MLEV
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

DONEALE FEAZELL, Petitioner vs. JEREMY BEAN, *et al.*, Respondents,	Case No. A-25-914824-W Dept. No. XVII

AMERICAN CIVIL LIBERTIES UNION OF NEVADA AND JUVENILE LAW CENTER'S MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE IN SUPPORT OF PETITIONERS' PETITION FOR WRIT OF HABEAS CORPUS

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

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, 1203 (2016) (upholding district court's order authorizing an amicus brief in lieu of permissive intervention). As the *Hairr* Court observed, "where he presents no new questions, a third party can

contribute usually most effectively and always most expeditiously by a brief *amicus curiae*" rather than more invasive forms of participation such as intervention. *Id.* (quotation omitted). Other courts have recognized that under circumstances where "there is no inherent right to file an amicus curiae brief with the Court," a court may in its discretion "grant leave to appear as *amicus* if the information offered is timely and useful." *League to Save Lake Tahoe v. Tahoe Reg'l Plan. Agency*, No. 3:09-CV-478-RCJ-RAM, 2011 WL 3847185, at *15 (D. Nev. Aug. 30, 2011) (ruling on a motion to leave when the local rules of practice did not address when an amicus brief may be filed), vacated and remanded on other grounds, 497 F. App'x 697 (9th Cir. 2012) (quoting *Long v. Coast Resorts, Inc.*, 49 F. Supp. 2d 1177, 1178 (D. Nev. 1999)). The proposed amicus brief in the instant case is both timely and useful.

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

Juvenile Law Center fights for rights, dignity, equity, and opportunity for youth. Juvenile Law Center works to reduce the harm of the child welfare and justice systems, limit their reach, and ultimately abolish them so all young people can thrive. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center's legal and policy agenda is informed by—and often conducted in collaboration with—youth, family members, and grassroots partners. Since its founding, Juvenile Law Center has filed influential amicus briefs in state and federal courts across the country to ensure that laws, policies, and

practices affecting youth advance racial and economic equity and are consistent with children's unique developmental characteristics and human dignity.

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

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

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

DATED this 19th day of February 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

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2026, I caused a true and correct copy of the foregoing **AMERICAN CIVIL LIBERTIES UNION OF NEVADA AND JUVENILE LAW CENTER'S MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE IN SUPPORT OF PETITIONERS' PETITION FOR WRIT OF HABEAS CORPUS** to be electronically filed and served to all parties of record via the Court's electronic filing system to all parties listed on the e-service master list.

Dated February 19, 2026.

/s/ Suzanne Lara
ACLU of Nevada Employee

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

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

DONEALE FEAZELL, Petitioner

vs.

JEREMY BEAN, *et al.*, Respondents,

Case No. A-25-914824-W
Dept. No. XVII

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

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

Regulations

Constitutional Provisions

STATEMENT OF INTEREST

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

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

ARGUMENT

A clear scientific consensus confirms that older adolescents (youth age 18– 21) share the same key developmental characteristics that necessitate heightened legal protections in sentencing for youth under 18. *See Roper v. Simmons*, 543 U.S. 551 (2005) (abolishing the death penalty for youth under 18); *Graham v. Florida*, 560 U.S. 48 (2010) (abolishing life without parole (hereinafter "LWOP") sentences for youth under 18 who commit non-homicide offenses); *Miller v. Alabama*, 567 U.S. 460 (2012) (abolishing mandatory LWOP for homicide offenses by youth under 18). The U.S. Supreme Court identified three unique sets of characteristics in youth that make them less culpable and less deserving of the most severe punishments: 1) they lack "maturity and [have] an underdeveloped sense of responsibility" which results in "impetuous and ill-considered actions and decisions"; 2) they "are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure" and have limited control over their environment; and 3) their character is "not as well formed as that of an adult," making their personality traits "more transitory" and "less fixed." *Roper,* 543 U.S. at 569-71; *see also Miller*, 567 U.S. at 471-72. Although the Court recognized that the "qualities that distinguish juveniles from adults do not disappear when an individual turns 18," the Court nevertheless drew the line at 18 for purposes of sentencing because, at the time, that appeared to be "where society draws the line for many purposes between childhood and adulthood." *Roper*, 543 U.S. at 574.

