2021 IL App (1st) 190898-U

SIXTH DIVISION
September 10, 2021

No. 1-19-0898

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 81 C 1518
	)	
JOSEPH YOUNG,	)	Honorable
	)	Diane Cannon,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE MIKVA delivered the judgment of the court.
Justices Connors and Oden Johnson concurred in the judgment.

ORDER

¶ 1 In 1981, 20-year-old Joseph Young confessed to the murder and armed robbery of Willie Davis. The trial court sentenced Mr. Young to natural life in prison for the murder and a concurrent term of 60 years for the armed robbery.

¶ 2 This court affirmed Mr. Young's convictions on direct appeal. We remanded the case, however, for the trial court to reconsider Mr. Young's sentence in light of his young age and the fact that there would be no possibility of parole. *People v. Young*, 113 Ill. App. 3d 1165 (1983) (table) (unpublished order under Supreme Court Rule 23).

¶ 3 On remand, the trial court imposed the same sentence. We again affirmed, rejecting Mr. Young's argument that the court had failed to comply with our mandate when it stated that it would not consider post-sentencing evidence of his good conduct while incarcerated. *People v. Young*, 152 Ill. App. 3d 361, 364 (1987). Our supreme court affirmed. *People v. Young*, 124 Ill. 2d 147, 160 (1988).

¶ 4 Mr. Young now asks us to reverse the circuit court's denial of his motion for leave to file a successive postconviction petition. His claim is that, pursuant to recent authorities and evolving research on the neurological development of young adults, it was unconstitutional for the trial court to sentence him to life in prison without the possibility of parole for a crime committed when he was 20 years old, without first specifically considering the youth-based factors set out in *Miller v. Alabama*, 567 U.S. 460 (2012), and making a finding that he was permanently incorrigible.

¶ 5 For the reasons that follow, we reverse the circuit court's denial of Mr. Young's motion. Based on the newness of the authorities upon which he relies, the State agrees that Mr. Young has shown good cause for not asserting this claim in his initial postconviction petition. We find that Mr. Young has also shown prejudice, a point on which the State disagrees. In our view, evidence that Mr. Young matured while incarcerated offers some support for his claim that he bore characteristics of a juvenile capable of rehabilitation when he committed those crimes.

¶ 6 I. BACKGROUND

¶ 7 Mr. Young stated in a written confession, introduced at his bench trial, that he intended to strangle and rob Ms. Davis and went to her house on or around January 20, 1981, with an extension cord for this purpose. After he killed Ms. Davis, Mr. Young took various items from her home and returned the following day with a friend to search for additional valuables. Noting that this account was corroborated by both the physical evidence and witness testimony admitted at trial, the trial

court found Mr. Young guilty of three counts of first degree murder and one count of armed robbery.

¶ 8 A. Initial Sentencing

¶ 9 During the first phase of a bifurcated penalty hearing, a jury found Mr. Young was eligible for the death penalty, as he was over 18 years of age and had killed in the course of another felony. In the second phase, however, the jury was unable to unanimously conclude that there were no mitigating factors sufficient to preclude imposition of the death penalty. To arrive at an appropriate sentence, the trial court then considered the same evidence in mitigation and aggravation that had been presented to the jury.

¶ 10 According to the presentence investigation (PSI) report in this matter, Mr. Young "lost interest in school," dropping out after his third year of high school. Prior to being taken into custody on the charges in this case, Mr. Young had held a variety of jobs, each for less than a year. He had one child, a daughter, who at the time of the report was seven months old. Mr. Young's father, who worked as a truck driver, and his mother, who died when he was 13 years old, were never married. Mr. Young was raised by his mother and described his childhood prior to her passing as "good." After her death, he lived with his older brother for a short period of time before moving in with his father and stepmother. They were divorced a year later, however, and for the five years preceding the investigation, Mr. Young and his father had shared a 2 1/2-room apartment. Mr. Young's father was often intoxicated, a situation that had caused the two to argue and Mr. Young to run away from home a few times. Mr. Young denied having ever suffered from mental or emotional problems and denied any gang involvement. He drank socially, occasionally smoked marijuana, and enjoyed playing baseball, basketball, and bowling.

