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Consulting in Child and Adolescent Development

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Carly Madison Gregg vs. State of Mississippi

RE: Carly Gregg DOB: 4/23/09

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

Dear Honorable Judges of the Mississippi Supreme Court,

I have been asked to comment on the scientific foundation for opposition to Carly Gregg being tried and sentenced as an adult for the crime of killing her mother and shooting at her step-father on March 19, 2024.

In doing so, I have also relied upon my 50 years as an academic developmental psychologist and my 30 years of serving as a psychological expert witness in homicide cases—many of which have involved juveniles. This work, and its scientific foundation, is represented in my 2015 book *Listening to Killers* (University of California Press), my 2018 book *Miller's Children: Why Giving Teenager Killers a Second Chance Matters for All of Us* (University of California Press), my 1999 book *Lost Boys* (Free Press) and my 2006 book *See Jane Hit* (Free Press). A professional biography is included at the end of this report.

Let me be clear on three important points at the outset. First, I am not offering any *clinical* diagnoses of Carly, but rather providing an analysis of the *developmental* issues involved in her case (to which the diagnoses offered by clinicians-- such as Drs. Benson and Caldwell-- can contribute). Second, I am not excusing Carly's behavior in relation to the death of her mother and the shooting of her step-father on March 19, 2024. I only seek to understand it from a developmental perspective. Third, I am offering my developmental analysis based upon the kind of research utilized by the Supreme Court decision in the case of *Miller v. Alabama*. The *Miller* ruling requires the courts to consider the adolescent defendant's liabilities when it comes to making good decisions and managing emotions as a function of the special characteristics linked to immaturity (particularly with respect to brain development), and which points toward considering the possibilities for rehabilitative intervention that are particularly promising in the case of most young defendants.

There are several important considerations in making sentencing decisions for someone like Carly who is charged with committing a homicide as a 14-year-old adolescent. Among them are questions like these: *If convicted, could the juvenile system provide adequate treatment to remedy her current psychological issues, such that she would be safe to release by age 21 or 25? Or, is Carly so damaged that it would require long term incarceration in an adult correctional facility to both protect the community and provide sufficient time for her to reach the point of adult functioning so that she can undertake a long period of rehabilitation?* Based upon my review of research bearing on these issues, I offer the following response, with specific attention to the issue of whether dealing with her case in juvenile court would depreciate the seriousness of her offense (both for her as an individual and for the community as a whole).

Background

The starting point in making appropriate decisions about where to try and sentence juvenile homicide perpetrators, and for how long to sentence them is differentiating among these youth rather than assuming they are a homogenous group. The criminal justice system typically focuses on “*what* did he or she do?” and differentiates on this basis. This leads to issues like the “heinousness” of the crime, how many victims there were, and the role of the youth in the behavior that caused this death or deaths. I believe more important to the question of “what did he or she do?” is the developmental question of “*who* is he or she?”

As we shall see, there are essentially three developmentally differentiated groups within the population of adolescents who commit homicide (as explicated in my 2018 book *Miller’s Children*). The majority are youth who have experienced massive childhood adversity, such that they display a pattern of serious negative and aggressive behavior in childhood. When these kids reach adolescence, their anti-social and aggressive behavior escalate to the point where they commit murder. The second, smaller group, are youth who have maintained a positive path through childhood, but when they enter adolescence, they experience a “crisis” (often related to mental health crises or substance abuse) that leads them into situations in which homicide occurs. Both of these groups are capable of rehabilitation and positive transformation sufficient to make them “safe” for release into the community. However, for the first group this usually requires a sentence of approximately 20—time to achieve a mature brain in their mid 20s and a substantial period of years after that to use that mature brain to engage in rehabilitation and transformation. For the second group it generally only requires a shorter period in a juvenile detention and treatment program to help them resolve their “adolescent crisis,” and return to a positive developmental path. There is a third, much smaller group that the Supreme Court called “the rarest of cases” in which there is “irreparable” corruption (due mostly to severe adversity and trauma early in life) who are incapable of rehabilitation and positive transformation.

