

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

RALPH DAVID CRUZ, JR., Petitioner,

vs.

STATE OF ARIZONA, Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE ARIZONA COURT OF APPEALS

**APPLICATION FOR EXTENSION OF TIME TO FILE
A PETITION FOR WRIT OF CERTIORARI**

TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE
SUPREME COURT OF THE UNITED STATES, AND CIRCUIT JUSTICE FOR THE
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT:

Petitioner Ralph David Cruz, Jr. respectfully requests an extension of time of 60 days to file a petition for a writ of certiorari in this case, from March 4, 2025, to and including May 3, 2025. This application is being filed more than 10 days before the present due date as required by Supreme Court Rule 13.5. This Court has jurisdiction to entertain the petition for certiorari under 28 U.S.C. § 1257(a). The decision he seeks to have reviewed is the decision of the Arizona Court of Appeals filed on May 14, 2024 (App. A), and the order of the Arizona Supreme Court declining to review that decision filed on December 4, 2024 (App. B). The Arizona Attorney General's Office does not object to this request for an extension of time.

Petitioner asks for a 60-day extension of time to file the petition for certiorari to accommodate the workload of his counsel. Among counsel's imminent obligations are: oral argument in the Arizona Court of Appeals in *State v. Cooker*, No. 2 CA-CR 2023-0168, on February 25, 2025; a petition for writ of certiorari filed in *Jose v. Arizona*, No. 24-6520, on January 31, 2025; a petition for writ of certiorari in a capital case, *State v. Spreitz*, Ariz. S. Ct. No. CR-94-0454-AP, due May 7, 2025; petitions for review in *State v. Bigger*, Pima County Superior Court No. CR-20043995, due on February 24, 2025, and in *State v. Meoak*, Arizona Supreme Court No. CR-25-0049-PR, due on March 24, 2025; and opening briefs in the Arizona Court of Appeals in two non-capital first-degree murder cases, *State v. Dervish*, 2 CA-CR 2024-0143, due on March 14, 2025, and *State v. Millis*, 2 CA-CR 2024-0229, due on March 24, 2025. Furthermore, counsel has considerable training and administrative responsibilities in the Public Defender's Office.

For these reasons, Petitioner prays for a 60-day extension of time to file a petition for a writ of certiorari in this matter, to and including May 3, 2025.

Respectfully submitted: February 21, 2025.



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IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

RALPH DAVID CRUZ JR.,
Petitioner.

No. 2 CA-CR 2023-0199-PR
Filed May 14, 2024

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.19(e).

Petition for Review from the Superior Court in Pima County
No. CR20002693001
The Honorable James E. Marner, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Megan Page, Pima County Public Defender
By David J. Euchner and Sarah R. Kostick, Assistant Public Defenders,
Tucson
Counsel for Petitioner

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MEMORANDUM DECISION

Judge Gard authored the decision of the Court, in which Presiding Judge Eppich and Chief Judge Vásquez concurred.

G A R D, Judge:

¶1 Ralph Cruz Jr. seeks review of the trial court’s order denying his petition for post-conviction relief under Rule 33, Ariz. R. Crim. P., after an evidentiary hearing held pursuant to *State v. Valencia (Valencia II)*, 241 Ariz. 206 (2016). Our supreme court overruled *Valencia II* in *State ex rel. Mitchell v. Cooper*, 256 Ariz. 1 (2023). Thus, although we grant review, we deny relief.

¶2 In August 2000, then-sixteen-year-old Cruz shot and killed a mother and her two children during a robbery. Cruz pled guilty to three counts of first-degree murder and one count of armed robbery. The plea agreement specified that Cruz would be sentenced to natural life or life with the possibility of release after twenty-five years for the first murder count or release after thirty-five years for the second and third murder counts. The plea agreement also required Cruz’s prison terms to run consecutively. The court sentenced Cruz to life with the possibility of release after twenty-five years for the first murder, to be followed by consecutive terms of natural life for the children’s murders. The court imposed a 10.5-year consecutive prison term for armed robbery.

¶3 Cruz sought post-conviction relief in 2013, asserting inter alia that *Miller v. Alabama*, 567 U.S. 460 (2012), required that he be sentenced to life with the possibility of parole and the court gave insufficient weight to his age as a mitigating factor. The trial court denied relief, and we denied relief on review, observing that “even under *Miller’s* heightened standard, the sentencing court adequately considered Cruz’s youth in determining whether to impose a natural life sentence.” *State v. Cruz*, No. 2 CA-CR 2014-0102-PR, ¶¶ 3, 11, 13 (Ariz. App. Oct. 8, 2014) (mem. decision).