Over the last 20 years, however, Nevada and the rest of the country have shifted where they draw the line between childhood and adulthood. Current scientific literature on older adolescents (youth older than 18) offers substantial evidence that the unique characteristics of youth identified by the U.S. Supreme Court do not end at age 18. Many states, including Nevada, as well as the federal government, have extended the cutoff line between childhood and adulthood

into the early to mid-twenties. Through legislation and policy on a wide array of criminal and civil issues, from parole eligibility and resentencing to foster and healthcare laws, as well as laws governing dangerous and addictive activities, states now afford older adolescents many of the same legal protections as youth under 18. *See, e.g.*, A.B. 1308, Reg. Sess. (Cal. 2017) (extending youth offender parole eligibility for certain offenses committed before age 26); 42 U.S.C.A. § 675(8)(B) (allowing states to use federal funding to extend foster care up to age 21).

While the U.S. Supreme Court has not revisited the line it drew twenty years ago, Nevada courts are not limited to the Supreme Court's Eighth Amendment jurisprudence. As the Nevada Supreme Court has repeatedly affirmed, any right enshrined in the federal constitution merely "establishes a minimum national standard . . . and does not inhibit state governments from affording its citizens greater protections for such rights." *S.O.C., Inc. v. Mirage Casino-Hotel*, 23 P.3d 243, 250 (Nev. 2001). The Nevada Supreme Court has held life without parole sentences unconstitutional in other contexts even when the U.S. Supreme Court has not yet ruled on the issue. *See Naovarath v. State*, 779 P.2d 944, 947 (Nev. 1989) (holding a 13-year-old may not be sentenced to life without parole in violation of the United States and Nevada constitutions). Based on Article 1, Section 6 of the Nevada Constitution's distinct text and history as well as the contemporary standards of decency evidenced by science and the laws of this and other states, this Court should conclude that the state constitution affords broader protection than the Eighth Amendment of the United States Constitution.

I. Article 1, Section 6 of the Nevada Constitution, which prohibits "cruel or unusual punishments," should be read as offering broader protection than the Eighth Amendment.

There is no question that the rights afforded by the federal constitution serve only as the floor upon which the state may build in providing its citizens even greater legal protections and

rights. *S.O.C., Inc.*, 117 Nev. at 414. Through Article 1, Section 6 of its Constitution, Nevada has done just that, protecting its citizens from punishments that are either "cruel *or* unusual" rather than applying the Eighth Amendment's prohibition against only those punishments that are both cruel *and* unusual. This is a substantive distinction. The plain language of the provision, the treatment of similarly worded provisions in other state constitutions, its unique history, and this Court's dedication to zealously safeguarding the greater rights enshrined in Nevada's Constitution, all support the conclusion that Article 1, Section 6 provides broader protection than the Eighth Amendment.

A. A plain reading of Article 1, Section 6 demonstrates that the "cruel or unusual" punishments clause of the Nevada Constitution is more protective than the Eighth Amendment.

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

The language of Article 1, Section 6 bars the State from inflicting "cruel *or* unusual" punishments, Nev. Const. art. 1, § 6 (emphasis added), while the Eighth Amendment bars punishments that are "cruel *and* unusual." U.S. Const. amend. VIII (emphasis added). The

selection of the disjunctive "or" rather than the conjunctive "and" by the Nevada Constitution's drafters is significant and unambiguous and therefore requires a plain meaning analysis. Such analysis yields only one 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 punishments that are unusual, but not cruel. *See* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 116 (2012) ("Under the conjunctive/disjunctive canon, *and* combines items while *or* creates alternatives."). The distinction is not trivial, as Eighth Amendment claims are regularly dismissed where the challenged punishment is not deemed *both* cruel *and* unusual. *See, e.g.*, *Harmelin v. Michigan*, 501 U.S. 957, 994 (1991) (upholding severe mandatory penalties under the Eighth Amendment that, although cruel, are not unusual).

This reading of Article 1, Section 6 aligns with the Nevada Supreme Court's consistent reading of the word "or" with a plain, disjunctive meaning. *See, e.g.*, *Spencer v. Klementi*, 136 Nev. 325, 466 P.3d 1241, 1245 n.3 (2020) ("Because the three bases for malicious-prosecution liability are joined by the disjunctive *or*, a party need prove only one of them to succeed on a defamation claim.") (emphasis in original); *State v. Catanio*, 120 Nev. 1030, 1033-34 (2004) (finding the term 'or' in the statutory definition of lewd acts "unambiguous" and meaning that either of the conditions separated by the term constitute a lewd act); *Coast Hotels & Casinos, Inc. v. Nevada State Labor Comm'n*, 117 Nev. 835, 841 (2001) (noting that the use of the word "or" to separate phrases signals that the latter phrase is an "alternative to, and is not conditioned by, the preceding clause"); *Anderson v. State*, 109 Nev. 1129, 1134 (1993) ("[T]he legislature used the disjunctive 'or,' and not the conjunctive 'and,' when it defined 'under the influence,' thereby requiring one or the other, but not necessarily both."); *Jensen v. Sheriff, White Pine Cty.*, 89 Nev.

