. 241 (2003).....	14
5	<i>State v. Catanio</i> , 120 Nev. 1030 (2004).....	5
6	<i>State v. Comer</i> , 249 N.J. 359 (2022).....	10
7	<i>State v. Gerald</i> , 113 N.J. 40 (1988)	11
8	<i>State v. Gregory</i> , 192 Wash. 2d 1 (2018)	10
9	<i>State v. Hassan</i> , 977 N.W.2d 633 (Minn. 2022) (Chutich, J., concurring).....	9
10	<i>State v. Mata</i> , 745 N.W.2d 229 (Neb. 2008)	11
11	<i>State v. Perry</i> , 610 So.2d 746 (La. 1992).....	8
12	<i>State v. Santiago</i> , 122 A.3d 1 (Conn. 2015)	10
13	<i>State v. Sweet</i> , 879 N.W.2d 811 (Iowa 2016)	10
14	<i>State v. Vang</i> , 847 N.W.2d 248 (Minn. 2014)	9
15	<i>Thomas v. Eighth Judicial Dist. Court in and for Cty. of Clark</i> , 133 Nev. 468 (2017).....	14
16	<i>United States v. Bagley</i> , 473 U.S. 667 (1985)	15
17	<i>Van Tran v. State</i> , 66 S.W.3d 790 (Tenn. 2001).....	10
18	<i>Zahavi v. State</i> , 131 Nev. 51 (2015)	13
19	Statutes	
20	13 R.I. Gen. Laws Ann. § 13-8-13(e)	20
21	42 U.S.C.A. § 675(8)(B).....	22
22	730 Ill. Comp. Stat. 5/5-4.5-115(b).....	20
23	730 Ill. Comp. Stat. 5/5-4.5-115(j)	20
	Cal. Penal Code § 3051.....	20
	Cal. Penal Code § 4801(c)	20
	Conn. Gen. Stat. Ann. § 54-125a(g)	20
	Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, § 2NI603, 133	
	Stat. 2534 (2019).....	22
	National Minimum Drinking Age Act, 23 U.S.C.A. § 158 (2012).....	22
	Wyo. Stat. Ann. §§ 7-13-1002 & 1003	20

Other Authorities

A.B. 1308, Reg. Sess. (Cal. 2017) 20

A.B.A., Res. 502 & Report to H.D. (Aug. 8-9, 2022),
<https://www.americanbar.org/content/dam/aba/directories/policy/annual-2022/502-annual-2022.pdf> 21

Alamo FAQs, *Renting a Car Under 25*, <https://www.alamo.com/en/customer-support/car-rental-faqs/age-to-rent-a-car.html>..... 22

Alexander Korsager, *Legal Gambling Age in Every US State and Where You Can Gamble*,
<https://www.casino.org/us/local/guide/>..... 22

Alexander Weingard et al., *Effects of Anonymous Peer Observation on Adolescents’ Preference for Immediate Rewards*, 17 Dev. Sci. 71 (2013)..... 16

Alexandra Cohen et al., *When Does a Juvenile Become an Adult? Implications for Law and Policy*,
 88 Temple L. Rev. 769 (2016),
<https://www.templelawreview.org/lawreview/assets/uploads/2016/08/Cohen-et-al-88-Temp.-L.-Rev.-769.pdf>..... 17

Alexandra Cohen et al., *When is an Adolescent an Adult? Assessing Cognitive Control in Emotional and Nonemotional Contexts*, 27 Psych. Sci 549 (2016),
http://www.manateelab.org/pdfs/Cohen_PsycholSci_2016.pdf..... 17

Andrew J. Marsh, Samuel L. Clemens, & Amos Bowman, *Reports of the 1863 Constitutional Convention of the Territory of Nevada* (William C. Miller et al. eds., 1972) . 12, 13

Andrew Marsh, *Official Report of the Debates and Proceedings in the Constitutional Convention of the State of Nevada* (Eastman 1866)..... 12, 13

Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 116 (2012) 5

D.C. Law 23-274 § 601, 68 D.C. Reg. 1034 (Apr. 27, 2021)..... 21

Elizabeth Scott et al., *Young Adulthood as a Transitional Legal Category: Science, Social Change, and Justice Policy*, 85 Fordham L. Rev. 641 (2016), https://fordhamlawreview.org/wp-content/uploads/2016/11/ScottBonnieSteinberg_November.pdf..... 17, 18

Free Application for Federal Student Aid. *See* Federal Student Aid, *Dependency Status*,
<https://studentaid.gov/apply-for-aid/fafsa/filling-out/dependency> 23

1	Gardner & Steinberg, <i>Peer Influence on Risk Taking, Risk Preference, and Risky Decision</i>	
2	<i>Making in Adolescence and Adulthood: An Experimental Study</i> , 41 Dev. Psych. 625 (2005),	
3	https://faculty.weber.edu/eamsel/Classes/Applying%20Psychology/Adolescence%20140/Readings/Gardner%20&%20Steinberg%20(2005).pdf	18
4	H.B. 853, 2025 Gen. Assemb., Reg. Sess. (Md. 2025).....	21
5	Kate Bryan, <i>Cannabis Overview</i> , National Conference of State Legislatures (2024),	
6	https://www.ncsl.org/civil-and-criminal-justice/cannabis-overview	22
7	Kathryn Monahan et al., <i>Juvenile Justice Policy and Practice: A Developmental Perspective</i> , 44	
8	Crime & Just. 577 (2015).....	16, 18
9	Laurence Steinberg, <i>A Social Neuroscience Perspective on Adolescent Risk-Taking</i> , 28 Dev.	
10	Rev. 78 (2008), https://faculty.weber.edu/eamsel/Research%20Groups/Dual%20Process%20Research/New%20Papers/Steinberg%20(2008).pdf	18
11	Lila Kazemian, <i>Pathways to Desistance from Crime Among Juveniles and Adults: Applications to</i>	
12	<i>Criminal Justice Policy and Practice</i> , Nat. Inst. Just. (2021), https://www.ojp.gov/pdffiles1/nij/301503.pdf	18
13	Nat'l Acad. Scis., Eng'g & Med., <i>The Promise of Adolescence: Realizing Opportunity for All</i>	
14	<i>Youth 22</i> (Richard Bonnie & Emily Backes eds., 2019).....	16
15	Rolf Loeber et al., <i>Age-Crime Curve</i> , in <i>Encyclopedia of Criminology and Criminal Justice</i> 12	
16	(Jay Albanese ed., 2014).....	18
17	U.S. Dep't Health & Hum. Servs., <i>Extension of Foster Care Beyond Age 18</i> (2022)	
18	https://www.childwelfare.gov/resources/extension-foster-care-beyond-age-18/	22
19	United States Sentencing Commission, <i>Guidelines Manual 2024: Supplement to Appendix C</i> , 272-	
20	73 (Nov. 2024) (Amendment 829 to §	
21	5H1.1), https://www.ussc.gov/sites/default/files/pdf/guidelines-	
22	manual/2024/APPENDIX_C_Supplement.pdf	21
23	William Lipovsky, <i>Minimum Age to Rent a Car in Each State</i> , First Quarter Finance (2023),	
	https://firstquarterfinance.com/minimum-age-to-rent-a-car/	22
	Regulations	
	42 U.S.C.A. § 300gg-14.....	23
	49 C.F.R § 391.11(b)(1).....	22