¶ 11 The State presented three witnesses in aggravation. Sharon Murphy testified that, in

October 1977, she returned home from running errands to find her mentally disabled sister, Theresa, seriously wounded by an attacker, whom Theresa identified as Mr. Young, who was 16 years old at the time. Detective Harold Huffman, assigned to investigate the attack, testified that Mr. Young signed a written statement detailing how he had argued with Theresa when she accused him of only coming around to borrow money, and that this comment had prompted him to attack her and, ultimately, to stab her with a butcher knife.

¶ 12 Detective Stanley Taitt testified that three years later, when Mr. Young was 19 years old, he was arrested for burglarizing an apartment in his neighborhood and again signed a written confession. Mr. Young was serving a sentence of two years of probation for that burglary when he was arrested in this case.

¶ 13 Defense counsel then presented several witnesses in mitigation. Mr. Young's father, Joseph Montgomery, testified that Mr. Young had lived with him since his mother died and that during that time Mr. Young had helped out around the house and never caused any problems. Mr. Montgomery testified that he had never seen Mr. Young behave in a "violent or raging" manner and corroborated the information in the PSI report about Mr. Young's education, employment history, and hobbies. He added that the two sometimes went fishing and hunting together. Mr. Montgomery also knew that his son was interested in automobile mechanics, architectural drawing, and photography.

¶ 14 Nineteen-year-old Marla Sims testified that she was Mr. Young's fiancée and the mother of his infant daughter. She had known him for approximately four years. He treated her well and treated her family as if they were his own. She had never seen him hit or beat anyone. Ms. Sims's mother offered similar testimony.

¶ 15 Mr. Young declined to make a statement on his own behalf at sentencing.

¶ 16 In their closing arguments, defense counsel stressed Mr. Young's young age and the fact that he had never before been incarcerated, while the State argued that he had a pattern of preying on the weak and had already had two chances to rehabilitate himself. The State asked the trial court to impose a sentence of natural life for the murder, plus an extended-term sentence for the armed robbery. Defense counsel asked the court to instead impose "a definite sentence with the possibility of parole so that [Mr. Young could] in fact get his life together and have some hope for the future."

¶ 17 The court began by noting that although the typical sentencing range for murder was 20-40 years, an extended term of 60-80 years could be imposed upon a finding that the crime was a particularly heinous and brutal one indicative of wanton cruelty. The typical range of 6-30 years for armed robbery could likewise be extended to 30-60. Additionally, because the jury had concluded that at least one of the aggravating factors in the death penalty statute was present, Mr. Young was eligible for natural life in prison.

¶ 18 The court then stated for the record that it had considered the evidence presented at trial; the PSI report, which, with some minor corrections, the parties agreed was accurate; the evidence in mitigation and aggravation presented by the parties; and the statutory sentencing factors. The court sentenced Mr. Young to natural life in prison for the murder, merging the three counts into a single count, and a consecutive extended term of 60 years for the aggravated robbery. Noting the victim's age and the premeditated nature of the killing, the court concluded that this was an "exceptionally brutal and heinous" murder. The court believed that Mr. Young had "forfeited his right to move about freely in our society" and that he "should be totally incapacitated from inflicting his brutality and cruelty upon anyone else."

¶ 19 B. Direct Appeal and Remand

¶ 20 We affirmed Mr. Young's convictions in an unpublished order issued on April 25, 1983.