123, 125 (1973) ("The statute spells out the several specific acts in the disjunctive, and any one of them is sufficient to taint the act with criminality.").

As the Nevada Supreme Court has explained, the only occasions in which "the word 'or' may be used, interpreted, or construed in a conjunctive rather than a disjunctive sense [is] to prevent an absurd or unreasonable result, or where the context requires such construction, or such construction is necessitated by some impelling reason in the context[.]" *Fredricks v. City of Las Vegas*, 76 Nev. 418, 421 (1960). None of these rationales apply to the "or" in Article 1, Section 6, especially given the language is otherwise identical to the Cruel and Unusual Clause of the Eighth Amendment. As a result, "there is no reason here for interpreting it other than in its ordinary and elementary sense and giving it its disjunctive meaning." *See id*. Indeed, the federal district court in this state has already held that Article 1, Section 6 "forbids punishments either 'cruel or unusual,'" explicitly noting that "[t]he terms are used disjunctively[.]" *Mickle v. Henrichs*, 262 F. 687, 689 (D. Nev. 1918) (holding the Nevada Constitution prohibits forced sterilization as unconstitutionally unusual punishment).

A plain reading of the text of Article 1, Section 6 thus demonstrates that the Nevada Constitution is more protective than the Eighth Amendment.

B. Other states' precedent supports interpreting Nevada's constitution as more protective than the Eighth Amendment.

Many state courts have applied a similar textual analysis to conclude that cruel *or* unusual punishment clauses afford greater protections than the Eighth Amendment. As the Supreme Court of Michigan explained, "a bar on punishments that are either cruel *or* unusual is necessarily broader than a bar on punishments that are both cruel *and* unusual." *People v. Parks*, 510 Mich. 225, 242 (2022) (emphasis in original); *People v. Taylor*, Nos. 166428 & 166654, 2025 WL 1085250, at *4 (Mich. Apr. 10, 2025) (noting that "Michigan's broader constitutional prohibition

against 'cruel or unusual punishment' meant the state did not have "to draw the same line [of constitutional protection] as the federal courts"); *see also State v. Perry*, 610 So.2d 746, 762 (La. 1992) (noting that Louisiana's prohibition on cruel or unusual punishment "affords no less, and in some respects more, protection than that available to individuals under the Cruel and Unusual Punishments Clause of the Eighth Amendment"). Even the United States Supreme Court, in interpreting the Federal Constitution, has expressly acknowledged that state constitutions often have either "identical or more expansive wording (*i.e.*, 'cruel *or* unusual')." *Harmelin*, 501 U.S. at 983 (parentheses and emphasis in original).

Some sister courts have highlighted that with a "cruel or unusual" provision, a punishment may be unconstitutional because it is cruel only or unusual only.[1] Thus, when the Michigan Supreme Court found that sentencing 19 and 20 year-olds to prison for life without the possibility of parole without additional safeguards violated its own "cruel *or* unusual" clause, it concentrated on one condition but not the other. *People v. Taylor*, Nos. 166428 & 166654, 2025 WL 1085250, at *16 (Mich. Apr. 10, 2025) ("We hold that the application of a mandatory sentence of LWOP under MCL 750.316 to [the appellants] constitutes unconstitutionally harsh and disproportionate punishment and thus 'cruel' punishment in violation of Const 1963, art 1, § 16."). Similarly, Minnesota courts "separately examine whether the sentence is cruel and whether it is unusual," with the former inquiry focusing on "the proportionality of the crime to the punishment" and the latter on "whether the punishment comports with the evolving standards of decency that mark the

[1] This, of course, includes states, such as Washington, whose constitutions forbid "cruel 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").

progress of a maturing society." *State v. Hassan*, 977 N.W.2d 633, 645 n.2. (Minn. 2022) (Chutich, J., concurring); *see also Dist. Attorney for Suffolk Dist. v. Watson* ("While the word 'unusual' may suggest the need for an ongoing comparison of punishments meted out for comparable crimes in similar cultures, we focus instead on the constitutional prohibition of 'cruel' punishments.").

The Florida Supreme Court further underscored the importance of these textual distinctions in *Armstrong v. Harris*, when it overturned the results of a ballot measure election that "[r]equire[d] construction of the prohibition against cruel and/or unusual punishment to conform to United States Supreme Court interpretation of the Eighth Amendment." 773 So. 2d 7, 17 (Fla. 2000). According to the court, such a measure would effectively change the state's then-existing "cruel *or* unusual" constitutional provision to "cruel *and* unusual." *Id.* The court further explained:

> [T]he federal Constitution . . . represents the floor for basic freedoms; the state constitution, the ceiling. In the present case, by changing the wording of the Cruel or Unusual Punishment Clause to become "Cruel *and* Unusual" and by requiring that our state Clause be interpreted in conformity with its federal counterpart, the proposed amendment effectively strikes the state Clause from the constitutional scheme. Under such a scenario, the organic law governing either cruel or unusual punishments in Florida would consist of a floor (i.e., the federal constitution) and nothing more.

