

No. 3 WAP 2024

**IN THE SUPREME COURT
OF THE COMMONWEALTH OF PENNSYLVANIA**

Commonwealth of Pennsylvania,
Appellee,

v.

Derek Lee,
Appellant.

On appeal from a decision of the Superior Court, 1008 WDA 2021,
entered June 13, 2023, affirming a judgment of sentence imposed by
the Court of Common Pleas of Allegheny County,
CP-02-CR-0016878-2014, dated Dec. 19, 2016

**BRIEF OF FAMILY MEMBERS AND LOVED ONES OF
VICTIMS KILLED BY MURDER AS AMICI CURIAE
SUPPORTING APPELLANT**

Jon Cioschi (#318793)
WISEMAN & SCHWARTZ
718 Arch St., 701N
Philadelphia, PA 19106
Office: (215) 360-3988
Direct Dial: (610) 574-1877
cioschi@wisemanschwartz.com

Counsel for Amici Curiae

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INTEREST OF *AMICI CURIAE*

Amici are individuals who lost family members and close friends to murder who do not support life without parole for felony murder.

Amici firmly believe that mercy and redemption—values that they and their lost loved ones embrace—require that those sentenced to life without parole for second-degree murder be given an opportunity to demonstrate their capacity to grow and mature, to make efforts to repair, the harm they caused, and to make positive contributions to society outside prison walls.

While their experiences are not uniform, *Amici* share the belief that the lives of their loved ones are not honored by sentences that foreclose redemption and impose endless punishment.

SUMMARY OF ARGUMENT

Amici support second chances for those sentenced to life without parole for second-degree murder, like Appellant Derek Lee.

Amici have experienced the indescribable, everlasting pain of losing a loved one to murder. While their loved ones' lives cannot be restored, they can be honored by their survivors. *Amici* believe that failing to provide second chances to those sentenced to life without parole dishonors the memories of their loved ones. Rather than providing closure to victims, the endless punishment of life without parole only deepens their grief and harms the person sentenced to die in prison, as well as that person's community. Some *Amici* know that pain too well, having lost loved ones to violence outside of prison walls and to life without parole.

Life without parole is permanent retribution, a punishment that belies what many *Amici* and their lost loved ones believe is right. They urge this Court to accept Derek Lee's invitation to put an end to endless punishment by allowing second chances for those who mature, recognize the value of the lives lost because of their actions, and prove themselves capable of making positive contributions outside prison walls.

By granting second chances for Derek Lee and others serving life without parole, this Court will honor victims and survivors like *Amici*—and the loved ones they tragically lost to violence.

ARGUMENT

I. All Victims' Voices Must Be Heard, Including Those That Oppose Mandatory Life Without Parole for Felony Murder

We must recognize the diversity of voices who have experienced the devastating loss of a loved one to violence. Too often, we assume such victims desire the harshest available punishment. But this fails to account for the numerous survivors who believe their loved ones will be best honored by affording those who harmed them the opportunity to demonstrate remorse, to repair the harm, and to truly redeem themselves.

Our law requires that these voices be taken seriously. In requiring that survivors be afforded the opportunity to be heard before sentencing, and that their views must be considered in fashioning a sentence, Pennsylvania does not give preferential treatment to victims or survivors who only seek the harshest punishment. *See* 18 P.S. §§ 11.201(2.1), (5), & (7). Our law thus recognizes that victims who believe in redemption

and mercy must be equally heard and represented in how we treat those who have harmed them.

Amici exercise their right to be heard in support of Mr. Lee and others like him who are to be forever confined by prison walls, no matter how profound their remorse and growth. Honoring the memory of the loved ones they lost demands no less.

I. **Ending Mandatory Life Without Parole for Felony Murder Will Honor the Wishes of Many Survivors of Murder and the Memory of Their Lost Loved Ones**¹

Nancy L.

After Nancy's mother and father finished shopping for a holiday dinner, Nancy's father went to fetch the car. Thinking her husband was driving back towards her, Nancy's mom picked up the grocery bags, but saw the car leave the lot. Not understanding what happened, Nancy's mother ran into the store.