Young, 113 Ill. App. 3d 1165. We rejected his argument that his natural life sentence should be vacated because the trial court had not properly considered his rehabilitative potential. *Id.*, slip order at 11-12. And we declined to exercise our power under Illinois Supreme Court Rule 615(b)(4) to reduce his sentence. *Id.* We nevertheless took the unusual step, "in view of [his] age and the fact that the sentence *** preclude[d] any possibility of parole," of "remand[ing] this matter back to the trial court for its reconsideration of the sentence." *Id.* at 12.

¶ 21 On remand, the trial court noted that this court had not vacated Mr. Young's sentence. For this reason, the court did not believe that subsection 5-3-1(d) of the Unified Code of Corrections (Code of Corrections) (730 ILCS 5/5-5-3(d)) (West 1982)) applied. That subsection provided, then as now, that "[i]n any case in which a sentence originally imposed is vacated, *** [t]he trial court shall hold a hearing under Section 5-4-1 of this Code which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed." *Id.* The trial court stated that it would thus not consider evidence proffered by defense counsel of Mr. Young's good conduct in prison following his initial sentencing.

¶ 22 The court read into the record the explanation for Mr. Young's sentence that it had given at his initial sentencing hearing, stating "[i]f there is any doubt about it, I did know at the time that I entered sentence that Joseph was age 20," and again made clear that it believed Mr. Young had been given opportunities to show his rehabilitative potential and had failed to do so. In the court's view, Mr. Young's only avenue for pursuing a shorter sentence was with the Governor's Prisoner Review Board.

¶ 23 When asked by the court if there were any factors "in existence at the time of the original sentencing hearing" that he wished it to reconsider, defense counsel urged the court to be open to the possibility that Mr. Young's rehabilitative potential, though it existed at that time, had only

recently "been shown to have come into light."

¶ 24 As an offer of proof regarding Mr. Young's conduct while incarcerated, counsel then presented the testimony of Donald Wasson, who had taught Mr. Young English and social studies through a voluntary education program at Pontiac Correctional Center. Mr. Wasson testified that Mr. Young was an "excellent" and respectful student with an attitude toward learning that was much better than his peers. Mr. Young had avoided gangs while in prison—something that Mr. Wasson acknowledged was rare—had taken an interest in religion, and had advanced three grade levels in one year. Mr. Wasson believed that Mr. Young would eventually obtain his GED.

¶ 25 William Singleton, the prison's superintendent of industry, additionally testified that as an inmate Mr. Young had worked in sheet-metal fabrication. Although prisoners interview for a limited number of positions in this trade, and although those chosen usually have prior experience and are over the age of 35, it was obvious to Mr. Singleton upon meeting Mr. Young that he was an exception, and Mr. Young had indeed proved to be an outstanding employee.

¶ 26 Marla Sims again testified, stating that Mr. Young had kept in contact with her, that he wrote letters to his now three-year-old daughter, and that he sent money home for her care every other month. Ms. Sims said that while incarcerated Mr. Young had become interested in religion, writing poetry, and drawing.

¶ 27 Defense counsel concluded by submitting a half-a-dozen letters from other prison staff and teachers similarly indicating that Mr. Young had turned his life around in prison life. Counsel again asked the court to consider this evidence, arguing that it showed "that perhaps it was a little too early to shut the door on a person who's only 20 years old."

¶ 28 The court again stated that it was refusing to consider the proffered evidence, however, and absent any new considerations, that it would reaffirm Mr. Young's original sentence of natural life

in prison and a concurrent term of 60 years. The court's explanation again focused on the nature of the offenses and the fact that Mr. Young was already on probation when he committed them.

¶ 29 The court acknowledged the rehabilitation Mr. Young had undergone while in prison in a single concluding remark, stating:

> "All that has been shown to me here today is that Mr. Young has demonstrated a capacity to function in a structured society, whereas he did not demonstrate that capacity in an open society. And this is absolutely in keeping with my original sentencing determination.
>
> I am happy to see that Mr. Young has decided to improve the quality of his life in the Illinois Department of Corrections since it is my express intention that he spend the remainder of his life there for the reasons I have stated."