Id. at 17. The court recognized that the original "[u]se of the word 'or' instead of 'and' in the Clause indicates that the framers intended that both alternatives (i.e., 'cruel' and 'unusual') were to be embraced individually and disjunctively within the Clause's proscription," and that failing to do so would limit the rights of its citizens.[2] *Id*. at 17-18 (quotation omitted). As further described

---

[2] Even some state courts with constitutions barring "cruel *and* unusual punishment" have interpreted their constitutions to be more protective than the Eighth Amendment. *See State v. Sweet*, 879 N.W.2d 811, 839 (Iowa 2016) (holding life without parole is categorically unconstitutional for juveniles under the Iowa Constitution's ban on cruel and unusual punishment);

below, numerous courts have relied on heightened protections in their state constitutions to hold life without parole sentences unconstitutional for adolescents and older adolescents. *See* Section II.B.1 *infra.*

This Court should draw support from its sister courts in holding Article 1, Section 6 provides more protection than the Eighth Amendment.

C. History and state-specific context further support a broader, more protective, reading of the "cruel or unusual" provision.

Nevada's history further supports a broad interpretation of its "cruel or unusual" punishment proscription. Both the history of the provision itself and Nevada's general history of protecting the individual rights of its citizens support this conclusion.

1. The history of the "cruel or unusual" provision

Ordinarily, courts only look to a constitutional provision's history where its language is ambiguous. *ASAP Storage*, 123 Nev. at 646. While, as shown above, Article 1, Section 6's

---

State v. Comer, 249 N.J. 359, 399 (2022) (reaffirming that Section 12 of the New Jersey Constitution, barring cruel and unusual punishment, may provide greater protection than the Eighth Amendment, and thereby holding juvenile defendants can petition the trial court for resentencing after serving 20 years); *Fletcher v. State*, 532 P.3d 286, 290 (Alaska Ct. App. 2023) (holding Article 1, Section 12 of the Alaska Constitution, barring cruel and unusual punishment, provides more protection than the Eighth Amendment and thus a trial court may not sentence a juvenile to LWOP without affirmatively considering their youth and providing an on-the-record explanation that finds the juvenile is one of the rare offenders whose crime reflects irreparable corruption); *State v. Mata*, 745 N.W.2d 229, 278 (Neb. 2008) (finding the "cruel and unusual punishment" clause under the Nebraska Constitution prohibits death by electrocution and distinguishing U.S. Supreme Court cases finding it does not violate the Eighth Amendment); *Dawson v. State*, 554 S.E.2d 137, 144 (Ga. 2001) ("[W]e hold that death by electrocution, with its specter of excruciating pain and its certainty of cooked brains and blistered bodies, violates the prohibition against cruel and unusual punishment in Art. 1, Sec. 1, Par. XVII of the Georgia Constitution."); *State v. Gerald*, 113 N.J. 40, 76 (1988), *superseded by constitutional amendment*, N.J. Const. art. 1, ¶ 12 (effective Dec. 3, 1992) (finding that Article I, Paragraph 12 "affords greater protections to capital defendants than does the Eighth Amendment of the federal constitution").

language on its face could not be more clear, a historical analysis also yields the same conclusion: the Nevada Constitution provides broader protection than the Eighth Amendment.

Records of the 1863 Constitutional Convention reveal the significant influence of the California Constitution on Article 1, Section 6 of the Nevada Constitution; the California Supreme Court's guidance that a constitutional provision barring "cruel or unusual" punishment is more protective than one barring "cruel and unusual" punishment is therefore highly instructive here. *See People v. Anderson*, 493 P.2d 880, 885-86 (Cal. 1972).

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

> [T]his Territory is peopled almost exclusively by Californians— by men that have lived and acquired property there for years past— who have lived under and are acquainted with the Constitution of that State as it has been construed from time to time by the Supreme Court of that State. They have come into this Territory and found that here the leading paramount interests of our Territory are similar 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 . . .

Andrew Marsh, *Official Report of the Debates and Proceedings in the Constitutional Convention*

of the State of Nevada 14 (Eastman 1866) (hereinafter Marsh, *Debates and Proceedings*).