1	Constitutional Provisions	
2	Cal. Const., art. 1, § 27	13
3	Cal. Const., art. I, § 27	10
4	Mass. Const. Pt. 1, art. XXVI	8
5	Mich. Const. art. 1, § 16.....	7
6	N.J. Const. art. 1, ¶ 12.....	11
7	Nev. Const. art. 1, § 6	4
8	Nev. Const. art. 1, § 8	15
9	U.S. Const. amend. VIII.....	4
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		

1 **STATEMENT OF INTEREST**

2 The American Civil Liberties Union of Nevada (ACLU NV) is a state affiliate of the
3 national ACLU, a nonprofit, nonpartisan organization that has been the nation’s guardian of liberty
4 for over 100 years. ACLU NV works to defend and preserve the individual rights and liberties that
5 the Constitution and the laws of the United States guarantee everyone in this country. As part of
6 this mission, the ACLU NV regularly engages in litigation and advocacy on behalf people, both
7 accused and convicted, in Nevada’s criminal legal system and prisons, which would include people
8 entitled to protection under Article 1, Section 6, of the Constitution of the State of Nevada. ACLU
9 NV also actively litigates claims brought pursuant Nevada’s state constitution and has an interest
10 in ensuring that the Nevada’s constitution is properly interpreted to provide all Nevadans with the
11 rights and protections they are entitled to under state law.

12 Juvenile Law Center fights for rights, dignity, equity, and opportunity for youth. Juvenile
13 Law Center works to reduce the harm of the child welfare and justice systems, limit their reach,
14 and ultimately abolish them so all young people can thrive. Founded in 1975, Juvenile Law Center
15 is the first non-profit public interest law firm for children in the country. Juvenile Law Center’s
16 legal and policy agenda is informed by—and often conducted in collaboration with—youth, family
17 members, and grassroots partners. Since its founding, Juvenile Law Center has filed influential
18 amicus briefs in state and federal courts across the country to ensure that laws, policies, and
19 practices affecting youth advance racial and economic equity and are consistent with children’s
20 unique developmental characteristics and human dignity.

1 **ARGUMENT**

2 A clear scientific consensus confirms that older adolescents (youth age 18– 21) share the
3 same key developmental characteristics as youth under 18 that warrant heightened legal
4 protections in sentencing. *Roper v. Simmons*, 543 U.S. 551 (2005) (abolishing the death penalty
5 for youth under 18); *Graham v. Florida*, 560 U.S. 48 (2010) (abolishing life without parole
6 (hereinafter “LWOP”) sentences for youth under 18 who commit non-homicide offenses); *Miller*
7 *v. Alabama*, 567 U.S. 460 (2012) (abolishing mandatory LWOP for homicide offenses by youth
8 under 18). The Supreme Court has repeatedly relied on three defining characteristics of youth that
9 make them less culpable than adults: (1) impulsivity, impetuosity, and a lack of maturity; (2) a
10 susceptibility to outside influences; and, most significantly, (3) the capacity for change. *See*
11 *Montgomery v. Louisiana*, 577 U.S. 190, 206-07 (2016) (quoting *Miller*, 567 U.S. at 471).
12 Although the Court recognized that the “qualities that distinguish juveniles from adults do not
13 disappear when an individual turns 18,” the Supreme Court nevertheless drew the line at 18 for
14 purposes of sentencing because at the time that appeared to be “where society draws the line for
15 many purposes between childhood and adulthood.” *Roper*, 543 U.S. at 574.

16 Over the last 20 years, however, society has shifted where it draws the line. The scientific
17 literature on older adolescents (youth older than 18) has continued to develop and now offers
18 substantial evidence that the unique characteristics of youth that make young people less culpable
19 and less deserving of extreme sentences do not end at age 18. Meanwhile, many states, including
20 Nevada, as well as the federal government have extended the cutoff line between childhood and
21 adulthood into the early to mid-twenties through legislation and policy on a wide array of criminal
22 and civil issues, from parole eligibility and resentencing to foster and healthcare law, as well as
23 laws governing dangerous and addictive activities.

1 While the U.S. Supreme Court has not revisited the line it drew twenty years ago, Nevada
2 courts, like other state courts to address the issue, should recognize that heightened constitutional
3 protections should apply to older adolescents in keeping with developmental status and the
4 growing national consensus. As the Nevada Supreme Court has repeatedly affirmed, any right
5 enshrined in the federal constitution merely “establishes a minimum national standard . . . and does
6 not inhibit state governments from affording its citizens greater protections for such rights.”
7 *S.O.C., Inc. v. Mirage Casino-Hotel*, 23 P.3d 243, 250 (Nev. 2001). The Nevada Supreme Court
8 has held life without parole sentences unconstitutional in other contexts even when the U.S.
9 Supreme Court has not yet ruled on the issue. *See Naovarath v. State*, 779 P.2d 944, 947 (Nev.
10 1989) (holding that a 13-year-old may not be sentenced to life without parole in violation of the
11 United States and Nevada constitutions). This Court, like other courts to consider the issue, should
12 similarly conclude that the state constitution proscribes LWOP sentences for emerging adults as
13 cruel or unusual punishment.

14 **I. Article 1, Section 6 of the Nevada Constitution, which prohibits “cruel or**
15 **unusual punishments,” should be read as offering broader protection than the**
16 **Eighth Amendment.**

17 There is no question that the rights afforded by the federal constitution “establish[] a
18 minimal national standard” which serves as a floor upon which the state may build in providing
19 its citizens even greater protection. *S.O.C., Inc.*, 117 Nev. at 414. Through Article 1, Section 6 of
20 its Constitution, Nevada has done just that, extending the Eighth Amendment’s protection from
21 “cruel and unusual punishment” to reach punishments that are either cruel or unusual.

22 Meaningful analysis shows that the distinction between “cruel and unusual” and “cruel or
23 unusual” is a substantive one. The plain language of this provision makes this clear, as does the
treatment of similarly worded provisions in other states, and this Court’s dedication to zealously

1 safeguarding the greater rights enshrined in Nevada’s Constitution. These tools of construction
2 make clear that the “cruel or unusual” provision offers greater protection than the federal standard,
3 such that the sentence of life without parole merits more rigorous scrutiny under the Nevada
4 Constitution than under the Eighth Amendment.