In the car with Nancy's father were brothers Wyatt and Reid Evans, who, at Marc Blackwell's direction, had stolen the car. Nancy's father told the Evans brothers he was a heart patient, pleading with them to let

¹ This section includes summaries of survivor and victim interviews brilliantly conducted and organized by Patricia Vickers and Sonja Dahl.

him out. The Evans brothers “had the compassion to take him to a phone booth in Fairmount Park,” where they let him out, and he called the police. The police rushed him to the hospital, where he had a heart attack and died just hours later. He was 68, and had just played golf that day.

Nancy’s mom was still at the grocery store, where police told her that a man had been kidnapped, and she didn’t believe it was her husband. The police took her to the hospital, where she learned that her husband had died.

Nancy’s mother loved her dad so much. When her father died, Nancy’s mother was never the same. “So it was sort of like I lost two parents that night,” Nancy says.

Within days, they caught the three perpetrators, then “kids” still in their teens. They brought back her dad’s money clip and the car, but could not bring back her dad.

The trial was devastating for her family. Mr. Blackwell, who had orchestrated the kidnapping and robbery, plead guilty and was sentenced to a minimum of 35 years. After being advised by their court-appointed attorneys to reject a far shorter terms of years, the Evans brothers were found guilty of second-degree murder and sentenced to die in prison.

At the time, Nancy's family "absolutely felt that justice was done." They wanted those responsible to be "punished for taking away the person that we loved most in the world":

It wasn't critical to any of us to find out, for example, what life without parole meant. We didn't know. I didn't understand it. I didn't know what it meant. We were just happy that they were in prison. We had to heal our lives. It didn't have anything to do with them. We just had to heal ourselves, which we did.

Years later, Nancy learned that Mr. Blackwell was getting out. She wondered, what about the Evans brothers? Why would the orchestrator be released, but not them? At that moment, Nancy realized what life without parole meant. "They were going to die in prison," even though they had shown compassion to her father, were accomplices who did not intend for him to die, and did not directly take his life. That, to her, wasn't just or fair.

Nancy was "horrified" to learn the Evans brothers had been denied commutation, even though they had been in prison for forty years. She spoke to her brother—"a very conservative," guarded man—and he said "enough is enough. It's time." Although she could not know what her mom would want, Nancy recalls that "she would always say to me, you have to forgive in this life." Nancy "just felt a shift in my heart, because

they had not killed my father directly, and they had shown him compassion. I believed they deserved forgiveness.”

Nancy began to advocate for a second chance for the Evans brothers, writing letters to now-Governor Josh Shapiro among others, and penning op-eds. Her efforts bore fruit, and the Evans brothers received a rare second commutation hearing, at which Nancy testified at her own request. Nancy recalls:

I said they were 18 and 19 years old. I made a lot of mistakes when I was 18 and 19 years old. I know that as a middle-class white kid, there is no chance that I ever would have been given life without parole. It just simply would not have happened. I know that. So how is that fair?

After their hearing, the Evans brothers’ sentences were commuted. They were granted parole, released, and reunited with their family.

After their release, Nancy met them for the first time. They told her that until they walked into the courtroom and saw how devastated her mother was, they did not understand the depth of what they had done. They apologized to Nancy profusely and told her they had thought about what they did every day since.

Like other lifers given second chances at the same time, the Evans brothers have lived productive, positive lives since their homecoming.

They moved in with their father and helped care for him when he fell ill and “probably saved his life.” They have good, steady jobs. They have nephews and youth in their lives they can direct away from the path they took. “And that would not have happened if they hadn’t been released.”

Nancy has become a full-throated advocate against endless punishment, particularly for those who have not directly taken a life or were under 21 at the time of the crime. Allowing someone to die in prison under those circumstances is wrong, especially where they did not intend to take a life, have compassion, and deserve a second chance because “we all have the capacity to change. And we do change. I don’t think people are the worst thing they’ve ever done. I think everybody should have an opportunity to be forgiven.” Nancy asks, “Doesn’t everyone deserve a second chance?”

Movita J.H.

Movita, a social worker, is a five-time co-victim of homicide. When she was eight years old, her father was murdered in 1975 in front of Movita and her family.

In 1991, after her only brother struggled for years with their father's murder, he was murdered as his five-year-old son sat in his lap.

Just before graduating business school, her cousin Stephen Khiry Johnson was shot and killed at a New Year's party.