¶ 30 C. Second Direct Appeal

¶ 31 Mr. Young again appealed, arguing that by refusing to consider the proffered evidence of his good conduct while in prison, the trial court had not acted in accordance with this court's mandate. We disagreed. We held that whether to consider such evidence was within the court's discretion under section 5-5-3(d) of the Code of Corrections and, moreover, its concluding remarks quoted above indicated that the trial court had in fact considered the proffered evidence. *People v. Young*, 152 Ill. App. 3d 361, 364-65 (1987).

¶ 32 Mr. Young further appealed the matter to our supreme court, which—although it concluded that it must treat our Rule 23 order as having vacated Mr. Young's sentence and remanded for resentencing—agreed that section 5-5-3(d) of the Code of Corrections was permissive even where a sentence had been vacated. Our supreme court also noted that, despite his repeated refusal to consider the evidence Mr. Young sought to introduce about his changed conduct in prison, the

sentencing judge's concluding remarks indicated that he had not completely ignored that evidence. *Young*, 124 Ill. 2d at 152-54, 157, 159.

¶ 33 D. Postconviction Proceedings

¶ 34 In an initial postconviction petition filed in 2000, Mr. Young argued that under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), the jury, and not the trial court judge, should have decided whether he was eligible for extended-term sentencing. The circuit court denied the petition and this court affirmed the denial in a summary order, finding the holding in *Apprendi* did not apply where a jury had found Mr. Young eligible for the death penalty. *People v. Young*, 327 Ill. App. 3d 1127 (2002) (table) (unpublished summary order under Illinois Supreme Court Rule 23(c)).

¶ 35 On December 19, 2018, Mr. Young moved for leave to file the successive postconviction petition that is the subject of this appeal. Mr. Young argued that, because juveniles are treated differently under the law for sentencing purposes, as a young adult he should have been given the opportunity to demonstrate to the trial court that in many ways he was still like a juvenile at the time of his crimes. Mr. Young cited the United States Supreme Court's holding in *Miller*, 567 U.S. at 465, that mandatory life sentences without the possibility of parole for juveniles constitute cruel and unusual punishment in violation of the eighth amendment to the United States Constitution (U.S. Const., amend. VIII), as well as then-recent decisions of this court—including *People v. House*, 2015 IL App (1st) 110580, ¶¶ 100-02, *appeal denied, judgment vacated,* No. 122134 (Ill. Nov. 28, 2018) (supervisory order), *further appeal pending*, No. 125124 (Ill. Jan. 29, 2020) (allowing appeal) and *People v. Harris*, 2016 IL App (1st) 141744, ¶ 58, *aff'd in part, rev'd in part*, 2018 IL 121932—suggesting that the reasoning in *Miller* could be extended on an as-applied basis to emerging adults under the proportionate penalties clause of the Illinois Constitution (Ill. Const. 1970, art. I, § 11).

¶ 36 Drawing from scientific studies cited in this line of cases, Mr. Young alleged that "[r]esearch in neurobiology and developmental psychology ha[d] shown that the brain doesn't finish developing until the mid-20's, far later than previously thought," "[y]oung adults are neurologically and developmentally closer to adolescents than they are to adults," "[t]hey are more susceptible to peer pressure, less future oriented and more volatile in emotionally charged settings," and "the on going [*sic*] development of their brains means they have a high capacity for reform and rehabilitation."

¶ 37 Mr. Young cited *Montgomery v. Louisiana*, 577 U.S. 190, 209 (2016), for the proposition that these differences mandate that juvenile offenders receive the benefit of a thorough review to determine if their actions were those of "transient immaturity" or were instead indicative of "irreparable corruption." He argued that he had been denied the benefit of such a thorough review in his case and that the trial court had "explicitly refused to consider any evidence, new or otherwise, brought before it" concerning his rehabilitative potential.