5 **A. A plain reading of Article 1, Section 6 demonstrates that the “cruel or**
6 **unusual” provision of Nevada Constitution is more protective than the**
7 **Eighth Amendment.**

8 In determining the meaning of any provision of the Nevada Constitution, courts must “give
9 that provision its plain effect, unless the language is ambiguous.” *ASAP Storage, Inc. v. City of*
10 *Sparks*, 123 Nev. 639, 645–46 (2007). Language is considered ambiguous only when “it is
11 susceptible to ‘two or more reasonable but inconsistent interpretations.’” *Id.* (quoting *Gallagher*
12 *v. City of Las Vegas*, 114 Nev. 595, 599 (1998)). “[W]hen a constitutional
13 provision’s language is clear on its face, [courts] may not go beyond that language in determining
14 the framers’ intent.” *Id.* at 646. Additionally, courts must construe “each sentence, phrase, and
15 word,” *Coast Hotels & Casinos, Inc. v. Nevada State Labor Comm'n*, 117 Nev. 835, 841 (2001),
16 in such a way “that gives meaning to all of the terms and language.” *City of Reno v. Citizens for*
17 *Cold Springs*, 126 Nev. 263, 274 (2010).

18 Here, the language of Article 1, Section 6 bars the State from inflicting “cruel *or* unusual”
19 punishments, Nev. Const. art. 1, § 6 (emphasis added), while the Eighth Amendment bars
20 punishments that are “cruel *and* unusual.” U.S. Const. amend. VIII (emphasis added). The Nevada
21 Constitution drafters’ selection of the disjunctive “or” rather than the conjunctive “and” is
22 significant, unambiguous, and requires a plain meaning analysis. Such analysis yields only one
23 conclusion: the Nevada Constitution prohibits punishment that is *either* cruel or unusual. Unlike
the Eighth Amendment, this prohibition reaches punishments that are cruel, but not unusual, and

1 | punishments that are unusual, but not cruel. *See* Antonin Scalia & Bryan A. Garner, *Reading Law:*
2 | *The Interpretation of Legal Texts* 116 (2012) (“Under the conjunctive/disjunctive canon, *and*
3 | combines items while *or* creates alternatives.”). This distinction is not trivial, as Eighth
4 | Amendment claims are regularly dismissed where the challenged punishment is not deemed *both*
5 | cruel *and* unusual. *See, e.g., Harmelin v. Michigan*, 501 U.S. 957, 994 (1991) (upholding severe
6 | mandatory penalties under the Eighth Amendment that, although cruel, are not unusual).

7 | This reading of Section 6 aligns with the Nevada Supreme Court’s consistent reading of
8 | the word “or” with a plain, disjunctive meaning. *See, e.g., Spencer v. Klementi*, 136 Nev. 325, 466
9 | P.3d 1241, 1245 n.3 (2020) (“Because the three bases for malicious-prosecution liability are joined
10 | by the disjunctive *or*, a party need prove only one of them to succeed on a defamation claim.”)
11 | (emphasis in original); *State v. Catanio*, 120 Nev. 1030, 1033-34 (2004) (finding the term ‘or’ in
12 | the statutory definition of lewd acts “unambiguous” and meaning that either of the conditions
13 | separated by the term constitute a lewd act); *Coast Hotels & Casinos, Inc. v. Nevada State Labor*
14 | *Comm’n*, 117 Nev. 835, 841 (2001) (noting that the use of the word “or” to separate phrases signals
15 | that the latter phrase is an “alternative to, and is not conditioned by, the preceding clause”);
16 | *Anderson v. State*, 109 Nev. 1129, 1134 (1993) (“[T]he legislature used the disjunctive ‘or,’ and
17 | not the conjunctive ‘and,’ when it defined ‘under the influence,’ thereby requiring one or the other,
18 | but not necessarily both.”); *Jensen v. Sheriff, White Pine Cty.*, 89 Nev. 123, 125 (1973) (“The
19 | statute spells out the several specific acts in the disjunctive, and any one of them is sufficient to
20 | taint the act with criminality.”).

21 | As the Nevada Supreme Court has explained, the only occasions in which “the word ‘or’
22 | may be used, interpreted, or construed in a conjunctive rather than a disjunctive sense [is] to
23 | prevent an absurd or unreasonable result, or where the context requires such construction, or such

1 construction is necessitated by some impelling reason in the context[.]” *Fredricks v. City of Las*
2 *Vegas*, 76 Nev. 418, 421 (1960). None of these rationales apply to the “or” in Section 6’s “cruel
3 or unusual” provision, especially given its language is otherwise identical to the Cruel and Unusual
4 Clause of the Eighth Amendment. As a result, “there is no reason here for interpreting it other than
5 in its ordinary and elementary sense and giving it its disjunctive meaning.” *See id.* Indeed, the
6 federal district court in this state has already held that Section 6 “forbids punishments either ‘cruel
7 or unusual,’” explicitly noting that “[t]he terms are used disjunctively[.]” *Mickle v. Henrichs*, 262
8 F. 687, 689 (D. Nev. 1918) (holding the Nevada Constitution prohibits forced sterilization as
9 unconstitutionally unusual punishment).

10 Other states’ efforts to replace the “or” with “and,” and vice versa, in their own
11 constitutional provisions further demonstrate that the textual difference carries substantive
12 significance. The Florida Supreme Court accurately articulated this significance in *Armstrong v.*
13 *Harris*,¹ when it overturned the results of a ballot measure election that “[r]equire[d] construction
14 of the prohibition against cruel and/or unusual punishment to conform to United States Supreme
15 Court interpretation of the Eighth Amendment.” 773 So. 2d 7, 17 (Fla. 2000). According to the
16 court, such a measure would effectively change the state’s then-existing “cruel *or* unusual”
17 constitutional provision to “cruel *and* unusual.” *Id.* The court further explained:

18 [T]he federal Constitution . . . represents the floor for basic
19 freedoms; the state constitution, the ceiling. In the present case, by
20 changing the wording of the Cruel or Unusual Punishment Clause
21 to become “Cruel *and* Unusual” and by requiring that our state
22 Clause be interpreted in conformity with its federal counterpart, the
23 proposed amendment effectively strikes the state Clause from the
constitutional scheme. Under such a scenario, the organic law

¹ Though Florida eventually did lawfully amend its constitution to adopt the “cruel and unusual”
language following the *Armstrong* decision, the *Armstrong* court’s textual analysis remains
instructive for Nevada, which has not done the same.

1 governing either cruel or unusual punishments in Florida would
2 consist of a floor (i.e., the federal constitution) and nothing more.

3 *Id.* at 17. The court recognized that the original “[u]se of the word ‘or’ instead of ‘and’ in the
4 Clause indicates that the framers intended that both alternatives (i.e., ‘cruel’ and ‘unusual’) were
5 to be embraced individually and disjunctively within the Clause’s proscription.” *Id.* Therefore, the
6 electorate’s vote to conform to the Eighth Amendment constituted a vote to “eliminate rights or
7 protections already in existence” under the state constitution, *id.* at 18, and would result in a “loss
8 or restriction of an independent fundamental state right” with the appearance of creating a new
9 right. *Id.* at 17 (quotation omitted).