On January 13, 2011, two young boys senselessly shot her youngest son Charles to death in Philadelphia.

On March 5, 2021, Movita buried her last son, Don, who was shot to death after a strip mall in Compton after a decade of fighting against gun violence alongside Movita.

From the moment her father was killed, Movita and her family struggled. Even at eight, Movita began self-medicating with alcohol, and she was soon diagnosed with PTSD and depression. Depression and survivor's guilt struck Movita's mother, and she also began to self-medicate. Her brother never recovered, cycling in and out of juvenile and

adult correctional facilities and struggling through mental illness and addiction until his killing in 1991.

When her brother was killed, Movita was in active addiction. Two years later, she got clean, and she devoted herself to providing a better life for her children. She even moved from Philadelphia when her teenage sons said they knew *nine* boys who had been murdered in their neighborhood.

But it wasn't enough. Three years after the move, Charles went to pick up his sister in Philadelphia, when two young boys shot him to death thinking he was someone else.

Movita, overwhelmed with anger, wanted Charles' killers to pay. But at their trial, her "heart began to soften," as the trial illustrated that these young men were a product of their environment and were never given the help they needed.

Movita "told her family that God put it on my hear to ask for mercy for these two young men." And she did, making a victim impact statement that moved the judge to tears, expressing that "in 20 years of trying these cases, I've never had a mother ask for mercy for someone that murdered their child." Movita observes, "while I couldn't change the

trajectory of their life, I could try and change the trajectory of their future, right?”

In pleading for mercy, Movita said “this isn’t a plea for me. This is a plea from my son, Charles. He doesn’t have a life. He can’t be a father.” Addressing Sean Jones—one of the two men convicted in her son’s killing—Movita asked him to be a father to his own son while incarcerated, a young boy who was close in age to Charles’ child. And she pleaded with both young men to be a model to anyone who came behind them, “so that they don’t return, so that we stop the recidivism,” and “break up the cycle of mass incarceration.” Because of Movita’s plea, Mr. Jones’ sentence was reduced by 50% to 12-to-24 years.

Mr. Jones heeded Movita’s call, earning his high school diploma, taking college courses, becoming a peer mentor, and even gaining prison guards’ trust. So when Mr. Jones was up for parole in 2023, supporting his release “was a no brainer for” Movita; she urged the parole board to “Let him come out. Let him have a life. Let him be a positive role model in the community.”

Movita supports second chances. While she will never “tell survivors of violence how they should feel,” she tries to “encourage them

to move from hurt into healing.” Her belief in second chances is rooted in a deep compassion for others, a belief that we all can make grievous mistakes, and a conviction that these mistakes should not define us:

The conversation I can have with survivors that a lot of people can't have is I can tell them, “One bad decision and it could have been your kid on the other side of that gun. That's why we need to have mercy, right? Because none of us are immune from making a mistake and none of us are the worst mistake that we've ever made in our lives and all of us deserve mercy.”

Chris K.

Chris has experienced this country's criminal legal systems as a military law enforcement officer for 22 years, through being incarcerated for 3.5 years in federal prison following a car accident (which led to serious injury, addiction, and crime), and—six months after his release, now 27 years ago—through losing his 14-year-old son to murder.

The shooter was a 12-year-old boy tried in D.C.'s juvenile justice system, where he was placed until he was 21. Three years into that placement, when Chris was preaching at a chapel service at a placement, Chris and the child had a chance encounter, immediately recognizing each other. While Chris's initial thoughts were “pretty vengeful,” his faith animated him to give the child his forgiveness after the service—“the hardest thing I've ever done.”

They began writing to each other and had difficult conversations over the years. The child took advantage of every opportunity the placement had to offer, slowly began to forgive himself, and his life began to change. He and Chris built an enduring relationship, which is not easy and often painful, as Chris still grieves his enormous loss.

After his release at 21, the child never went back. He got a master's degree and moved to Los Angeles, where he built a family, is a deacon in his church, and has successfully worked to remove many children from gangs.

It was difficult for Chris to see this child get a second chance. But that experience—as well as Chris's own second chance, which has enabled him to earn a psychology doctorate, become a pastor, and work in violence prevention—made Chris believe in the possibility of change, and a supporter of second chances for those who have changed their lives.

