

IN THE MICHIGAN SUPREME COURT

APPEAL FROM THE MICHIGAN COURT OF APPEALS

JUDGES: Stephen L. Borrello, P.J. Amy Ronayne Krause, Brock A. Swartzle

PEOPLE OF THE STATE OF MICHIGAN

PLAINTIFF-APPELLEE

vs.

ROBIN RICK MANNING

DEFENDANT-APPELLANT

SC:160034

COA:345268

LC:84-000570-FC

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BRIEF OF AMICUS CURIAE

TORONTO GARDETTE

EXHIBIT

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TORONTO GARDETTE #247479  
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DATE: JUNE 22, 2020

**TABLE OF CONTENTS**

INDEX OF AUTHORITIES.....i

QUESTIONS PRESENTED..... 1

JURISDICTIONAL STATEMENT..... 2

STATEMENT OF INTEREST AND INTRODUCTION..... 3

ARGUMENT..... 4,5,6

INDEX OF AUTHORITIES

CONSTITUTIONS

FEDERAL

US CONST, Am XIV ..... 4

MICHIGAN

Const. 1963, Art 1, §2 ..... 4

CASES

Ariz. Rev. Stat. Ann. §13-751 (G)(5) (2010) ..... 5

House, 2015 WL 9428803, at \*27 ..... 6

OTHER SOURCES

THE SENTENCING PROJECT OCTOBER 2019 Pg. 41 ..... 4

85 Fordham Law Review 641, paragraph (B) ..... 5

Emotional Intelligence by Daniel Goleman, Pg. 183 ..... 5

QUESTION PRESENTED

WOULD IT BE ERROR TO DENY DEFENDANT'S REQUEST FOR RELIEF, WHERE IMPOSING A LIFE WITHOUT THE POSSIBILITY OF PAROLE SENTENCE TO AN OFFENDER IN LATE ADOLESCENCE, CONSTITUTES CRUEL AND/OR UNUSUAL PUNISHMENT, AND VIOLATES THE EQUAL PROTECTION OF BOTH THE U.S. AND MICHIGAN CONSTITUTIONS?

Defendant - Appellant answers..... YES

Plaintiff - Appellee answers ..... NO

Amicus Curiae answers ..... YES

JURISDICTION

On December 11, 2019, this Court considered leave to appeal in people v Manning, 2019 Mich LEXIS 2320. This Court also invited "other persons or groups interested in the determination should move for permission to file Amicus Curiae".

Amici Toronto Gardette is interested in this Courts determination. Therefore, pursuant to MCR 7.305 (h)(1), this Court has jurisdiction to entertain an Amicus Curiae brief in support of Defendant - Appellant Robin Rick Manning.

STATEMENT OF INTEREST AND INTRODUCTION

Amicus Curiae, Toronto Gardette, acting independently of any legal representation. Amicus was convicted of Felony Murder. Amicus was 19 years of age at the time the crime for which he stands convicted was committed. Therefore, Amicus Gardette has a significant interest in the outcome of People v Robin Rick Manning.

Amici submits to this Honorable Court that the sentence of Life w/o The Possibility of Parole for late adolescents (those in age range of 18 to 21) stemming from Felony Murder convictions violates both the U.S. as well as Michigan Constitutions.

Further, an offenders age at the time of the offense, their conviction for Felony Murder, which does not require proof of an actual "intent to kill" should both be considered when deciding an offenders culpability.

Lastly, the limited requirements for a Felony Murder conviction may not necessarily undermine the conviction of a late adolescent, which conviction will remain intact. However, though the conviction for felony Murder remain intact the sentence to which late adolescents can be Constitutionally subjected under said conviction may be affected.

## ARGUMENT

According to scientific analysis and scientific expert opinions on brain development, science presents that a life w/o parole sentence for offenders who are in late adolescence constitutes cruel and/or unusual punishment and violates Equal Protections of the U.S. and Michigan Constitutions.

The question is now whether 19 year olds should be entitled to the same protections as adolescents under the age of 18. Scientific data and consensus both submit that this should be the case. This Honorable Court has authority to classify juveniles as being between the ages of 10 to 13 for early adolescents - 14 to 17 for middle adolescents and 18 to 21 for late adolescents. Should this court acknowledge and recognize scientific knowledge, this Court must then provide Equal Protections under the U.S. Const., AM XIV and CONST. 1963, Art I, § 2.