Using this differentiation as a model, I seek to provide a developmental perspective on the question of “*who*” Carly is, what that can tell us about her future path, and how this analysis bears on the issue of “depreciating the seriousness of the offense.”

Who is Carly Gregg?

As noted above, most individuals who come to the criminal justice system as adolescents or young adults for committing a homicide evidence severely adverse childhood experience. These experiences result in them entering adolescence with very serious developmental damage that puts them at high risk for delinquency and violent behavior. The childhood of these individuals is typically characterized by severe abuse and neglect in the family, chronically violent traumatic experiences in the community and/or school, high levels of family disruption (often including abandonment, rejection and domestic violence) and exposure to anti-social lifestyles on the part of immediate and extended family in the context of high levels of anti-social behavior in the communities and neighborhoods in which they grow up. Usually this results in childhood onset of a chronic pattern of aggression, bad behavior, acting out and violating the rights of others—which leads to the clinical diagnosis of “Conduct Disorder.”

These kids are then at risk for serious juvenile violence—which happens in about 30% of the 10-year-olds with a diagnosis of conduct disorder. If one were to ask their Kindergarten teacher if she would be surprised to hear that her former student is facing murder charges it is likely she would not be surprised, saying something like, “That kid was trouble even as a five-year-old.” These kids face an uphill climb to achieve a positive life in the community.

In contrast, most individuals whose Conduct Disorder does not start until adolescence generally do get better as they move into adulthood (often spontaneously in a process in which maturity displaces the negative behavior—what is called “aging out”). For others, systematic therapeutic intervention while still in adolescence is sufficient to return them to the positive state they displayed in childhood. If they do commit a juvenile homicide, it is generally best understood as the product of an “adolescent crisis” rather than the culmination of an escalating pattern of aggression and anti-social behavior. The positive elements of their childhoods provide a foundation upon which to build a positive life as an emerging adult by the time they reach their early 20s. As an adult inmate once told me, “How can I become rehabilitated if I was never habilitated in the first place?”

The good news in Carly’s case is that it appears she was “habilitated” as a child, and this can provide a foundation for her efficient rehabilitation as a youth in the years until she reaches age 21-25 and would be released from juvenile detention. As I understand it, Carly’s life prior to 2024, is not marked by the kind of delinquency and chronic criminal violence usually observed among the youth at greatest risk for juvenile homicide and a chronic pattern of conduct disorder that extends into adulthood (e.g. gang members embedded in a chronic pattern of violent criminal activity). Rather, it appears to be the “adolescent onset” form of delinquent behavior rather than the more common childhood onset of Conduct Disorder.

Carly’s life until he reached age 14 appears to have been mostly positive, with no evidence of childhood-onset conduct disorder.

I believe Carly is an appropriate candidate for treatment in a structured residential adolescent treatment program rather than long-term adult incarceration, because the crime for which she is sentenced reflected an “adolescent mental health crisis (perhaps exacerbated by the anti-depressant Lexapro)” rather than the culmination of a long-standing pattern of delinquent and aggressive behavior in childhood. Carly’s actions reflect, in part at least, the immaturity of thought and feeling characteristic of adolescents generally. But this vulnerability to adolescents generally was compounded by the disability of experiencing a mental health crisis in the period leading up to March 19, 2024.

As a general rule, even under normal family and social conditions, adolescents are relatively impaired (compared with adults) when faced with issues of “executive function” (making good decisions, particularly in stressful circumstances) and “affective regulation” (managing emotions effectively). This is the foundation for the US Supreme Court’s ruling in *Miller v. Alabama* (and follow up decisions) which outlawed mandatory sentences of life without parole for teenagers who commit murder, in part because their immaturity makes them a special class legally. This immaturity is characteristic of adolescents, in part due to the fact that human brains do not mature until they reach their mid-20s, and Carly was 14 on March 19, 2024.