¶ 38 Mr. Young argued that cause was established because the legal authorities and scientific research he relied on were not available when he filed his initial postconviction petition. He also argued that he was prejudiced by the inability to bring such a claim because he received a natural life sentence absent consideration of these new authorities.

¶ 39 On March 8, 2019, the circuit court denied Mr. Young's motion. A certified report of the court's disposition states that the motion was "respectfully denied as patently frivolous and without merit."

¶ 40 Mr. Young now appeals.

¶ 41 II. JURISDICTION

¶ 42 The circuit court entered its order denying Mr. Young's motion for leave to file a successive postconviction petition on March 8, 2019. Mr. Young's notice of appeal from that order was received by the clerk's office on April 11, 2019, more than 30 days later. It was accompanied, however, by Mr. Young's signed affidavit certifying—in compliance with Illinois Supreme Court Rule 12(b)(6) (eff. July 1, 2017)—that he had mailed his notice of appeal from the Hill Correctional Center on April 4, 2019. Illinois Supreme Court Rule 373 provides that for any document received after the date on which it is to be filed, "the time of mailing by an incarcerated, self-represented litigant shall be deemed the time of filing," with "[p]roof of mailing *** as provided in Rule 12." Mr. Young's notice of appeal was thus timely, and we have jurisdiction over this appeal pursuant to article VI, section 6, of the Illinois Constitution (Ill. Const. 1970, art. VI, § 6) and Illinois Supreme Court Rules 606 (eff. July 1, 2017) and 651(a) (eff. July 1, 2017), governing appeals from final judgments in postconviction proceedings.

¶ 43 III. ANALYSIS

¶ 44 On appeal, Mr. Young asks us to reverse the circuit court's order denying his *pro se* motion for leave to file a successive postconviction petition. Mr. Young argues that he established the cause and prejudice necessary for the filing of such a petition, and that we should remand for further proceedings on his claim that, as applied to him, a sentence of life in prison for a crime he committed when he was 20 years old is unconstitutional under both the eighth amendment to the United States Constitution (U.S. Const., amend. VIII) and the proportionate penalties clause of the Illinois Constitution (Ill. Const. 1970, art. I, § 11).

¶ 45 The Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2016)) provides a framework for an incarcerated individual to collaterally attack his or her conviction by

establishing the substantial denial of a constitutional right in the trial or sentencing that resulted in that conviction. 725 ILCS 5/122-1(a)(1) (West 2016). Proceedings under the Act occur in three stages. *People v. Gaultney*, 174 Ill. 2d 410, 418 (1996). At the first stage, the circuit court determines, without input from the State, whether a petition is frivolous or patently without merit. *Id.*; 725 ILCS 5/122-2.1(a)(2) (West 2016). At the second stage, the court appoints counsel to represent the defendant and, if necessary, to file an amended petition; at this stage, the State must either move to dismiss or answer the petition. *Gaultney*, 174 Ill. 2d at 418; 725 ILCS 5/122-4, 122-5 (West 2016). "At the dismissal stage of a post-conviction proceeding, all well-pleaded facts that are not positively rebutted by the original trial record are to be taken as true." *People v. Coleman*, 183 Ill. 2d 366, 385 (1998). Only if the petition and accompanying documentation make a substantial showing of a constitutional violation do the defendant's claims then proceed to the third stage, an evidentiary hearing on the merits. *People v. Silagy*, 116 Ill. 2d 357, 365 (1987); 725 ILCS 5/122-6 (West 2016).

¶ 46 Because "[a] proceeding under the Act is a collateral attack on the judgment of conviction" (*People v. Wrice*, 2012 IL 111860, ¶ 47), claims are limited to those that were not, and could not have been, previously litigated (*People v. Petrenko*, 237 Ill. 2d 490, 499 (2010)). In accordance with this principle, the Act contemplates the filing of only one postconviction petition. 725 ILCS 5/122-1(f) (West 2016); *People v. Pitsonbarger*, 205 Ill. 2d 444, 456 (2002). Successive postconviction petitions are disfavored (*People v. Bailey*, 2017 IL 121450, ¶ 39), and a defendant seeking to file such a petition must demonstrate either "cause and prejudice" for failing to raise a claim earlier, or actual innocence (*People v. Edwards*, 2012 IL 111711, ¶¶ 22-23).