10 A plain reading of the text of Article 1, Section 6 thus demonstrates that the Nevada
11 Constitution is more protective than the Eighth Amendment. This conclusion is supported by
12 caselaw from the Nevada Supreme Court repeatedly and consistently interpreting the meaning of
13 the word “or” as well as persuasive precedent from other courts reading their similarly-worded
14 cruel or unusual provisions in this manner. See *also infra* § I (B) (collecting state cases with similar
15 analysis).

16 **B. Other states’ precedent supports interpreting Nevada’s “cruel or
17 unusual” provision as more protective than the Eighth Amendment.**

18 A number of states courts have explicitly recognized that mandatory, if not all, LWOP
19 sentences for older adolescents like Mr. Baggett violate their state constitutions. See, e.g., *Matter*
20 *of Monschke*, 197 Wash.2d 305, 325-26 (Wash. 2021) (en banc) (holding mandatory LWOP for
21 youth through age 20 is unconstitutional under Section 14 of the Washington Constitution); *People*
22 *v. Taylor*, Nos. 166428 & 166654, 2025 WL 1085247, at *1 (Mich. Apr. 10, 2025) (holding
23 mandatory LWOP for youth up through age 20 is cruel or unusual punishment under Mich. Const.
art. 1, § 16); *Commonwealth v. Mattis*, 224 N.E.3d 410, 415 (Mass. 2024) (holding LWOP for

1 youth through age 20 is cruel or unusual punishment in violation of Mass. Const. Pt. 1, art. XXVI).
2 Many of these state courts have held broader prohibitions in state constitutions than the federal
3 Eighth Amendment and have explicitly reckoned with the “and” versus “or” textual distinction,
4 consistent with the plain reading analysis Mr. Baggett requests here. As the Supreme Court of
5 Michigan explained, “a bar on punishments that are either cruel *or* unusual is necessarily broader
6 than a bar on punishments that are both cruel *and* unusual.” *People v. Parks*, 510 Mich. 225, 242
7 (2022) (emphasis in original); *People v. Taylor*, Nos. 166428 & 166654, 2025 WL 1085250, at *4
8 (Mich. Apr. 10, 2025) (noting that “Michigan’s broader constitutional prohibition against ‘cruel
9 or unusual punishment’ meant the state did not have “to draw the same line [of constitutional
10 protection] as the federal courts”); *see also State v. Perry*, 610 So.2d 746, 762 (La. 1992) (noting
11 that Louisiana’s prohibition on cruel or unusual punishment “affords no less, and in some respects
12 more, protection than that available to individuals under the Cruel and Unusual Punishments
13 Clause of the Eighth Amendment”). Even the United States Supreme Court, in interpreting the
14 Federal Constitution, has expressly acknowledged that state constitutions often have either
15 “identical or more expansive wording (*i.e.*, ‘cruel *or* unusual’).” *Harmelin*, 501 U.S. at 983
16 (parentheses and emphasis in original).

17 Some sister courts have concentrated on the fact that, with a “cruel or unusual” provision,
18 a punishment may be unconstitutional because it is cruel only or unusual only.² Thus, when the
19 Michigan Supreme Court found that sentencing 19 and 20 year-olds to prison for life without the

21
22 ² This, of course, includes states, such as Washington, whose constitutions forbid “cruel
23 punishment” without mention of “unusual.” *See State v. Bassett*, 192 Wash. 2d 67, 80 (2018)
(finding the Washington constitution offers broader protection “because it prohibits conduct that
is merely cruel; it does not require that the conduct be both cruel and unusual”).

1 possibility of parole without additional safeguards violated its own “cruel *or* unusual” clause, it
2 concentrated on one condition but not the other. *People v. Taylor*, Nos. 166428 & 166654, 2025
3 WL 1085250, at *16 (Mich. Apr. 10, 2025) (“We hold that the application of a mandatory sentence
4 of LWOP under MCL 750.316 to [the appellants] constitutes unconstitutionally harsh and
5 disproportionate punishment and thus ‘cruel’ punishment in violation of Const 1963, art 1, §
6 16.”). Similarly, Minnesota courts “separately examine whether the sentence is cruel and whether
7 it is unusual,” with the former inquiry focusing on “the proportionality of the crime to the
8 punishment” and the latter on “whether the punishment comports with the evolving standards of
9 decency that mark the progress of a maturing society.” *State v. Hassan*, 977 N.W.2d 633, 645 n.2.
10 (Minn. 2022) (Chutich, J., concurring); *see also State v. Vang*, 847 N.W.2d 248, 263 (Minn. 2014)
11 (“This difference in wording is not trivial because the United States Supreme Court has upheld
12 punishments that, although they may be cruel, are not unusual.”) (internal citation and quotations
13 omitted); *see also Dist. Attorney for Suffolk Dist. v. Watson*, 381 Mass. 648, 661 (1980) (“While
14 the word ‘unusual’ may suggest the need for an ongoing comparison of punishments meted out for
15 comparable crimes in similar cultures, we focus instead on the constitutional prohibition of ‘cruel’
16 punishments.”).

17 These broader protections under state constitutions have shielded citizens from severe
18 punishment. For example, courts applied the constitutional analysis to prohibit certain punishments
19 for categories of individuals, banning juvenile life without parole sentences, *see State v. Bassett*,
20 192 Wash.2d 67, 84-86 (2018) (holding LWOP unconstitutional as an impermissibly cruel
21 punishment under Wash. Const. art. I, § 14 for juvenile defendants), as well as the execution of
22 people with intellectual disabilities even before the U.S. Supreme Court reached this same
23 conclusion under the Eighth Amendment. *See Van Tran v. State*, 66 S.W.3d 790, 804-806 (Tenn.

1 2001) (holding that executing individuals with intellectual disabilities is “grossly disproportionate”
2 under article 1, § 16 of the Tennessee Constitution); *Fleming v. Zant*, 386 S.E.2d 339, 343 (Ga.
3 1989) (extending recent statutory protection against death sentences in new trial cases to all
4 offenders based on Georgia’s “constitutional guarantee against cruel and unusual punishment”).
5 Such broad constitutional protections have even been used to outlaw the death penalty altogether.
6 *See, e.g., State v. Gregory*, 192 Wash. 2d 1, 19 (2018) (“[W]e strike down Washington’s death
7 penalty as unconstitutional under article 1, section 14.”); *People v. Anderson*, 493 P.2d 880, 899
8 (Cal. 1972) (finding “that the death penalty may no longer be exacted in California consistently
9 with article 1, section 6, of our Constitution”), *superseded by constitutional amendment*, Cal.
10 Const., art. I, § 27; *State v. Santiago*, 122 A.3d 1, 73 (Conn. 2015) (“[C]apital punishment also
11 violates article first, §§ 8 and 9, of the Connecticut constitution because it no longer serves any
12 legitimate penological purpose.”); *Watson*, 381 Mass. at 665 (finding “the death penalty is
13 unconstitutionally cruel under art. 26 of the Declaration of Rights”).

