ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY

STATE OF ARIZONA v. HON. COOPER (BASSETT)
CR-22-0227-PR

PARTIES

Petitioner: State of Arizona (Maricopa County Attorney's Office)

Respondent: Honorable Katherine Cooper, Maricopa County Superior Court

Real Party in Interest: Lonnie Allen Bassett (*Defendant*)

Amicus Curiae: Arizona Attorney General

Amicus Curiae: Arizona Justice Project (*in Support of RPI Bassett*)

Amicus Curiae: Maricopa County Public Defender

Amicus Curiae: Juvenile Law Center, Campaign for the Fair Sentencing of Youth, and Human Rights for Kids (*in Support of RPI Bassett*)

Amicus Curiae: Kaleem Nazeem, Louis Gibson, Shakur Abdullah, and Greg Greenwood (*in Support of RPI Bassett*)

FACTS

In June 2004, when Bassett was sixteen years old, he was riding in a car with his friends. He was in the backseat. Frances was driving, and her boyfriend, Joseph, was the front-seat passenger. Basset pulled out a shotgun and fatally shot Joseph. He shot Frances in the shoulder and then repositioned himself and shot her a second time—this time killing her.

The Maricopa County Grand Jury indicted Bassett on two counts of first-degree murder. The State filed a notice of intent to seek the death penalty that was dismissed by the superior court after the United States Supreme Court decided *Roper v. Simmons*, 543 U.S. 551 (2005) holding that imposition of the death penalty on those under eighteen years of age is unconstitutional.

After an eight-day trial, the jury rejected Bassett's self-defense claim and convicted him on both counts of first-degree murder. At sentencing, the court advised that it had read the presentence report; the extensive sentencing memoranda filed by the State, Bassett, and the Crime Victims Legal Assistance Project; and the letters attached to the presentence report. Bassett also called several witnesses to testify on his behalf.

Then, after hearing the State's arguments and final argument from Bassett's counsel, the court emphasized that "[t]here is no presumptive sentence for first degree murder when the death penalty is not allowed" and that the court approached sentencing "with an open mind." Ultimately, the court found that Bassett was a danger to the public that "cannot be addressed with anything less than a natural life sentence," and sentenced Bassett to natural life for Frances's murder and to a consecutive sentence of life with the possibility of parole after 25 years for Joseph's murder. Bassett's convictions and sentences were affirmed on appeal and this Court denied review, *State v. Bassett*, 215 Ariz. 600 (App. 2007).

In 2012, the United States Supreme Court held that "mandatory life without parole for those under the age of 18 at the time of their crimes violates the Eighth Amendment's prohibition on 'cruel

and unusual punishments.'" *Miller v. Alabama*, 567 U.S. 460, 465 (2012). The *Miller* court's analysis contrasted "the juvenile offender whose crime reflects unfortunate yet transient immaturity" with "the rare juvenile offender whose crime reflects irreparable corruption," and held that the sentencer must "take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." *Id.* at 479-80 (internal quotation marks and citation omitted).

Bassett's initial petition for post-conviction relief was dismissed after appointed counsel filed a notice advising the court no colorable claims were located, and Basset declined to file a *pro se* petition. In 2013, Bassett unsuccessfully raised a *Miller* claim in a successive petition for post-conviction relief.

In 2016, the United States Supreme Court held that its decision in *Miller* is retroactive. *See Montgomery v. Louisiana* 577 U.S. 190 (2016). The *Montgomery* court described *Miller* as providing a "substantive holding that life without parole is an excessive sentence for children whose crimes reflect transient immaturity[,]" and added that, to give effect to the holding in *Miller*, a hearing is required where "youth and its attendant characteristics" are considered as sentencing factors "to separate those juveniles who may be sentenced to life without parole from those who may not." *Id*. at 210 (quoting *Miller*, 567 U.S. at 465).

Following *Montgomery*, Bassett filed a third petition for post-conviction relief in 2017 arguing he was entitled to relief pursuant to *Miller* and *Montgomery*. The State initially conceded that Bassett was entitled to an evidentiary hearing in light of this Court's holding in *State v. Valencia*, which found, based on the holdings in *Miller* and *Montgomery*, that defendants serving natural life sentences for crimes committed as juveniles were entitled to an evidentiary hearing on post-conviction petitions. 241 Ariz. 206 (2016).