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

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

[3] Although the voters of California subsequently amended the words of their state constitution by referendum, *Anderson*'s textual analysis remains a model for this Court as Nevada has maintained the original "cruel or unusual" language.

2. Nevada's history of protecting individual rights

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

The Nevada Supreme Court has also found broader protections against prosecutorial misconduct in the Nevada Constitution than under federal law. *See, e.g.*, *Thomas v. Eighth Judicial Dist. Court in and for Cty. of Clark*, 133 Nev. 468, 474 (2017) (declining to follow, on state constitutional grounds, *Oregon v. Kennedy*, 456 U.S. 667, 672 (1982), and instead holding that the double-jeopardy "protections of article 1, section 8 of the Nevada Constitution also attach . . . when a prosecutor intentionally proceeds in a course of egregious and improper conduct that causes prejudice to the defendant which cannot be cured by means short of a mistrial"); *Roberts v. State*, 110 Nev. 1121, 1131-32 (1994) (declining to follow, on state constitutional grounds, *United States v. Bagley*, 473 U.S. 667, 674 (1985), "instead constru[ing] the due process clause in the Nevada Constitution, *see* Nev. Const. art. 1, § 8, to require a standard more favorable to the accused" when a prosecutor suppresses exculpatory evidence), *overruled on other grounds Foster v. State*, 116 Nev. 1088 (Nev. 2000). The same is true for the Nevada Supreme Court's

implementation of restrictions on governmental takings. *See, e.g.*, *McCarran Int'l Airport v. Sisolak*, 122 Nev. 645, 661-62, 675 (2006) (relying on textual differences between the Nevada Constitution and Fifth Amendment in finding broader state protection that requires compensation *prior* to a government taking).

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

II. Juvenile Life Without Parole Sentences Violate Article 1, Section 6 as they Contravene Contemporary Standards of Decency

In determining whether a punishment is cruel or unusual, this Court recognizes that "[a] punishment which is considered fair today may be considered cruel tomorrow. And so we are not dealing here with a set of absolutes. Our decision must necessarily spring from the mosaic of our beliefs, our backgrounds and the degree of our faith in the dignity of the human personality." *Naovarath v. State*, 105 Nev. 525, 529–30, 779 P.2d 944, 947 (1989) (citing Unpublished draft opinion, Box 171, Harold Hitz Burton Papers, Library of Congress, *quoted in* D. Danelski, "The Riddle of Frank Murphy's Personality and Jurisprudence," 13 Law & Social Inquiry 196 (1988). Thus, this Court looks to "contemporary standards of decency" to assess the validity of a punishment under the state constitution. *Commonwealth v. Mattis,* 493 Mass. 216, 229–30, 224 N.E.3d 410, 424 (2024). Imposing life without parole sentences on older adolescents is inconsistent with contemporary standards of decency based on the current neuroscientific understanding of older adolescents and current trends in state law, policy, and practice.

A. Neuroscientific research supports heightened constitutional protections for older adolescent sentencing.

A widely accepted consensus has emerged in recent years in neuroscience and developmental science that the defining characteristics of youth persist beyond age 18. *See, e.g.,* Arthur MacNeill Horton Jr & Cecil R. Reynolds, *Trajectory of the Development of Executive Functioning: Implications for Death as a Penalty as Applied to the Late Adolescent Class*, 7 J. Ped. Neuro. 66, 72 (2021); Vanessa Lozano Wun et al., *Within-Person Imbalance of Reward Sensitivity and Executive Functioning Across Adolescent Development: A Longitudinal Examination of the Dual Systems Model From Childhood to Adulthood*, 61 Devel. Psych. 2375, 2386 (2025); B.J Casey et al., *Development of the Emotional Brain: Hierarchical connectivity changes underlying emotion regulation*, 693 Neuroscience Letters 29, 33 (2019). According to a comprehensive 2019 report from the National Academies of Sciences, research confirms that "the unique period of brain development and heightened brain plasticity . . . continues into the mid-20s," and "most 18–25 year-olds experience a prolonged period of transition to independent adulthood, a worldwide trend that blurs the boundary between adolescence and 'young adulthood,' developmentally speaking." Nat'l Acads. Scis., Eng'g & Med., *The Promise of Adolescence: Realizing Opportunity for All Youth* 22 (Richard Bonnie & Emily Backes eds., 2019) (emphasis omitted). The report concludes that it would be "arbitrary in developmental terms to draw a cut-off line at age 18." *Id.*

A "maturity gap" with two parts of the brain developing at different rates shapes the unique characteristics of adolescence. Grace Icenogle, et al., *Adolescents' Cognitive Capacity Reaches Adult Levels Prior to Their Psychosocial Maturity: Evidence for a "Maturity Gap" in a Multinational, Cross-Sectional Sample*, Law Hum Behav. (2019). While the limbic system, responsive to rewards and heightened sensation, kicks into high gear around the time of

puberty, the prefrontal cortex that regulates behavior—self-control, thinking ahead, evaluating the rewards and costs of a risky act, and resisting peer pressure—develops well into the mid-20s. *See, e.g.*, *Id.*; Casey, et al., *supra* at 29-34; Wun, et al., *supra*, at 2386 ("we found evidence of a functional gap during early adolescence whereby relative levels of reward processes outpace capacities for executive control").