Chris's support for second chances is also grounded in his faith, which teaches no one is beyond redemption, and in the character of the formerly incarcerated people with whom he has worked on violence prevention, who, because they've "actually been there," are the best

“credible messengers to folks who are on the cusp of making that bad decision.”

Most people who’ve been given second chance—himself included—
“feel a sense of responsibility to repair the harm that we’ve caused”:

I still feel it every day. That’s why I do what I do, because I feel like I owe it to my family, to my community, to be that credible messenger that says you don’t have to live like this. There’s other paths, there’s other choices you can make.

Christina R.

Christina has lost family to gun violence. At seven, she lost her stepfather when two young people—one of whom was 17—robbed him, and it went horribly wrong. A few months later, Christina’s father and uncle were killed by gun violence.

The young men who killed her stepfather were sentenced to life without parole, but the people who killed her father and uncle were never held accountable. That lack of accountability angered Christina, she says, because, while people she did watch people in her community go to prison, she didn’t understand what it meant to go to prison.

Christina has also suffered the pain of family and close friends being subjected to endless punishment. When Christina was nine, her cousin was incarcerated on a life without parole sentence for a crime that

occurred when he was 16. Later, her childhood friend Matthew was sentenced to life without parole for felony murder.

Over the years, Christina would think often about the 17-year-old involved in her stepfather's killing, and what his life was like as a child, whether he had any remorse, and whether he was working on himself in prison. And she thought about the parallels between her cousin and the child who was involved in her stepfather's killing. Both were children, entering adult prison at 17 and 16. Given the challenges they faced in their own neighborhoods and lives, both—and Matthew as well—likely never even had a first chance, and would not get a second chance.

Nearly twenty years after Christina's stepfather was killed and her cousin was sent to prison for life, both children—now men—had a chance to end their lifetime incarceration.

Before the resentencing for her stepfather's killing, Christina's family received a letter from the man who played a role in ending her stepfather's life. In that letter, he described the work he was doing to transform his life, including obtaining certifications and mentoring others in prison. The letter, Christina recounts, was meaningful to her

because, while she had built up so much resentment towards this person, it was heartening to know he was working towards change.

At the resentencing, Christina observed tremendous grief on both sides of the courtroom—the grief of her family, “who lost someone and they still hurt” and haven’t “been given the resources to actually cope with that” pain; and the grief of the family of the man who was convicted of her stepfather’s killing, who had their loved one taken away when he was 17. Christina felt relief to be able to voice her pain in court. She also felt relief in hearing the child—now man—who took so much from her take accountability for what he did, and make clear his steadfast commitment to becoming a better person.

Owing to these experiences, Christina has become a firm believer in second chances. She has seen many people, like her cousin, sentenced to life without parole who barely had a first chance. And she has seen that many such people nonetheless devote themselves to thriving in the extremely challenging prison environment, and once released, unwaveringly commit to supporting their families—like her cousin, after he came home—and making positive change in their communities.

Fundamentally, Christina knows that we all have the capacity for change, and that we often do change for the better.

Amy S.

In 1997, when Amy was just a teen, she lost her 16-year-old neighbor—who was like a brother to her—to an execution-style murder. Initially, Amy hoped that those who killed her brother would “get dealt the same hand they dealt him.” Her perspective remained after she lost another loved one to violence in 1998 and another in 2018, who worked as a state constable and paramedic.

In the past five years, Amy’s views transformed. Before the pandemic, Amy worked to advocate for incarcerated individuals seeking to prove their innocence. But the pandemic prompted Amy to wonder how many people, although not actually innocent, had grown tremendously but might well die in prison. She thought of her brother, and the possibility there “might be really decent people who did a horrible thing.”

Amy began connecting with incarcerated people, and she met “so many” who had a desire and capacity for growth. She was moved by the people she saw inside serving life without parole, who “had no reason to

do better,” but were “taking programs,” “helping staff,” “giving back to communities,” and “doing fundraisers.”

Amy came to believe that she should not permanently judge those serving life without parole for their actions long ago—including those who killed her brother—especially because so many “were lost well before” they did “the worst thing that they’ve ever done.”