¶ 47 Here, Mr. Young sought leave under the cause-and-prejudice exception to the general rule against the filing of successive postconviction petitions. Section 122-1(f) of the Act, which codifies

that exception, provides that a prisoner shows cause by "identifying an objective factor that impeded his or her ability to raise a specific claim during his or her initial post-conviction proceedings" and prejudice by "demonstrating that the claim not raised *** so infected the trial that the resulting conviction or sentence violated due process." 725 ILCS 5/122-1(f) (West 2016). The cause-and-prejudice standard is more onerous than the frivolous-and-patently-without-merit or "gist" standard applicable at first stage proceedings (*Edwards*, ¶¶ 25-29) but less demanding than the substantial-showing standard used to determine whether a third-stage evidentiary hearing is warranted (*People v. Smith*, 2014 IL 115946, ¶ 29).

¶ 48 Summarizing the standard, our supreme court has said that leave of court to file a successive postconviction petition "should be denied when it is clear, from a review of the successive petition and the documentation submitted by the petitioner, that the claims alleged by the petitioner fail as a matter of law or where the successive petition with supporting documentation is insufficient to justify further proceedings." *Id.* ¶ 35. A defendant seeking leave to file a successive petition "must submit enough in the way of documentation to allow a circuit court to make that determination." (Internal quotation marks omitted.) *Edwards*, 2012 IL 111711, ¶ 24. We review *de novo* the circuit court's denial of leave to file a successive postconviction petition (*People v. McDonald*, 405 Ill. App. 3d 131, 135 (2010).

¶ 49 A. Mr. Young's Eighth Amendment Challenge

¶ 50 We first address Mr. Young's eighth amendment challenge. The eighth amendment to the United States Constitution prohibits governments from imposing "cruel and unusual punishments." U.S. Const., amend. VIII. In a progression of cases involving the sentencing of juvenile offenders, the United States Supreme Court has held that the eighth amendment prohibits capital sentences for juveniles who commit murder (*Roper v. Simmons*, 543 U.S. 551, 578-79

(2005)), mandatory life sentences without the possibility of parole for juveniles who commit nonhomicide offenses (*Graham v. Florida*, 560 U.S. 48, 82 (2010)), and mandatory life sentences without the possibility of parole for juveniles who commit murder (*Miller*, 567 U.S. at 489). These cases reflect society's evolving recognition that "children are constitutionally different from adults for purposes of sentencing." *Miller*, 567 U.S. at 471. First, juveniles generally "lack *** maturity and [have] an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking." (Internal quotation marks omitted.) *Id.* Second, because of their "limited contro[l] over their own environment" and their general inability to remove themselves from crime-producing settings, juveniles "are more vulnerable *** to negative influences and outside pressures." (Internal quotation marks omitted.) *Id.* And third, juveniles have characteristics that are not as well-formed as those of adults; their traits are less fixed, and their "actions [are] less likely to be evidence of irretrievabl[e] depravit[y]." (Internal quotation marks omitted.) *Id.*

¶ 51 Following *Miller*, courts must now consider how these differences may counsel against irrevocably sentencing a juvenile to a lifetime in prison. *Id.* at 480. And in *Montgomery*, 577 U.S. 190, 212 (2016), the Court held that this new substantive rule of constitutional law applies retroactively. Our own supreme court has additionally held that *Miller* applies regardless of whether the life sentence imposed is actual or *de facto*, mandatory or discretionary. *People v. Reyes*, 2016 IL 119271, ¶¶ 9-10; *People v. Holman*, 2017 IL 120655, ¶ 40. Mr. Young has shown cause for not raising a *Miller*-based challenge to his natural life sentence in prior proceedings because these authorities had not yet been decided when he was sentenced in 1981 or when he filed his initial postconviction petition in 2000.