14 Some states with constitutional provisions barring “cruel *and* unusual punishment” that
15 have nevertheless interpreted their provisions to be more protective than the Eighth Amendment.
16 These courts, too, have prohibited certain juvenile life without parole sentences even before the
17 U.S. Supreme Court has reached the issue. *See State v. Sweet*, 879 N.W.2d 811, 839 (Iowa 2016)
18 (holding life without parole is categorically unconstitutional for juveniles under Iowa Const. art.
19 I, § 17 of the Iowa Constitution ban on cruel and unusual punishment); *State v. Comer*, 249 N.J.
20 359, 399 (2022) (reaffirming that Section 12 of the New Jersey Constitution may provide greater
21 protection than the Eighth Amendment and holding juvenile defendants can petition the trial court
22 for resentencing after serving 20 years); *Fletcher v. State*, 532 P.3d 286, 290 (Alaska Ct. App.
23 2023) (holding Article 1, Section 12 of the Alaska Constitution provides more protection than the

1 Eighth Amendment and thus a trial court may not sentence a juvenile to LWOP without
2 affirmatively considering their youth and providing an on-the-record explanation that finds the
3 juvenile is one of the rare offenders whose crime reflects irreparable corruption). They have also
4 applied this logic to ban capital punishment. *See, e.g., State v. Mata*, 745 N.W.2d 229, 278 (Neb.
5 2008) (finding the “cruel and unusual punishment” clause under the Nebraska Constitution
6 prohibits death by electrocution and distinguishing U.S. Supreme Court cases finding it does not
7 violate the Eighth Amendment); *Dawson v. State*, 554 S.E.2d 137, 144 (Ga. 2001) (“[W]e hold
8 that death by electrocution, with its specter of excruciating pain and its certainty of cooked brains
9 and blistered bodies, violates the prohibition against cruel and unusual punishment in Art. 1, Sec.
10 1, Par. XVII of the Georgia Constitution.”); *State v. Gerald*, 113 N.J. 40, 76 (1988), *superseded*
11 *by constitutional amendment*, N.J. Const. art. 1, ¶ 12 (effective Dec. 3, 1992) (finding that Article
12 I, Paragraph 12 “affords greater protections to capital defendants than does the Eighth Amendment
13 of the federal constitution”).

14 This Court should draw support from its sister courts in holding Section 6 has a unique
15 meaning that provides more protection than the Eighth Amendment and that mandatory LWOP
16 sentences are cruel punishment for older adolescents through at least age 20 because they share
17 the same developmental characteristics as those under 18.

18 **C. History and state-specific context further support a broader, more**
19 **protective, reading of the “cruel or unusual” provision.**

20 Alongside the constitution’s plain text and the protections afforded by sister states,
21 Nevada’s history further supports the appropriateness of interpreting its “cruel or unusual”
22 punishment proscription more broadly than the federal standard. Both the history of the provision
23 itself and Nevada’s general history of protecting the individual rights of its citizens support this
conclusion.

1 **1. History of the “cruel or unusual” provision**

2 Ordinarily, courts only look to a constitutional provision’s history where its language is
3 ambiguous. *ASAP Storage*, 123 Nev. at 646. While, as shown above, section 6’s language could
4 not be facially clearer, a historical analysis also yields the same conclusion outlined above: the
5 Nevada Constitution provides broader protection than the Eighth Amendment.

6 Records of the 1863 Constitutional Convention reveal the significant influence of the
7 California Constitution on Article 1, Section 6 of the Nevada Constitution. In creating a proposal
8 for the Nevada Bill of Rights in 1863, the constitutional delegates heavily relied on the California
9 Constitution as their foundation. Andrew J. Marsh, Samuel L. Clemens, & Amos Bowman,
10 *Reports of the 1863 Constitutional Convention of the Territory of Nevada* 16 (William C. Miller
11 et al. eds., 1972) (hereinafter Marsh, 1863 *Reports*) (“[T]he Constitution of California, as amended,
12 [is] adopted as a basis for consideration, so far as it may be deemed applicable to the wants of this
13 State.”). *See also, id.* at 32 (“The balance of the report is substantially a copy of the California Bill
14 of Rights.”). This choice was made, not for efficiency, but because of the recognized overlap
15 between the needs of those in California and in Nevada. Not only were 29 of the 39 members of
16 the convention originally from California, but, as delegate Mr. Delong explained:

17 [T]his Territory is peopled almost exclusively by Californians— by
18 men that have lived and acquired property there for years past—
19 who have lived under and are acquainted with the Constitution of
20 that State as it has been construed from time to time by the Supreme
21 Court of that State. They have come into this Territory and found
22 that here the leading paramount interests of our Territory are similar
23 to those which they left behind them in the State of California. This
important fact renders the Constitution and laws of the California
particularly applicable to us . . .

22 Andrew Marsh, *Official Report of the Debates and Proceedings in the Constitutional Convention*
23 *of the State of Nevada* 14 (Eastman 1866) (hereinafter Marsh, *Debates and Proceedings*).

1 When first incorporating California’s Cruel or Unusual Clause into Nevada’s constitution
2 in 1863, the provision was “read and adopted” as is without amendment or debate. Marsh, 1863
3 *Reports*, at 37. Although the Eighth Amendment’s ban on “cruel *and* unusual” punishment had
4 existed for 73 years when Nevada adopted its state constitution, the only provisions considered by
5 the Nevada drafters were in the disjunctive: “cruel nor unusual” versus “cruel or unusual,” with
6 the latter winning out. *Id.* at 782; Marsh, *Debates and Proceedings*, at 24. This further
7 demonstrates that Nevada drafters’ intended to use disjunctive phrasing to abolish punishments
8 that are cruel only along with those that are unusual only.

9 Given this history, cases interpreting the punishments clause of the California Constitution
10 provide crucial insight into the meaning of Article 1, Section 6 in Nevada’s Constitution. *See*
11 *Zahavi v. State*, 131 Nev. 51, 62 n.5 (2015) (“find[ing] cases interpreting [article 1, section 22] of
12 the Indiana Constitution informative” because Article 1, Section 14 of the Nevada Constitution
13 had its origins in Indiana’s parallel provision). In *People v. Anderson*, the California Supreme
14 Court gave the disjunctive “or” term “its ordinary meaning” and held that punishments that are
15 either cruel or unusual are prohibited. 493 P.2d 880, 885-86 (Cal. 1972) (superseded by Cal.
16 Const., art. 1, § 27).³ Moreover, the court explicitly considered and flatly rejected the suggestion
17 that “the reach of the Eighth Amendment and that of Article 1, Section [17], are coextensive, and
18 that the use of the disjunctive form in the latter is insignificant.” *Id.* at 883.

19 Every shred of history connected to Article 1, Section 6 points in the same direction. As
20 its plain language alone suggests, the framers of the Nevada Constitution looked past the Eighth
21

22
23 ³ Although the voters of California subsequently amended the words of their state constitution by
referendum, rendering *Anderson*’s analysis inapplicable going forward in California, *Anderson*’s
textual analysis remains a model for this Court.

1 Amendment to adopt a provision affording its citizens broader protection. This Court should
2 exercise its duty to interpret and apply the Nevada Constitution to Mr. Baggett’s case, and hold
3 that, unlike the Eighth Amendment, Article 1, Section 6 bars punishments that are *either* cruel or
4 unusual.