To Amy, parole should be available for those who demonstrate remorse, good behavior, and a positive transformation. As Amy puts it, “I believe everyone is worthy of opportunities at parole. Who am I to stand in their way?”

Second chances would better honor survivors like her, because “prison is not going to bring [her loved ones] back.” And because those serving life without parole “can come home and heal our societies” by guiding at-risk individuals away from violence, they will help prevent others from suffering as she has.

Antoinette K.

Antoinette recently lost her 31-year-old granddaughter—herself the mother of two children—to gun violence, when a shooter inadvertently shot her while targeting someone else.

Antoinette was broken, so much so that she could not bear to go to her granddaughter's funeral. Instead, she visited her son—her granddaughter's father—in prison to grieve with him during the funeral. Just the week before her death, Antoinette's granddaughter visited her father in that same prison, where they dreamt about what they would do together when he came home.

Traumatized by her granddaughter's death, Antoinette suffered a breakdown, prompting her to move out of state to get space and therapy she has needed to recover. To process her grief, Antoinette began writing letters to her granddaughter, which led her to start a support group called Grandmom Healing Swag.

Antoinette's losses have not motivated her to seek endless punishment for those responsible for killing her granddaughter. "If I ever came face to face with the person who did it, I would actually want to have a conversation with that person, because I'm not looking for punishment, I'm looking to heal both families on both ends."

Should those who killed her granddaughter be incarcerated on a life without parole sentence, she would "support them getting a second chance," as she does for those who "have been in over 20 years," and "have

proven themselves inside the prison and never been in trouble.” “They’re not monsters that society make them all to be,” but someone’s grandfather, mother, or son, and “they deserve to be out here with their family.”

Barbara P.

Barbara lost her son in 2013 to a bullet that was not meant for him. “A lovely child,” he was 31 years old with a master’s degree, a job with Verizon, and an even brighter future ahead.

Barbara lost her other son to endless punishment. This son was in the throes of drug addiction when he stumbled across someone who had been killed and panicked, and was ultimately sentenced to life without parole in connection with the death of that person.

Just after her son was murdered, Barbara started going to therapy, where she grieves her sons with others who have experienced similar tragedies.

Barbara supports second chances, particularly for those who did not kill or intend to kill. “They should all get second chances They should not have to do life.” Barbara’s opposition to endless punishment is rooted in her faith, her forgiveness of the man who killed her son, and her belief

that life without parole does not help society. Barbara wonders, “If I forgave him in court, why can’t society forgive him? At any time, God can forgive you, why can’t we forgive you? Why can’t we forgive each other?”

Rather than “tearing each other down,” we should “help each other build.” That means letting the man who killed her son come home raise his own children and “support me as a mother since he took my son’s life and help” support Barbara’s family. “We need help from each other,” and it is near impossible for community members to receive and provide that essential support when they are locked up forever.

Carol S.

After being incarcerated at SCI Mahanoy, Carol’s 37-year-old son was successfully rebuilding his life. He had even made it into the Cement Masons’ Union in Pittsburgh. But tragedy soon struck. In 2010, he was murdered in retaliation for a robbery he and his friends had committed decades earlier. This devastating loss left two children fatherless and caused Carol incomparable pain.

Carol wanted retribution, not mercy, for anyone involved in killing her son.

Carol found solace in getting together with mothers grieving loss, who helped each other through their trauma, and in the companionship of her puppy.

After processing her anger, Carol began to see humanity in those who killed her son, enabling her to forgive those who took her son away, and leading her to believe in second chances, even for them.

That transformation was, in part, a product of the pain of having her own son incarcerated for life without parole: “I wouldn’t want his mother to feel like I feel.”

Carol’s transformation was also prompted by her Islamic faith and her realization that the struggles leading to her son’s incarceration—substance abuse, mental health challenges, and inequality—were shared by others serving life without parole. “It’s the same story, just a different person.” Her faith implores her to have empathy for each such different person with the same story. She encourages us to remember that Jesus wanted us to “love everybody,” not “pick and choose.” Loving everybody requires second chances, not endless punishment.

Joan S.

In February 1973, Joan lost the 15-year-old brother of her life partner, Terry, to the hands of a serial killer—a tragedy that changed her entire life. The tragedy only deepened ten days later when Terry, traumatized and set off by this devastating loss of his closest brother, killed someone ten days later.

