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SUPREME COURT OF LOUISIANA

No: 11-K-1598

STATE OF LOUISIANA

VERSUS

PHILLIP SKIPPER

On writ of Certiorari to the
19th Judicial District Court, Parish of East Baton Rouge

JOHNSON, J., dissents and assigns reasons:

The Defendant, Phillip Skipper, (relator herein) was tried by a jury and convicted of the crime of aggravated rape, which he committed when he was 16 years old. He was sentenced to a term of life imprisonment at hard labor without the benefit of parole, probation, or suspended sentence.

The United States Supreme Court's historic decision in *Graham v. Florida*, 560 US; 130 S. Ct. 2011; 176 L. Ed. 2d 825 (2010) held that "for a juvenile offender who did not commit homicide, the Eighth Amendment forbids the sentence of life without parole." *Graham*, 560 U.S. at ____, 130 S. Ct. at 2030. Prior to *Graham*, the United States was the only nation in the world still adhering to the practice of sentencing juvenile offenders to life imprisonment without the possibility of parole for non-homicide offenses.¹ In the United States, only a handful of jurisdictions still impose life sentences without parole on juvenile offenders. Louisiana is one of eleven states wherein juveniles are currently serving

¹ Connie de la Vega & Michelle Leighton, *Sentencing our Children to Die in Prison*, 42 U.S. F.L. Rev. 983, 989-1007 (2008).

life sentences, without parole, for non-homicide offenses.² When *Graham* was decided, there were 129 juveniles in the United States serving life sentences, without parole, for non-homicide offenses. Of those, seventy-seven juveniles were serving sentences imposed in Florida. Of the remaining 53, who were imprisoned in just ten states, 17 were serving life sentences imposed in Louisiana for non-homicide offenses.³

Graham makes clear that the ad hoc exercise of the executive's power of commutation does not afford juveniles sufficient protection, and such inmates have nowhere else to go for relief other than the judiciary. There is no way to calculate a parole eligibility date for a life sentence. To satisfy the dictates of *Graham*, I would remand this case to the district court, and order that relator be re-sentenced to a fixed term of years, which can be used as the basis for calculating the eligibility date for parole.

² The eleven states which impose juvenile life sentences without parole for non-homicide crimes are: Florida, Louisiana, Mississippi, Virginia, Oklahoma, South Carolina, Iowa, California, Nebraska, Delaware, Nevada..

³ *Graham, supra.* P. G Annino, D.W. Rasmussen, & C.B. Rice, *Juvenile Life without Parole for non-Homicide Offenses: Florida Compared to the Nation*, Public Interest Law Center, College of Law, Florida State University (2009).