5 **2. Nevada’s history of protecting individual rights**

6 The Nevada Supreme Court has repeatedly discharged its duty to independently interpret
7 and apply this state’s constitution and “expand the individual rights of [its] citizens under state law
8 beyond those provided under the Federal Constitution.” *State v. Bayard*, 119 Nev. 241, 246 (2003).
9 In *Bayard*, this Court declined to follow the Fourth Amendment precedent set out by the U.S.
10 Supreme Court in *Atwater v. Lago Vista*, 532 U.S. 318 (2001), and instead relied on Article 1,
11 Section 18 of the Nevada Constitution to adopt a stricter standard governing when a police officer
12 may arrest a person suspected of a mere traffic offense. *Bayard*, 119 Nev. at 247. While the Fourth
13 Amendment only requires probable cause that the suspect has committed the offense, *Id.* at 244
14 (citing *Atwater*, 532 U.S. at 354), the Nevada test requires both probable cause *and* “circumstances
15 that require immediate arrest.” *Id.* at 247.

16 The Nevada Supreme Court has also found broader protections against prosecutorial
17 misconduct in the Nevada Constitution than under federal law. *See, e.g., Thomas v. Eighth Judicial*
18 *Dist. Court in and for Cty. of Clark*, 133 Nev. 468, 474 (2017) (declining to follow, on state
19 constitutional grounds, *Oregon v. Kennedy*, 456 U.S. 667, 672 (1982), and instead holding that the
20 double-jeopardy “protections of article 1, section 8 of the Nevada Constitution also attach . . . when
21 a prosecutor intentionally proceeds in a course of egregious and improper conduct that causes
22 prejudice to the defendant which cannot be cured by means short of a mistrial”); *Roberts v. State*,
23 110 Nev. 1121, 1131-32 (1994) (declining to follow, on state constitutional grounds, *United States*

1 *v. Bagley*, 473 U.S. 667, 674 (1985), “instead constru[ing] the due process clause in the Nevada
2 Constitution, *see* Nev. Const. art. 1, § 8, to require a standard more favorable to the
3 accused” when a prosecutor suppresses exculpatory evidence), *overruled on other grounds Foster*
4 *v. State*, 116 Nev. 1088 (Nev. 2000). The same is true for the Nevada Supreme Court’s
5 implementation of restrictions on governmental takings. *See, e.g., McCarran Int’l Airport v.*
6 *Sisolak*, 122 Nev. 645, 661-62, 675 (2006) (relying on textual differences between the Nevada
7 Constitution and Fifth Amendment in finding broader state protection that requires compensation
8 *prior* to a government taking).

9 This history reflects an oft-repeated recognition that the Nevada Constitution, written to
10 address the concerns of Nevada citizens and tailored to Nevada’s unique regional location,
11 provides a source of protection for individual rights independent of and supplemental to the
12 protections provided by the Federal Constitution.

13 **II. Neuroscientific research relied upon by several state supreme courts supports**
14 **affording older adolescents the same sentencing protections afforded to youth**
15 **under 18 years of age.**

16 State courts prohibiting life without parole sentences for young people up to age 20 have
17 relied on an evolving body of research on older adolescence. *See, Commonwealth v. Mattis*, 224
18 N.E.3d 410, 428 (Mass. 2024) (focusing on the “youthful characteristics” of older adolescents);
19 *People v. Parks*, 987 N.W.2d 161, 174 (2022) (holding mandatory LWOP unconstitutional for 18-
20 year-olds and recognizing the “inherent malleability and plasticity of late adolescent brains.”);
21 *People v. Taylor*, 2025 WL 1085247, at *7 (Mich. Apr. 10, 2025) (recognizing that 19 and 20-
22 year-olds are more similar to youth than to adults).

23 These cases rest on a widely accepted consensus in the scientific community that the
defining characteristics of youth persist beyond age 18. *See, e.g., Alexander Weingard et*

1 al., *Effects of Anonymous Peer Observation on Adolescents' Preference for Immediate Rewards*,
2 17 Dev. Sci. 71, 71-73 (2013); Kathryn Monahan et al., *Juvenile Justice Policy and Practice: A*
3 *Developmental Perspective*, 44 Crime & Just. 577, 582 (2015). According to a comprehensive
4 2019 report from the National Academies of Sciences, research confirms that “the unique period
5 of brain development and heightened brain plasticity . . . continues into the mid-20s,” and “most
6 18–25 year-olds experience a prolonged period of transition to independent adulthood, a
7 worldwide trend that blurs the boundary between adolescence and ‘young adulthood,’
8 developmentally speaking.” Nat’l Acads. Scis., Eng’g & Med., *The Promise of Adolescence:*
9 *Realizing Opportunity for All Youth* 22 (Richard Bonnie & Emily Backes eds., 2019) (emphasis
10 omitted). The report concludes that it would be “arbitrary in developmental terms to draw a cut-
11 off line at age 18.” *Id.*

12 A “maturational imbalance” with two parts of the brain developing at different rates shapes
13 the unique characteristics of adolescence. While the limbic system, responsive to rewards and
14 heightened sensation, kicks into high gear around the time of puberty, the prefrontal cortex that
15 regulates behavior—self-control, thinking ahead, evaluating the rewards and costs of a risky act,
16 and resisting peer pressure—develops well into the mid-20s. *See, e.g.,* Monahan et al., *supra*, at
17 582-85.

18 For older adolescents, the lags in impulse control are particularly pronounced in
19 emotionally charged situations. Psychologists distinguish between “cold cognition,” thinking and
20 decision-making under calm circumstances, and “hot cognition,” thinking and decision-making
21 under emotionally arousing circumstances. Elizabeth Scott et al., *Young Adulthood as a*
22 *Transitional Legal Category: Science, Social Change, and Justice Policy*, 85 Fordham
23 L. Rev. 641, 652 (2016), <https://fordhamlawreview.org/wp-content/uploads/2016/11/Scott>

1 BonnieSteinberg_November.pdf. Relative to adults, adolescents’ deficiencies in judgment and
2 self-control are greater under “hot” circumstances than under “cold”
3 circumstances. Alexandra Cohen et al., *When is an Adolescent an Adult? Assessing Cognitive*
4 *Control in Emotional and Nonemotional Contexts*, 27 *Psych. Sci.* 549, 559-60 (2016),
5 http://www.manateelab.org/pdfs/Cohen_PsycholSci_2016.pdf. In circumstances of “hot
6 cognition,” brain function among 18–21-year-olds resembles that of a 13–17-year-old. Scott et
7 al., *supra*, at 650 (citing *When Is an Adolescent an Adult?*, *supra*, at 559-60). See also Alexandra
8 Cohen et al., *When Does a Juvenile Become an Adult? Implications for Law and Policy*, 88 *Temple*
9 *L. Rev.* 769, 786-87 (2016), [https://www.templelawreview.org/lawreview/assets/uploads/2016/08](https://www.templelawreview.org/lawreview/assets/uploads/2016/08/Cohen-et-al-88-Temp.-L.-Rev.-769.pdf)
10 [/Cohen-et-al-88-Temp.-L.-Rev.-769.pdf](https://www.templelawreview.org/lawreview/assets/uploads/2016/08/Cohen-et-al-88-Temp.-L.-Rev.-769.pdf) (finding the developmental period from age 18–
11 21 characterized by a cognitive capacity and ability to “overrid[e] emotionally triggered
12 actions,” which is “still vulnerable,” “diminished,” and “immature” to an extent that “may be
13 relevant for evaluating appropriate age cutoffs relevant to policy judgments relating to risk-taking,
14 accountability, and punishment”).