Joan's world was destroyed. She had no support from her family, and hardly any from her friends. She had no health insurance, so seeing a therapist wasn't an option. In caring for her 2-year-old daughter, she found solace.

After these tragedies came a decades-long process of grief. First, denial. Next, anger. Then, an abiding, decades-long sadness. And finally, Joan reached acceptance and forgiveness, both critical for moving on. She was even able to forgive the person who killed Terry's brother. Joan "believes in forgiveness for people's actions because without forgiveness, people are truly unable to move forward in their lives."

Joan's support for second chances for all those serving life without parole is rooted in her belief that "People are proven to change." She has seen that in Terry, who, over 47 years of incarceration, has atoned for his

wrongs, done everything in his power to be a better person, and accomplished feats unthinkable before he was incarcerated, like earning a computer science degree. Her support for second chances is underscored by the harm endless punishment inflicts on the families of incarcerated people, with no benefit to society. Standing in stark contrast is the tremendous good now-paroled juvenile lifers have done by being “rocks of the community” and “turning younger people’s lives around.”

Lateek H.

In 1994, Lateek’s father was murdered by a young man, who also happened to be Lateek’s friend. This young man was later sentenced to a term of years and released after fifteen.

In 1995, Lateek’s cousin snatched an elderly woman’s purse, causing her to fall, hit her head, and, one week later, pass away. He was convicted of felony murder, sentenced to life without parole, and remains incarcerated.

Within a short time, Lateek suffered two grievous losses. For him and his family, the pain is “bad, horrible, because we still have to survive out here, and we have to make sure that we are able to spend time with our family members that may be locked up.”

Lateek was able to forgive his friend for killing his father, as was his family. At his friend's trial, his friend apologized to Lateek and his family, an apology Lateek openly accepted. This forgiveness allowed Lateek to heal. "If you don't forgive a person," Lateek says, "you in turn are making yourself a prisoner."

While forgiveness has not erased his family's pain, Lateek has nothing but well wishes for the once young man who took so much from him and his family. "He'll be a grandfather by now because I believe he had children when we were younger. And I hope he's enjoying his grandchildren as well as his family." And while Lateek is not in touch with him, Lateek notes that "whatever it is, I hope he's being productive." That hope is grounded in the belief that redemption is critical to making amends for the harm that one has caused.

While the young man who took Lateek's father's life was given a second chance, his cousin has not been so fortunate, despite not intending to take a life, being incarcerated for about thirty years, and counting, and being a "model prisoner." Lateek is clear that it was wrong for his cousin to snatch that purse, but he is equally clear his cousin did not mean to kill anyone, and that his cousin's endless punishment has been nothing

short of unjust and terrible for his family. Lateek's cousin has missed out on so much that "he didn't have a chance to live his life."

Lateek does not resent that the young man who killed his father was given a second chance. "He did his time, came home. Alright, that's that. Don't give the man a hundred years." He just wishes that the system would extend the same mercy to his cousin.

To Lateek, second chances help society forgive and heal, and they give people the opportunity to redeem themselves and prove to society that they can be productive. Life without parole, contrarily, extinguishes forgiveness and redemption, in addition to hurting the incarcerated person and their family, and disproportionately impacting Black communities like Lateek's. "Something just needs to change. It needs to change."

Lorraine H.

The first time Lorraine's family lost a loved one was in 1992, when Lorraine's younger brother was murdered by gun violence.

The loss hurt her family desperately, and it transformed Lorraine as a person, wanting her brother's killer and the killer's family to feel the pain she and her family felt.

With time, Lorraine forgave her brother's killer, animated by her faith, her desire not to live in anger, and her understanding that her brother would not have wanted her to live in anger. Forgiving this man felt "like a thousand elephants lifted up off of me." Forgiveness may not be easy, Lorraine says, but it's possible.

Lorraine thanks God she reached forgiveness, because it helped prepare her to deal with the incarceration of her only child on a life without parole sentence.

Her son's incarceration began when he was just 18, while Lorraine was in the throes of addiction. To Lorraine, "he already didn't have a chance because he had an addict for a mother."

