

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
ANDRE D. BOSTON,
Respondent.

No. 62931

FILED

JUN 19 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

**ORDER DIRECTING SUPPLEMENTAL BRIEFING
AND INVITING AMICUS BRIEFING**

This is an appeal from a district court order granting a post-conviction petition for a writ of habeas corpus. The primary issue addressed to this court is whether the multiple consecutive sentences imposed for the non-homicide offenses committed by respondent when he was 16 years old are the equivalent of a life-without-the-possibility-of-parole sentence because respondent will have to serve approximately 100 years before being eligible for parole and, therefore, the sentences violate the federal constitution's proscription against cruel and unusual punishment based on the Supreme Court's decision in *Graham v. Florida*, 560 U.S. 48 (2010).

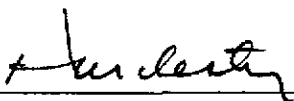
It has come to our attention that a bill recently passed by the Nevada Legislature and signed by the Governor may make respondent eligible for parole after he has served 15 years, A.B. 267, 78th Leg., § 3 (Nev. 2015) ("Notwithstanding any other provision of law . . . or unless a prisoner is subject to earlier eligibility for parole pursuant to any other provision of law, a prisoner who was sentenced as an adult for an offense that was committed when he or she was less than 18 years of age is

eligible for parole . . . [if] convicted of an offense or offenses that did not result in the death of a victim, after the prisoner has served 15 calendar years of incarceration . . ."). If so, then it appears that the issue in this appeal regarding the interpretation and application of *Graham* to aggregate sentences will be moot when A.B. 267 takes effect on October 1, 2015. *See id.* § 5(2) ("The amendatory provisions of section 3 of this act apply to an offense committed before, on or after October 1, 2015."). Given this apparent change in the law, we have determined that supplemental and amicus briefing would be of assistance.

Appellant shall have 11 days from the date of this order to file and serve a supplemental brief addressing A.B. 267 and its applicability to respondent and effect on this appeal. Respondent shall have 11 days from service of appellant's supplemental brief to file a response. The supplemental briefs shall not exceed 10 pages and shall otherwise comply with the requirements of NRAP 32(a)(4)-(6).

The Nevada Attorney General's Office, Nevada District Attorneys Association, and Nevada Attorneys for Criminal Justice are invited to submit amicus briefs addressing A.B. 267, § 3 and its applicability to juvenile offenders who received consecutive sentences for multiple non-homicide offenses that otherwise would not allow for parole eligibility to the street within the defendant's natural lifetime. Any amicus briefs must be filed within 30 days from the date of this order, shall not exceed 10 pages, and shall otherwise comply with the requirements of NRAP 32(a)(4)-(6).

It is so ORDERED.

, C.J.

cc: Attorney General/Carson City
Clark County District Attorney
Law Offices of Martin Hart, LLC
Nevada District Attorneys Association
Nevada Attorneys for Criminal Justice