¶ 52 We agree with the State, however, that the protections afforded by the eighth amendment apply directly only to juveniles. As our supreme court has noted, the United States Supreme Court

"has clearly and consistently drawn the line between juveniles and adults for the purpose of sentencing at the age of 18." *Harris*, 2018 IL 121932, ¶ 58; see also *People v. Ruiz*, 2020 IL App (1st) 163145, ¶ 31 (noting that "[r]ecently, and forcefully, our supreme court reaffirmed under 18 as the age cutoff for juvenile sentencing protections in the eighth amendment context"). This cutoff was established "not based primarily on scientific research" (*Harris*, 2018 IL 121932, ¶ 60) but because the Court felt that "a line must be drawn" and "[t]he age of 18 is the point where society draws the line for many purposes between childhood and adulthood" (*Roper*, 543 U.S. at 574). Because Mr. Young was over the age of 18 at the time of his crime, he can show no prejudice from his inability to raise a claim in earlier proceedings that a natural life sentence violated his rights under the eighth amendment.

¶ 53 B. Mr. Young's Proportionate Penalties Challenge

¶ 54 We next address Mr. Young's claim that his sentence was imposed in violation of the proportionate penalties clause of the Illinois Constitution. That clause provides that "[a]ll penalties shall be determined according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11. Our supreme court has explained that this unique emphasis on rehabilitative potential provides "a limitation on penalties beyond those afforded by the eighth amendment." *People v. Clemons*, 2012 IL 107821, ¶¶ 39-41. And it has specifically acknowledged on two occasions that young adult offenders are "not necessarily foreclosed" from relying on the evolving science concerning the maturity and neurological development of young people to assert as-applied challenges to their life sentences under the proportionate penalties clause. *Harris*, 2018 IL 121932, ¶¶ 46, 48 (citing *People v. Thompson*, 2015 IL 118151).

¶ 55 In *Thompson*, the court concluded that such a claim brought by an 18-year-old offender would be more appropriately raised in postconviction proceedings, rather than on direct appeal. *Thompson*, 2015 IL 118151, ¶¶ 43-44. It reached the same conclusion a few years later in *Harris*, when it was asked to consider a similar claim brought by a 19-year-old offender. *Harris*, 2018 IL 121932, ¶ 48. The court has thus acknowledged the possibility that a young-adult offender might demonstrate, through an adequate factual record, that his or her own specific characteristics were so like those of a juvenile that imposition of a life sentence absent the safeguards established in *Miller* was "cruel, degrading, or so wholly disproportionate to the offense that it shocks the moral sense of the community" (*People v. Klepper*, 234 Ill. 2d 337, 348 (2009) (stating what is required to succeed on a proportionate penalties claim)). The State acknowledges that, given the newness of these supreme court authorities and their appellate court predecessors, Mr. Young has established cause for not raising his youth-based sentencing claims in earlier proceedings.

¶ 56 The parties disagree, however, on whether Mr. Young can establish that he was prejudiced by the inability to bring such a claim until now. In his motion for leave and proposed successive petition, Mr. Young's focus was very much on the evolving science concerning the development of young adults' brains. He argued repeatedly that "[y]oung adults are neurologically and developmentally closer to adolescents than they are to adults," "[t]hey are more susceptible to peer pressure, less future oriented and more volatile in emotionally charged settings," and "the on going [*sic*] development of their brains means they have a high capacity for reform and rehabilitation."