15 Older adolescents also experience increased susceptibility to peer pressure as compared to
16 older adults. A study of 306 individuals in 3 age groups—identified as adolescents (13–16), youths
17 (18–22), and adults (24 and older)—found that “although the sample as a whole took more risks
18 and made more risky decisions in groups than when alone, this effect was more pronounced during
19 middle and late adolescence than during adulthood” and that “the presence of peers makes
20 adolescents and youth, but not adults, more likely to take risks and more likely to make risky
21 decisions.” Gardner & Steinberg, *Peer Influence on Risk Taking, Risk Preference, and Risky*
22 *Decision Making in Adolescence and Adulthood: An Experimental Study*, 41 *Dev. Psych.* 625, 632,
23 634 (2005), [https://faculty.weber.edu/eamsel/Classes/Applying%20Psychology/Adolescence%](https://faculty.weber.edu/eamsel/Classes/Applying%20Psychology/Adolescence%20and%20Adulthood/)

1 203140/Readings/Gardner%20&%20Steinberg%20(2005).pdf. The presence of friends has also
2 been shown to double risk-taking among both teens and young adults but to have no effect on older
3 adults. Laurence Steinberg, *A Social Neuroscience Perspective on Adolescent Risk-Taking*, 28
4 *Dev. Rev.* 78, 91 (2008) [https://faculty.weber.edu/eamsel/Research%20Groups/Dual%20Process](https://faculty.weber.edu/eamsel/Research%20Groups/Dual%20Process%20Research/New%20Papers/Steinberg%20(2008).pdf)
5 [%20Research/New%20Papers/Steinberg%20\(2008\).pdf](https://faculty.weber.edu/eamsel/Research%20Groups/Dual%20Process%20Research/New%20Papers/Steinberg%20(2008).pdf). More recently, studies have confirmed
6 that “exposure to peers increases young adults’ preference for immediate rewards.” Scott et
7 al., *supra*, at 649 (citations omitted).

8 Overall, older adolescents are more prone to risk-taking and impulsivity—traits that likely
9 influence their criminal conduct—and are not yet mature enough to anticipate the future
10 consequences of their actions. *See* Monahan et al., *supra*, at 581-82; Scott et al., *supra*, at 644.

11 While younger and older adolescents are more likely to commit crime than adults, they are
12 also more likely to desist as they mature into adulthood. An “age-crime curve,” confirmed by arrest
13 data, demonstrates that criminal conduct is most common when individuals are young, peaks in
14 the late teens, and drops dramatically in adulthood, beginning in the early to mid-
15 20s. *See* Rolf Loeber et al., *Age-Crime Curve*, in *Encyclopedia of Criminology and Criminal*
16 *Justice* 12-18 (Jay Albanese ed., 2014); Lila Kazemian, *Pathways to Desistance from Crime*
17 *Among Juveniles and Adults: Applications to Criminal Justice Policy and Practice*,
18 *Nat. Inst. Just.* 3 (2021), <https://www.ojp.gov/pdffiles1/nij/301503.pdf>. Studies show that the
19 combination of brain development, emotional maturity, and sociological factors such as family
20 and work responsibilities result in a natural cessation in criminal conduct in adulthood. *See* Loeber
21 et al., *supra*, at 12-18.

1 **III. Evolving standards of decency recognize the need for unique protections for**
2 **older adolescents.**

3 The *Roper* Court relied on society’s “evolving standards of decency” to afford greater
4 protections from extreme sentencing to children under 18. *Roper*, 543 U.S. at 563. The Court
5 found there was “objective indicia of consensus” against the juvenile death penalty by evaluating
6 legislative enactments and state action. *Id.* at 564. *See also Graham*, 560 U.S. at 62 (“The analysis
7 begins with objective indicia of national consensus.”). There is now a strong national consensus
8 that older adolescents, including 19-year-olds like Mr. Baggett deserve the same protections
9 afforded to youth under 18.

10 As described above in Section I, a growing number of state supreme courts have ruled that
11 their state’s constitutional protections against extreme sentencing are broader than the Eighth
12 Amendment, and several of those courts have further found that they prohibit mandatory life
13 without parole sentences for older adolescents under age 21. In addition, state legislatures have
14 passed laws affording earlier parole eligibility and/or resentencing opportunities to older
15 adolescents, including those in their early 20’s. Finally, numerous federal and state laws, including
16 in Nevada, treat older adolescents different than adults and afford them greater protections. Many
17 of these laws have been on the books for decades, while others reflect more recent trends in
18 response to the growing scientific and societal consensus that young people continue to develop
19 and mature into their twenties. As the national legal landscape increasingly reflects current
20 developmental research, today’s “evolving standards of decency” require drawing the line
21 between childhood and adulthood at least at 21 years of age for extreme sentences.
22
23

1 **A. Many jurisdictions and professional associations afford older**
2 **adolescents heightened protections in the criminal legal system.**

3 State legislation affording opportunities for earlier release and “second look” resentencing
4 highlights a national trend favoring additional protections for older adolescents. In 2017,
5 California extended youth offender parole eligibility to individuals with determinate sentences for
6 certain offenses committed before age 26. A.B. 1308, Reg. Sess. (Cal. 2017) (amending
7 Cal. Penal Code §§ 3051 & 4801); *see People v. Briscoe*, 105 Cal. App. 5th Dist. 479, 495 (2024)
8 (expanding protections to include those serving LWOP for felony murder). The relevant parole
9 statute instructs the parole board to “give great weight to the diminished culpability of youth as
10 compared to adults, the hallmark features of youth, and any subsequent growth and increased
11 maturity of the prisoner in accordance with relevant case law.” Cal. Penal Code § 4801(c). Illinois
12 similarly provides for special parole review for persons under 21, excluding those convicted
13 of first degree murder, directing the Prisoner Review Board to consider “the diminished
14 culpability of youthful offenders, the hallmark features of youth, and any subsequent growth and
15 maturity of the youthful offender during incarceration.” 730 Ill. Comp. Stat. 5/5-4.5-115(b), (j).
16 Connecticut provides earlier parole eligibility to people who were under 21 at the time of their
17 offense. Conn. Gen. Stat. Ann. § 54-125a(g). Rhode Island shortened the first parole review date
18 to 20 years (from 25 years) for individuals who committed offenses prior to age
19 22. 13 R.I. Gen. Laws Ann. § 13-8-13(e). Wyoming provides an avenue for offenders under 30
20 years old, excluding those sentenced to life, to be placed in a youthful transition program and to
21 receive a sentence reduction. Wyo. Stat. Ann. §§ 7-13-1002 & 1003. In 2021, Washington, D.C.
22 expanded the reach of its Incarceration Reduction Amendment Act—which
23 originally permitted persons who committed serious crimes under age 18 to petition for
resentencing after serving at least 15 years in prison—to include persons who committed crimes

1 under age 25. D.C. Law 23-274 § 601, 68 D.C. Reg. 1034 (Apr. 27, 2021) (amending D.C. Code
2 Ann. § 24-403.03). Earlier this year, Maryland amended a law to allow individuals who were
3 under 25 when they committed certain crimes to petition for a sentence reduction after serving at
4 least 20 years. H.B. 853, 2025 Gen. Assemb., Reg. Sess. (Md. 2025).