After working through her addiction, Lorraine devoted her life to fighting to bring her 48-year-old son home after thirty years. It pains Lorraine to think of all she and her son have missed because of his incarceration, but she prays and hopes that one day, they will be reunited outside prison walls.

Lorraine supports second chances, especially for young people and those who did not themselves kill. "How long is enough? If they've been

in there 15, 20, 30 years,” and you see that they’ve transformed as people, “it’s time to let them out.”

Lorraine understands why some victims do not support second chances, because she felt that way at one time. Yet once she accepted that her brother’s killer dying in prison would not bring her brother back, she knew that this man’s endless punishment would accomplish nothing.

A better system, to Lorraine, would not divide perpetrators and victims of violence, but promote healing, learning, and prevention:

I would love to one day sit face to face with the man that took my brother’s life to tell him and explain to him and get him to understand how he changed my family and the pain that he caused my family. But at the same time, he could hear it from my mouth that I’ve forgiven him. The judicial system has to learn how to work like that.

Rather than pitting survivors of violence and perpetrators against each other, we should promote healing, understanding why the harm occurred, and doing everything we can to “prevent it from ever happening to somebody else.”

Lisa O.

As a mother in Philadelphia, Lisa made a point of ensuring her kids—her boys especially—were home at night, so she would know they were safe. But thirteen years ago, Lisa got the worst phone call of her

life: her son had been shot. She thought he was home, but he wasn't. "I was shocked. I was hurt. It was the worst feeling in the world."

She rushed to the hospital, where she learned that her son had been shot in the chest. She decided to see him, and he was in a deeply compromised state. Thinking he might still be able to hear her, Lisa called out for her son. He died moments later.

Lisa soon learned that the young man responsible was close to her and her family—so close that he even asked to be a pall bearer at her son's funeral. He didn't have a family, and he spent time at Lisa's house, which was a safe haven for many children in the community.

Her son's murder destroyed her. It took her seven years to summon the strength to move forward. While "this little boy took my son," Lisa resolved, "I'm not going to let him take me."

While it took Lisa years to recover herself, she quickly forgave the boy who killed her son, even before she went to court for his prosecution and learned he would be taking a deal. At sentencing, she addressed the judge:

I got one in the system already. Already locked up. And locking this young man up is not going to stop my hurt. It's not going to stop my pain. It's not going to stop my emptiness. It's not going to stop. None of it.

Lisa asked the young man to help her get closure, and he could do that by telling her where the killing happened; she didn't even need to know why. The young man said, "I don't have nothing to say to her. Put the handcuffs on and let me start my time." "But I forgave you," Lisa said.

Even though he would not give Lisa what she needed for closure, she would not try to stop his release when he comes up for parole:

He did wrong. We all do wrong. But I'm not the judge. So I don't want that on my shoulder. So me going to parole and saying give him more time, what is that going to do? My family don't hate him. We hate what he did. We hate the choice he made, but I don't hate him. So I guess you got to find that in your soul. You know, it's hard. But to have peace within yourself, you got to let go.

Lisa believes in second chances "because we all make mistakes," and it is wrong to subject people to endless punishment for them. She also supports second chances because, just as her son has who has been incarcerated for fifteen years since he himself was fifteen, people do rehabilitate behind the walls by learning trades, getting degrees, and engaging in other productive pursuits.

Kim K.

Kim's first devastating loss occurred over thirty years ago, when her older brother, Terrell, was convicted of murder and sentenced to die in prison in his early twenties. As his younger sister who knew him at his core, Kim struggled to see Terrell as someone who could take a life.

Kim's second devastating loss followed soon after Terrell's sentencing. Her younger brother Damani, then 23, was driving with friends when two men shot up the car. Damani was the only one in the car who lost his life. Those who took Damani's life were never prosecuted.

For years, Kim struggled with the pain of both losses. Damani's was "the most definitive" test of faith for Kim, causing such pain that she had to leave his funeral service, and prompting extreme anger and a desire for retribution.

Reflecting, Kim would tell Terrell, "I've lost two of my brothers." Terrell would remind her that he was still here, but Kim knew he truly wasn't. He did not see her children born. When she needed to talk, she couldn't just call him. Kim knew the magnitude of Terrell's crime, but she felt her family was being punished for it as well.