For older adolescents, the lags in impulse control are particularly pronounced in emotionally charged situations. Psychologists distinguish between "cold cognition," thinking and decision-making under calm circumstances, and "hot cognition," thinking and decision-making under emotionally arousing circumstances. Elizabeth Scott et al., *Young Adulthood as a Transitional Legal Category: Science, Social Change, and Justice Policy*, 85 Fordham L. Rev. 641, 652 (2016), https://fordhamlawreview.org/wp-content/uploads/2016/11/Scott BonnieSteinberg_November.pdf. Relative to adults, adolescents' deficiencies in judgment and self-control are greater under "hot" circumstances than under "cold" circumstances. Alexandra Cohen, et al., *When is an Adolescent an Adult? Assessing Cognitive Control in Emotional and Nonemotional Contexts*, 27 Psych. Sci 549, 559-60 (2016), http://www.manateelab.org/pdfs/Cohen_PsycholSci_2016.pdf. In circumstances of "hot cognition," brain function among 18–21-year-olds resembles that of a 13–17-year-old. Scott et al., *supra*, at 650 (citing *When Is an Adolescent an Adult?*, *supra*, at 559-60). *See also* Alexandra Cohen et al., *When Does a Juvenile Become an Adult? Implications for Law and Policy*, 88 Temple L. Rev. 769, 786-87 (2016), https://www.templelawreview.org/lawreview/assets/uploads/2016/08/Cohen-et-al-88-Temp.-L.-Rev.-769.pdf (finding the developmental period from age 18–21 characterized by a cognitive capacity and ability to "overrid[e] emotionally triggered actions," which is "still vulnerable," "diminished," and "immature" to an extent that "may be

relevant for evaluating appropriate age cutoffs relevant to policy judgments relating to risk-taking, accountability, and punishment").

Similarly, research has shown that older adolescents, like their younger counterparts, also experience increased susceptibility to peer pressure in situations involving risk-taking and reward-seeking as compared to adults. *See, e.g.,* Angela Keyzers, et al., *Peer Pressure and Substance Use in Emerging Adulthood: A Latent Profile Analysis, Substance Use & Misuse* (2020) (confirming a heightened response to peer pressure for adolescents as compared to adults in the context of drug use). Their general susceptibility to risk-taking, coupled with their impulsivity and immature capacity to anticipate the future consequences of their actions, likely influence older adolescents' criminal conduct. *See* Natasha Duell, et al., *Age Patterns in Risk Taking Across the World*, 47 J. Youth Adolesc. 1052 (2018) (finding risk taking behavior is generally highest among late adolescents); Scott et al., *supra*, at 644.

While younger and older adolescents are more likely to commit crime than adults, they are also more likely to desist as they mature into adulthood. An "age-crime curve," confirmed by a century of arrest data, demonstrates that criminal conduct is most common when individuals are young, peaks in the late teens, and drops dramatically in adulthood, beginning in the early to mid-20s. *See e.g.,* Lila Kazemian, *Pathways to Desistance from Crime Among Juveniles and Adults: Applications to Criminal Justice Policy and Practice*, Nat. Inst. Just. 3 (2021), https://www.ojp.gov/pdffiles1/nij/301503.pdf. Studies show that the combination of brain development, emotional maturity, and sociological factors such as family and work responsibilities result in a natural cessation in criminal conduct in adulthood. *See Id.*

B. Nevada and the rest of the country already provide unique protections for older adolescents; this Court should extend these protections to extreme sentencing.

In assessing whether a punishment violates "contemporary standards of decency," this Court should look to Nevada statutes and case law as well as the statutes and case law of other jurisdictions. *Commonwealth v. Mattis*, 493 Mass. 216, 229–30, 224 N.E.3d 410, 424 (2024). These "standards" support heightened constitutional protections for older adolescents.