¶4 In 2016, Cruz again sought post-conviction relief, arguing he was entitled, under *State v. Valencia (Valencia I)*, 239 Ariz. 255 (App. 2016), *vacated*, 241 Ariz. 206, to resentencing so the trial court could consider whether his crimes reflected permanent incorrigibility such that a natural

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life sentence could be imposed. The proceeding was stayed until our supreme court issued *Valencia II*. In *Valencia II*, the supreme court determined that juvenile offenders sentenced to natural life terms, like Cruz, were entitled to an evidentiary hearing to “have an opportunity to establish, by a preponderance of the evidence, that their crimes did not reflect irreparable corruption but instead transient immaturity.” 241 Ariz. 206, ¶ 18. The court set an evidentiary hearing and heard testimony over several days in 2019. The court continued the hearing in anticipation of rulings by the United States Supreme Court related to juvenile sentencing; the hearing resumed in March 2023.¹

¶5 The trial court denied relief. It noted, first, that the sentencing court had been “required, and did, consider [Cruz]’s youth before imposing the sentences.” Thus, the court concluded, “the constitutional requirements of the *Miller* decision were satisfied.” The court nonetheless “revisit[ed]” the sentencing court’s decision in light of “subsequent rulings on the subject by both the United States Supreme Court and the Arizona Supreme Court.” The court concluded Cruz had failed to show, by a preponderance of the evidence, that “his actions . . . were the result of transient immaturity” and instead “were the result of permanent incorrigibility/irreparable corruption.” The court therefore affirmed Cruz’s natural life prison terms.² This petition for review followed.

¶6 On review, Cruz asserts the trial court erred by denying relief. He argues he “overwhelmingly proved he is not permanently incorrigible,” the court erred by rejecting expert testimony “based on preconceived notions and lay assumptions,” and the court “cherry-picked certain testimony.” As we explain, we need not reach these arguments. *See State v. Roseberry*, 237 Ariz. 507, ¶ 7 (2015) (“We will affirm the trial court’s decision if it is legally correct for any reason.”).

¹Some of the delay was also attributable to the COVID-19 pandemic.

²The trial court additionally ordered that, pursuant to A.R.S. § 13-716, Cruz would be eligible for parole for his release-eligible life term after serving the required twenty-five years. Insofar as Cruz’s argument is based on the unavailability of parole at the time of his offenses, Cruz is entitled to seek parole for the eligible count under § 13-716, which provides parole eligibility to juvenile offenders “on completion of the minimum sentence.”

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¶7 After the trial court’s ruling, our supreme court decided *Cooper*, overruling *Valencia II* in light of *Jones v. Mississippi*, 593 U.S. 98 (2021). 256 Ariz. 1, ¶ 47. The court thus eliminated *Valencia II*’s rule that juvenile defendants seeking post-conviction relief are entitled to an evidentiary hearing to demonstrate “that their crimes did not reflect irreparable corruption but instead transient immaturity” when a court has imposed a natural life sentence “without distinguishing crimes that reflected ‘irreparable corruption’ rather than the ‘transient immaturity of youth.’” *Id.* (quoting *Valencia II*, 241 Ariz. 206, ¶¶ 15, 18). A natural life sentence is constitutional if the court considered the “juvenile offender’s ‘youth and attendant characteristics.’” *Id.* ¶ 42 (quoting *Jones*, 593 U.S. at 106). The court noted that the Supreme Court had clarified in *Jones* that sentencing courts need not provide “an ‘on-the-record sentencing explanation with an implicit finding of permanent incorrigibility.’” *Id.* (quoting *Jones*, 593 U.S. at 115).

¶8 Although Cruz acknowledges *Cooper*, he argues that we “should reach the merits of [his] claim” because “a *Valencia* hearing occurred.” He does not cite any authority, however, nor otherwise explain how this court could conclude the trial court erred by denying Cruz relief after an evidentiary hearing held to address a question our supreme court has since clarified the trial court was not required to address.

¶9 Cruz claims the sentencing court in his case “did not address the attendant characteristics of youth nor did it have discretion to impose a sentence of life with the possibility of parole.” But he has not developed any argument that his sentencing procedure was unconstitutional in light of *Jones* and *Cooper*. See *State v. Stefanovich*, 232 Ariz. 154, ¶ 16 (App. 2013) (failure to develop argument waives claim on review). And no constitutional infirmity is apparent from the record. As we noted above, the court found Cruz’s age to be a mitigating factor. The Supreme Court clarified in *Jones* that neither the Constitution nor “historical or contemporary sentencing practice” require “an on-the-record explanation of the mitigating circumstance of youth by the sentencer.” 593 U.S. at 116-17. Nor does Arizona law require such findings. See *State v. Cid*, 181 Ariz. 496, 501 (App. 1995). And the court had discretion to impose a sentence other than natural life.

¶10 We grant review but deny relief.



Supreme Court

STATE OF ARIZONA

ANN A. SCOTT TIMMER
Chief Justice

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TRACIE K. LINDEMAN
Clerk of the Court

December 4, 2024

RE: STATE OF ARIZONA v RALPH DAVID CRUZ JR.

Arizona Supreme Court No. CR-24-0137-PR

Court of Appeals, Division Two No. 2 CA-CR 23-0199 PRPC

Pima County Superior Court No. CR20002693001

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on December 3, 2024, in regard to the above-referenced cause:

ORDERED: Petition for Review to Arizona Supreme Court = DENIED.

Tracie K. Lindeman, Clerk

TO:

Alice Jones

Bradley K. Roach

David J. Euchner

Sarah Rachel Kostick

Beth C. Beckmann

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