With time, Kim began to heal. To fully heal, Kim needed to forgive those who took Damani's life, while also asking God to forgive Terrell.

Kim was able to forgive the men who killed Damani. And unlike many others, Terrell got a second chance after thirty years, when his sentence was commuted in light of his tremendous growth and advocacy for second chances while incarcerated. Since his release, Terrell has continued to fight for second chances for others who were not so fortunate.

Kim's support for second chances stems from her belief in the capacity of people to better themselves, and her belief that society should encourage people to better themselves. If people want to reform, we should encourage that by giving them an opportunity for a second chance when "they are making strides to become better." To Kim, there is no humanity in locking someone up and throwing away the key; "it sends the wrong message: that you've made a mistake, and that's it: you're not worthy of change."

Terrell W.

Terrell—Kim K.’s brother—was “condemned to a life without parole sentence” for thirty years.

As an “impulsive” 22-year-old man who “didn’t understand the full ramifications of some of the decisions that I made,” Terrell was responsible for bringing harm into the world. But as Terrell matured, he “realized that kind of thinking, being impulsive like that, is not a way to live your life.”

Desiring to understand his impulsivity, Terrell turned to neuroscience, which explained that executive functioning doesn’t fully develop until at least 25. This learning, Terrell reflects, “led me on this journey of becoming more than the worst expression of myself,” and he did everything “necessary to facilitate that transformation.” He worked to learn who he was and how to love himself, and earned a college degree. With time and work, Terrell “moved away from the short-sighted and impulsive 22-year-old person that was responsible for bringing a lot of harm into the world.”

This transformation, Terrell recalls, “led me to the space of wanting to atone, to give back to the communities that I harmed.” But life

without parole prevented him from true atonement because he was not incarcerated in the communities he harmed. .

Terrell supports second chances “because I believe people can change”:

People transform to become better versions of themselves. People are contrite and sorry for the harm they’ve done and are seeking forgiveness. But when you sentence people to mandatory life without parole, there’s no space for forgiveness. It’s just a condemnation for the rest of your life. Even though there’s no incentive for people to transform or do any of that, people do it on their own. People do it on their own because this is who they are. They aren’t the worst expression of themselves.

Life without parole sentences by their “very nature say that you can never be no more than the worst expression of yourself.” “That was totally untrue for me,” and it is untrue for many others behind him.

Since his release, Terrell has continued fighting for those less fortunate: with Drexel Law, producing legal scholarship that “allows those voices that have been muffled by penitentiary walls to be heard”; and with the Philadelphia Anti-Violence Anti-Drug Network, fighting to prevent violence at the frontlines. To Terrell, people with experiences like his are ideally suited to meaningfully contribute to stopping violence:

Guys like myself, guys that are coming home, guys who have been similarly situated would love opportunities to play a positive role in some of these young men's life to help them make better decisions. That's the way that you have to do it because we come from, we're uniquely positioned. We've been through everything these kids have been through and more. We've been through what they're getting ready to experience if there's no intervention. So if society will take better advantage of what we have to offer, then things may look a whole lot different.

CONCLUSION

For these reasons, in addition to the reasons articulated in support of Mr. Lee, this Court should conclude that the Pennsylvania Constitution requires second chances for those serving life without parole for second-degree murder.

/s/ Jon Cioschi

Jon Cioschi
Pa. Id. No. 318793
WISEMAN & SCHWARTZ
718 Arch St., 701N
Philadelphia, PA 19106
Office: (215) 360-3988
Direct Dial: (610) 574-1877
cioschi@wisemanschwartz.com

Counsel for Amici Curiae

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CERTIFICATE OF COMPLIANCE

I certify that the foregoing brief complies with the word count limitation of Rule 2135 of the Pennsylvania Rules of Appellate Procedure. This brief contains 6,899 words. In preparing this certificate, I relied on the word count feature of Microsoft Word.

I further certify that this brief complies with rules that require confidential or non-public information to be filed differently than non-confidential or public information.

/s/ Jon Cioschi

Jon Cioschi

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of April, 2024, a true and correct copy of the forgoing Brief of *Amici Curiae* was served on the parties via PACFile and that within 7 days, I will file paper copies with the Pennsylvania Supreme Court.

/s/ Jon Cioschi

Jon Cioschi