1. Courts in other jurisdictions afford older adolescents special protection under their state constitutions.

Several state courts have explicitly recognized that LWOP sentences for older adolescents like Mr. Feazell violate their state constitutions. Massachusetts, for example, has held discretionary life without parole sentences for older adolescents violate the state constitution. *Commonwealth v. Mattis*, 224 N.E.3d 410, 415 (Mass. 2024) (holding LWOP for youth through age 20 is cruel or unusual punishment in violation of Mass. Const. Pt. 1, art. 26 and focusing on the "youthful characteristics" of older adolescents.). Other states have come to the same conclusion in the context of mandatory life without parole sentences; their reasoning – that older adolescents, like younger adolescents, require unique constitutional protections because of their developmental status – is apt here as well. *See, e.g., People v. Taylor*, Nos. 166428 & 166654, 2025 WL 1085247, at *1 (Mich. Apr. 10, 2025) (holding mandatory LWOP for youth up through age 20 is cruel or unusual punishment in violation of Mich. Const. art. 1, § 16 and recognizing that 19 and 20-year-olds are more similar to youth than to adults); *People v. Parks*, 987 N.W.2d 161, 174 (2022) (holding mandatory LWOP unconstitutional for 18-year-olds and recognizing the "inherent malleability and plasticity of late adolescent brains."); *Matter of Monschke*, 197 Wash.2d 305, 325-26 (Wash. 2021) (en banc) (holding mandatory LWOP for youth through age 20 is cruel punishment in violation of Wash. Const. art. I, § 14).

These cases build upon state constitutional case law applying unique protections for children, *see e.g. State v. Bassett*, 192 Wash.2d 67, 84-86 (2018) (holding LWOP unconstitutional as an impermissibly cruel punishment under Wash. Const. art. I, § 14 for juvenile defendants) and for individuals with intellectual disabilities; *Van Tran v. State*, 66 S.W.3d 790, 804-806 (Tenn. 2001) (holding that executing individuals with intellectual disabilities is "grossly disproportionate" under article 1, § 16 of the Tennessee Constitution), as well as cases abolishing the death penalty entirely. *See, e.g.*, *State v. Gregory*, 192 Wash. 2d 1, 19 (2018) ("[W]e strike down Washington's death penalty as unconstitutional under article 1, section 14."); *People v. Anderson*, 493 P.2d 880, 899 (Cal. 1972) (finding "that the death penalty may no longer be exacted in California consistently with article 1, section 6, of our Constitution"), *superseded by constitutional amendment*, Cal. Const., art. I, § 27; *State v. Santiago*, 122 A.3d 1, 73 (Conn. 2015) ("[C]apital punishment also violates article first, §§ 8 and 9, of the Connecticut constitution because it no longer serves any legitimate penological purpose."); *Watson*, 381 Mass. at 665 (finding "the death penalty is unconstitutionally cruel under art. 26 of the Declaration of Rights"); *Fleming v. Zant*, 386 S.E.2d 339, 343 (Ga. 1989) (extending recent statutory protection against death sentences in new trial cases to all offenders based on Georgia's "constitutional guarantee against cruel and unusual punishment").

2. State legislatures and professional associations afford older adolescents heightened protections in the criminal legal system.

State legislation affording opportunities for earlier release and "second look" resentencing reveals a national trend favoring additional protections for older adolescents in the sentencing context. In 2017, California extended youth offender parole eligibility to individuals with determinate sentences for certain offenses committed before age 26. A.B. 1308, Reg. Sess. (Cal. 2017) (amending Cal. Penal Code §§ 3051 & 4801); *see People v. Briscoe*, 105 Cal.

App. 5th Dist. 479, 495 (2024) (expanding protections to include those serving LWOP for felony murder). The relevant parole statute instructs the parole board to "give great weight to the diminished culpability of youth as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner in accordance with relevant case law." Cal. Penal Code § 4801(c). Illinois similarly provides special parole review for persons under 21, excluding those convicted of first degree murder, directing the Prisoner Review Board to consider "the diminished culpability of youthful offenders, the hallmark features of youth, and any subsequent growth and maturity of the youthful offender during incarceration." 730 Ill. Comp. Stat. 5/5-4.5-115(b), (j). Connecticut provides earlier parole eligibility to people who were under 21 at the time of their offense. Conn. Gen. Stat. Ann. § 54-125a(g). Rhode Island shortened the first parole review date to 20 years (from 25 years) for individuals who committed offenses prior to age 22. 13 R.I. Gen. Laws Ann. § 13-8-13(e). Wyoming provides an avenue for offenders under 30 years old, excluding those sentenced to life, to be placed in a youthful transition program and to receive a sentence reduction. Wyo. Stat. Ann. §§ 7-13-1002 & 1003. In 2021, Washington, D.C. expanded the reach of its Incarceration Reduction Amendment Act—which 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 under age 25. D.C. Law 23-274 § 601, 68 D.C. Reg. 1034 (Apr. 27, 2021) (amending D.C. Code Ann. § 24-403.03). Last year, Maryland amended a law to allow individuals who were under 25 when they committed certain crimes to petition for a sentence reduction after serving at least 20 years. H.B. 853, 2025 Gen. Assemb., Reg. Sess. (Md. 2025).