The district of Columbia implemented the (IRAA) Incarceration Reduction Amendment Act. In August 2019, the IRAA's provisions were expanded to include prisoners who were up to age 25 when tried and convicted. Of over 70 motions for sentence reductions, only one was denied and 16 have been granted, including a dozen cases involving murders, two involving rapes, one involving armed robbery and one for armed kidnapping.

In January 2019, New York prisoner Michael Crawford, convicted for a murder was granted clemency by Governor Cuomo after serving 20 years. The Governor granted pardons or commutations to 28 other current or former prisoners at the same time, including several convicted of violent crimes, stating they "demonstrated substantial evidence of rehabilitation and a commitment to community crime reduction". Sentencing Project.Org.

Over the past decade, developmental psychologists and neuroscientists have found that biological and psychological development continues into the early twenties, well beyond the age of majority. Recently, researchers have found that eighteen- to twenty-one-year-old adults are more like younger adolescents than older adults in their impulsivity under conditions of emotional arousal. It is also well established that young adults, like teenagers, engage in risky

behavior, such as drinking, smoking, unsafe sex, drug use and criminal activity, to a greater extent than older adults. The possibility that much risky behavior, including involvement in criminal activity, is a product of psychological and social immaturity raises the question of whether the presumption of reduced culpability and greater potential for reform should be applied to young adult offenders as well as juveniles.

According to 85 Fordham Law review 641, paragraph (B)- heightened risk taking during adolescence is understood to be the result of a developmental asynchrony wherein inclinations to pursue exciting, potentially rewarding experiences are especially strong, but the ability to control such urges is still relatively immature. The tendency toward heightened sensation seeking is thought to be sparked by hormonal changes of puberty, which are believed to increase activity in the brain's reward pathways, making individuals more attentive, sensitive and responsive to actual potential rewards. However, because development of brain systems that regulate impulse control is more protracted, continuing into the early twenties, a period of vulnerability to risky behavior results.

Data shows that the toxicity of emotions such as anger, anxiety, depression, pessimism and loneliness, when chronic, is on par with smoking cigarettes. (Emotional intelligence, pg. 183). That toxicity according to research contributes to the hindrance of brain development.

Studies of behavioral, psychological and neurobiological development indicate that the years from the late teens to the early twenties constitute a transitional period that bridges adolescence and mature adulthood. Although 18 to 21 year olds are in some ways similar to individuals in their midtwenties, in other ways, young adults are more like adolescents in their behavior, psychological functioning, and brain development. Thus, developmental science does not support the bright-line boundary that is observed in criminal law under which eighteen year olds are categorically deemed to be adults.

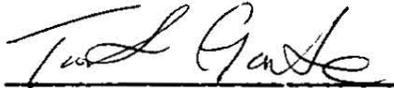
Age has long been considered a basis for mitigation under both capital and noncapital sentencing statutes. See Ariz. Rev. Stat. Ann. § 13-751(G)(5) (2010). Immaturity has featured most prominently as a key mitigating factor in

juvenile sentencing cases, but recently courts sentencing young adults also have begun to consider evidence of immaturity in mitigation. In 2015, for example, an Illinois court set aside a mandatory sentence of life without parole imposed on a nineteen-year-old as a violation of the Eighth Amendment prohibition of cruel and unusual punishment. See House, 2015 WL 9428803, at \*27. The court cited the Supreme Court's juvenile sentencing opinions and also pointed to developmental re=search indicating that brain maturation continues into the twenties.

**RELIEF REQUESTED**

In light of the above arguments, Amicus Curiae, Toronto Gardette respectfully asks this Honorable Court submit that Life w/o Parole sentences issued out to offenders who are late adolescents (age group 18 to 21) be ruled unconstitutional based on scientific evidence, data and expert opinion. In addition, Amicus Toronto Gardette humbly asks this Honorable Court submit that the ruling be applied retroactively to all young adolescents.

Respectfully,



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Date: June 22, 2020