5 The American Bar Association (ABA) and the U.S. Sentencing Commission have similarly
6 recognized the distinct developmental status of older adolescents warrants specific legal
7 protections. In advocating for “second look” resentencing hearings for individuals who have
8 served at least 10 years, the ABA specifically acknowledged the neuroscientific research showing
9 that “certain brain systems and development of the prefrontal cortex that are involved in self-
10 regulation and higher-order cognition, continue to develop into the mid-20s;”
11 accordingly, “[t]hose sentenced while young merit second looks.” A.B.A., Res. 502 & Report to
12 H.D. (Aug. 8-9, 2022), [https://www.americanbar.org/content/dam/aba/directories/policy/annual-
13 2022/502-annual-2022.pdf](https://www.americanbar.org/content/dam/aba/directories/policy/annual-2022/502-annual-2022.pdf) at 5, 6. In 2024, the U.S. Sentencing Commission updated its
14 Guidelines Manual to suggest a “downward departure” due to a defendant’s youthfulness because
15 “[c]ertain risk factors may affect a youthful individual’s development into the mid-20’s.”
16 United States Sentencing Commission, *Guidelines Manual 2024: Supplement to Appendix C*, 272-
17 73 (Nov. 2024) (Amendment 829 to § 5H1.1), [https://www.ussc.gov/sites/default/files/pdf/guide
18 lines-manual/2024/APPENDIX_C_Supplement.pdf](https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/2024/APPENDIX_C_Supplement.pdf).

19 **B. States and the federal government have set the age of adulthood above
20 18 for the exercise of many rights and responsibilities.**

21 Many jurisdictions, including Nevada, set the age of adulthood above 18 in contexts
22 involving dangerous, risky, and potentially addictive behaviors. For example, the minimum age
23 to purchase tobacco and alcohol is universally set at 21 across the country. *See* Further
Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, § 2NI603, 133 Stat. 2534,

1 3123 (2019) (amending 21 U.S.C. 387f(d)(5)); National Minimum Drinking Age Act, 23 U.S.C.A.
2 § 158 (2012). Additionally, in each of the 24 states, including Nevada, and the District of
3 Columbia that have legalized marijuana for recreational use, the minimum age to purchase is 21.
4 See Kate Bryan, *Cannabis Overview*, National Conference of State Legislatures (2024),
5 <https://www.ncsl.org/civil-and-criminal-justice/cannabis-overview>. In 38 states, including
6 Nevada, you must be at least 21 to legally gamble in casinos. Alexander Korsager, *Legal*
7 *Gambling Age in Every US State and Where You Can Gamble*,
8 <https://www.casino.org/us/local/guide/>. Federal law also prohibits individuals under 21 from
9 driving most commercial vehicles across state lines. 49 C.F.R § 391.11(b)(1). Most states have
10 legislation prohibiting those under 21 from renting cars. William Lipovsky, *Minimum Age to Rent*
11 *a Car in Each State*, First Quarter Finance (2023), [https://firstquarterfinance.com/minimum-age-](https://firstquarterfinance.com/minimum-age-to-rent-a-car/)
12 [to-rent-a-car/](https://firstquarterfinance.com/minimum-age-to-rent-a-car/). Most rental car companies also impose restrictions or surcharges on individuals
13 under 25, recognizing the unique developmental needs of this age group. See, e.g., Alamo
14 FAQs, *Renting a Car Under 25*, [https://www.alamo.com/en/customer-support/car-rental-](https://www.alamo.com/en/customer-support/car-rental-faqs/age-to-rent-a-car.html)
15 [faqs/age-to-rent-a-car.html](https://www.alamo.com/en/customer-support/car-rental-faqs/age-to-rent-a-car.html) (last visited June 4, 2025).

16 The federal government and many states have also extended additional support and
17 benefits to older adolescents. In 2008, Congress passed the Fostering Connections to Success and
18 Increasing Adoptions Act, allowing states to use federal funding to extend foster care up to age
19 21. 42 U.S.C.A. § 675(8)(B). Since then, Nevada, 47 additional states, and the District of
20 Columbia, have extended foster care eligibility past 18, typically to age 21. U.S. Dep’t Health
21 & Hum. Servs., *Extension of Foster Care Beyond Age 18*, 2 (2022) [https://www.childwelfare.gov/](https://www.childwelfare.gov/resources/extension-foster-care-beyond-age-18/)
22 [resources/extension-foster-care-beyond-age-18/](https://www.childwelfare.gov/resources/extension-foster-care-beyond-age-18/) (click “Download”). Additionally, with limited
23

1 exceptions, the federal government designates individuals under 24 as legal dependents for the
2 Free Application for Federal Student Aid. *See* Federal Student Aid, *Dependency Status*,
3 <https://studentaid.gov/apply-for-aid/fafsa/filling-out/dependency> (Last visited June 4, 2025).

4 Under the Affordable Care Act, individuals 25 or younger can stay on their parents' health
5 insurance. 42 U.S.C.A. § 300gg-14. The Individuals with Disabilities Education Act requires
6 school districts nationwide to offer special education services to individuals with
7 disabilities through age 21 (or until high school graduation). 20 U.S.C.A. § 1412(a)(1)(A).

8 In sum, a panoply of state and federal laws reflective of the national consensus recognizing
9 that older adolescents share the same unique characteristics of youth as those under 18 and
10 therefore deserve the same protections from extreme criminal sentences.

1 **IV. CONCLUSION**

2 Amici curiae respectfully request that this Court grant Petitioner’s request for a writ of
3 habeas corpus.

4 Dated this 12th day of January, 2026.

5 /s/ Christopher Peterson
6 CHRISTOPHER M. PETERSON
7 Nevada Bar No. 13932
8 **ACLU of Nevada**
9 4362 W. Cheyenne Ave.
10 North Las Vegas, NV 89032
11 Telephone: (702) 366-1226
12 Facsimile: (702) 718-3213
13 Email: peterson@aclunv.org

14 *Counsel for amicus curiae ACLU of Nevada*
15 *and Juvenile Law Center*