The American Bar Association (ABA) and the U.S. Sentencing Commission have similarly recognized that the distinct developmental status of older adolescents warrants specific legal

protections. In advocating for "second look" resentencing hearings for individuals who have served at least 10 years, the ABA specifically acknowledged the neuroscientific research showing that "certain brain systems and development of the prefrontal cortex that are involved in self-regulation and higher-order cognition, continue to develop into the mid-20s;" accordingly, "[t]hose sentenced while young merit second looks." 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 at 5, 6. In 2024, the U.S. Sentencing Commission updated its Guidelines Manual to suggest a "downward departure" due to a defendant's youthfulness because "[c]ertain risk factors may affect a youthful individual's development into the mid-20's." United States Sentencing Commission, *Guidelines Manual 2024: Supplement to Appendix C*, 272-73 (Nov. 2024) (Amendment 829 to § 5H1.1), https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/2024/APPENDIX_C_Supplement.pdf.

3. States, including Nevada, and the federal government have set the age of adulthood above 18 for the exercise of many rights and responsibilities.

Many jurisdictions, including Nevada, set the age of adulthood above 18 in contexts involving dangerous, risky, and potentially addictive behaviors. For example, the minimum age 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, 3123 (2019) (amending 21 U.S.C. 387f(d)(5)); National Minimum Drinking Age Act, 23 U.S.C.A. § 158 (2012). Additionally, in each of the 24 states, including Nevada, and the District of Columbia that have legalized marijuana for recreational use, the minimum age to purchase is 21. *See* Kate Bryan, *Cannabis Overview*, National Conference of State Legislatures (2024), https://www.ncsl.org/civil-and-criminal-justice/cannabis-overview. In 38 states, including

Nevada, you must be at least 21 to legally gamble in casinos. Alexander Korsager, *Legal Gambling Age in Every US State and Where You Can Gamble*, https://www.casino.org/us/local/guide/. Federal law also prohibits individuals under 21 from driving most commercial vehicles across state lines. 49 C.F.R § 391.11(b)(1). Most states have legislation prohibiting those under 21 from renting cars. William Lipovsky, *Minimum Age to Rent a Car in Each State,* First Quarter Finance (2023), https://firstquarterfinance.com/minimum-age-to-rent-a-car/. Most rental car companies also impose restrictions or surcharges on individuals under 25, recognizing the unique developmental needs of this age group. *See, e.g.*, Alamo FAQs, *Renting a Car Under 25*, https://www.alamo.com/en/customer-support/car-rental-faqs/age-to-rent-a-car.html (last visited June 4, 2025).

The federal government and many states have also extended additional support and benefits to older adolescents beyond age 18. In 2008, Congress passed the Fostering Connections to Success and Increasing Adoptions Act, allowing states to use federal funding to extend foster care up to age 21. 42 U.S.C.A. § 675(8)(B). Since then, 48 states including Nevada, as well as the District of Columbia, have extended foster care eligibility past 18, typically to age 21. U.S. Dep't Health & Hum. Servs., *Extension of Foster Care Beyond Age 18*, 2 (2022) https://www.childwelfare.gov/resources/extension-foster-care-beyond-age-18/ (click "Download"). Additionally, with limited exceptions, the federal government designates individuals under 24 as legal dependents for the Free Application for Federal Student Aid. *See* Federal Student Aid, *Dependency Status*, https://studentaid.gov/apply-for-aid/fafsa/filling-out/dependency (Last visited June 4, 2025). Under the Affordable Care Act, individuals 25 or younger can stay on their parents' health insurance. 42 U.S.C.A. § 300gg-14. The Individuals with Disabilities Education Act requires school districts nationwide to

offer special education services to individuals with disabilities through age 21 (or until high school graduation). 20 U.S.C.A. § 1412(a)(1)(A).

In sum, a panoply of state and federal laws reflective of the national consensus recognize that older adolescents share the same unique characteristics of youth as those under 18. Contemporary standards of decency therefore require that older adolescents like Mr. Feazell deserve the same protections from extreme criminal sentences.

III. CONCLUSION

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

Dated this 19th day of February, 2026.

/s/ Christopher Peterson
CHRISTOPHER M. PETERSON
Nevada Bar No. 13932
ACLU 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 amicus curiae ACLU of Nevada and Juvenile Law Center