However, while Bassett's evidentiary hearing was pending, this Court decided *State v. Soto-Fong*, 250 Ariz. 1 (2020). In addition to holding that defendants' aggregate life sentences did not violate the Eighth Amendment's prohibition of cruel and unusual punishment, the Court noted its agreement with Justice Scalia's dissent and stated, "*Miller*'s holding was narrow—a trial court must consider certain factors before sentencing a juvenile to life without the possibility of parole." *Soto-Fong*, 250 Ariz. at 7 ¶ 23 (citing *Miller*, 567 U.S. at 483). This Court further observed, "*Miller* did *not* impose a categorical ban on parole-ineligible life sentences for juveniles."

About six months later, the United States Supreme Court decided *Jones v. Mississippi*, 137 S.Ct. 1307 (2021). The Supreme Court explained that *Miller* only required "that a sentencer follow a certain process—considering an offender's youth and attendant characteristics—before imposing a life-without-parole sentence" and emphasizing that its decision did not overrule *Miller* or *Montgomery* and only clarified that *Montgomery* "flatly stated that *Miller* did not impose a formal factfinding requirement" or "a finding of fact regarding a child's incorrigibility." Following this Court's decision in *Soto-Fong* and the United States Supreme Court's decision in *Jones*, the State moved to vacate the evidentiary hearing and dismiss Bassett's petition arguing that *Jones* implicitly overruled *Valencia.*

The superior court denied the State's motion to vacate the evidentiary hearing and dismiss Bassett's petition, finding that "Bassett is still entitled to an evidentiary hearing to determine whether his sentencing proceeding met *Miller* requirements" because *Jones* did not change that requirement and "[held] that there are no magic words required—that the sentencer is not required to make a separate express or implied factual finding of permanent incorrigibility before imposing a[] [natural life] sentence on a juvenile homicide offender." The superior court also held that "[a]

colorable claim exists because Bassett was sentenced under a *mandatory natural life sentencing scheme* that *Miller* and *Jones* found to be unconstitutional."

Additionally, the superior court found that Bassett was entitled to an evidentiary hearing (i.e., a *Valencia* hearing) because he has presented a colorable claim based on a significant change in the law. Specifically, the court observed that the petition alleges "facts that, if proven, establish that the court imposed a [life without parole] sentence without giving Bassett's youth and attendant characteristics the weight required by *Miller*." The superior court also held that Bassett raised a second colorable claim because his petition "alleges facts that, if proven, establish that the trial court failed to adequately consider Bassett's youth and attendant characteristics because the court lacked [specific] critical information."

The State filed a petition for special action review and request for a stay in the Court of Appeals. The Court of Appeals declined to accept jurisdiction. The State then filed a timely petition for review of a special action decision of the Court of Appeals in this Court.

ISSUES

1. Whether Respondent Judge abused her discretion and erred as a matter of law when she found that Bassett's natural life sentence was a mandatory sentence under *Miller v. Alabama*, 567 U.S. 460, 483 (2012)?
    a. Is the Court of Appeals' holding in *State v. Wagner*, 253 Ariz. 201 (App. 2022) correctly decided?
2. Whether Respondent Judge erred by finding that Bassett is entitled to an evidentiary hearing on his Ariz. R. Crim. P. 32.1(g) claim pursuant to *State v. Valencia*, because the trial court imposed a natural life sentence without giving Bassett's youth and attendant characteristics "the weight required by *Miller*" and his sentencing hearing did not include information necessary for "adequate consideration" of his youth and attendant characteristics, contrary to *Miller*, *Montgomery v. Louisiana*, 577 U.S. 190 (2016), *Tatum v. Arizona*, 137 S.Ct. 11 (2016), *State v. Valencia*, 241 Ariz. 206 (2016), *State v. Soto-Fong*, 250 Ariz. 1 (2020), and *Jones v. Mississippi*, 141 S.Ct. 1307 (2021)?
    a. Does this Court's holding in *State v. Valencia*, 241 Ariz. 206 (2016) remain good law following *Soto-Fong* and *Jones*?