¶ 57 The State directs our attention to language in *Thompson* and *Harris*, where our supreme court held that to support an as-applied challenge, a petitioner must do more than rely exclusively on the evolving science that formed the basis for *Miller* and the cases that have followed it. *Thompson*, 2015 IL 118151, ¶¶ 37-38; *Harris*, 2018 IL 121932, ¶ 46. Rather, the petitioner must

show how the evolving science "applie[d] to [his own] specific facts and circumstances[ ]." *Id.* Citing cases like *People v. Moore*, 2020 IL App (4th) 190528, ¶¶ 24, 40, and *People v. White*, 2020 IL App (5th) 170345, ¶ 24, that apply this language, the State insists that Mr. Young cannot establish prejudice where his petition lacks any evidence or documentation regarding his own brain development at the time of his crimes or anything else establishing why his particular circumstances required that he be treated like a juvenile for sentencing purposes.

¶ 58 However, some of the allegations in Mr. Young's proposed petition do point back to the specific evidence that Mr. Young tried to present to the trial court when this case was first remanded. That evidence—indicating that Mr. Young was an excellent and respectful student and a valued employee, that he had avoided gangs, that he had become religious and sought to better himself through hobbies, and that he was trying to support his daughter—all focused on Mr. Young's perhaps somewhat surprising and still-emerging potential for reform. We agree with Mr. Young that this evidence provides support for his claim that he personally had been the equivalent of a juvenile when he brutally killed Willie Davis several years earlier and that his brain development since then had taken him out of that category. This evidence also supports the conclusion that Mr. Young was not one of the rare juveniles who was incapable of rehabilitation. As Mr. Young argues, "the law now holds that evidence of steps toward rehabilitation as a young adult in prison, must be considered in evaluating whether a life sentence is due." *Montgomery,* 577 U.S. at 213 (characterizing participation in prison employment and education programs as the "kind of evidence that prisoners might use to demonstrate rehabilitation").

¶ 59 At the time that Mr. Young was sentenced, the court had this evidence before it but had no reason to view that evidence through the prism of evolving societal standards, scientific findings, and case law—advancements that were still many years in the future—that has now grown up

around the topic of juvenile and young-adult sentencing. In sentencing Mr. Young, and in adhering to that sentence on remand, the court understandably focused on the fact that his was "an exceptionally brutal and heinous" crime "indicative to [the court] of wanton cruelty." But in the years since then the case law on juvenile and young adult sentencing has evolved to require courts to also focus on how the penological justifications for a sentence relate "to characteristics of the *offender*, not the offense." (Emphasis in original.) *Ruiz*, 2020 IL App (1st) 163145, ¶ 38. See also, *Id.* ¶ 38 (noting that "one of the most fundamental aspects of the Supreme Court's *Miller* line of cases insists that juvenile sentencing considerations apply even to those who commit heinous crimes—extending constitutional protections to juveniles who commit murder.").

¶ 60 As noted above, the State acknowledges that the changes in the legal landscape mean that Mr. Young has established cause for not raising his youth-based proportionate penalties claim in earlier proceedings. We conclude that Mr. Young has also established prejudice by showing that his individual characteristics, which included significant maturation while incarcerated, meant that at the time of his crime he may have possessed characteristics making him more like a juvenile offender than an adult offender. This could entitle him, under the Illinois proportionate penalties clause, to resentencing under the *Miller* standards. Mr. Young's claim does not fail as a matter of law and his successive petition is sufficient to justify further proceedings.

¶ 61 Mr. Young has demonstrated the cause and prejudice required to file a postconviction petition through which he can attempt to persuade the court that, as a 20-year-old young adult, he bore the characteristics of a juvenile and that his capacity for rehabilitation was not adequately considered in imposing a sentence that deprived him of any possibility of being released from prison during his lifetime.

¶ 62 IV. CONCLUSION

¶ 63 For the foregoing reasons, we reverse the denial of Mr. Young's motion for leave to file a successive postconviction petition and remand for further proceedings consistent with the Act.

¶ 64 Reversed and remanded.