Even “normal” teenagers are likely to have emotional regulation issues. For example, the area of the brain involved in regulating the intensity of sensation (the “nucleus accumbens”) reaches its peak at age 14, declining after mid-adolescence into adulthood. The research of developmental psychologist Larry Steinberg demonstrates that therefore, in mid adolescence everything feels more intense than it does before or after. Compounding this vulnerability to emotional regulation issues is the immaturity adolescents typically display when considering the consequences of their actions and making good decisions (“executive function”). The part of brain most involved in rational thought and reality testing—the frontal lobe—is immature in adolescents generally, and this is one reason why they are notorious for doing “stupid” and “impetuous” things.

What Carly needed at the time of her crimes (and going forward) is to be placed in a structured residential treatment program which specializes in improving executive function and affective regulation skills and dealing with the mental health crisis that stimulated her violent behavior. She does not require placement in an adult facility which focuses on punishment and the control of dangerous individuals. She needs the developmentally appropriate approach of a structured residential treatment program to assist her in maturing and sexually “detoxifying” to the point where she can function safely in the community. Research conducted by Patrick Tolan and Nancy Guerra indicates that resolving issues such as those displayed by Carly requires a combination of efforts to meet the emotional issues of teenagers: “behavioral rehearsal” and “cognitive restructuring.” Such programs are the hallmark of juvenile programming but are not generally a focus in adult institutions.

The wisdom and validity of a particular sentence depend upon who the juvenile killer is and can become in the future, based upon an understanding of what his or her developmental path has been in the past (as defined by their experience of adversity, trauma, and temperamental vulnerability). In general, it does not depend upon what he or she has done. Thus, looking over sentencing policies for juveniles, I conclude that they are typically either too short or too long for the vast majority of juvenile homicide perpetrators. They are too long in the case of the life without possibility of parole option sentences (in all but “the rarest of cases” of irreparably damaged youth) because most juvenile killers can be rehabilitated and positively transformed. And they are too long for juveniles with a prosocial normal life, which is disrupted by an “adolescent crisis” that leads to a homicide. If these youth are provided with psychosocial intervention to deal with the issues that gave rise to the crisis in the first place, they can be appropriately dealt with through the juvenile disposition option.

As noted earlier, the criminal justice system often seeks to create messages of deterrence aimed at youth, whether it be by long sentences to juvenile offenders or through programs like Scared Straight that seek to “scare” at-risk youth by threatening them with dire consequences if they pursue a path of delinquency. It is well established that teenagers are generally not affected by conventional adult ideas of deterrence and thus neither draconian sentences for juvenile offenders nor programs like Scared Straight are effective.

As noted earlier, neuroscience research reveals that adolescents generally do not make good decisions about risk-benefit calculations (generally emphasizing benefits and rewards over risk). And it is not as if there is a large pool of troubled teens waiting upon

this verdict to calculate whether or not there is a “free pass” for criminal actions such as form the core of the present case.

Would dealing with Carly in juvenile rather than adult court “depreciate” the seriousness of his crime for her as an individual and for the community as a whole? I believe the answer is “no” in both cases.

For Carly individually:

It seems clear that Carly is devastated by the crimes she committed; she certainly appreciates the seriousness of her actions.

Dealing with her in juvenile rather than adult court would not signal to her a depreciation of the seriousness of her crimes. Rather, it will give her hope that she can be redeemed and brought to the light, rather than being cast out into darkness. Thus, the evidence seems conclusive that dealing with Carly in the juvenile system would not depreciate the seriousness of his crime for Carly individually.

Would the reverse waiver depreciate the seriousness of Carly’s crime for the community? Once again, I believe the answer is “no.”

It is common to think that the way to impress upon youth in the community the seriousness of juvenile homicide is to impose harsh sentences in adult correctional facilities to promote deterrence. This kind of thinking led many States to pass laws providing for the death penalty and for mandatory life without parole sentences for juveniles, which, of course, were overturned eventually by the Supreme Court in *Roper v. Simmons* (death penalty) and *Miller v. Alabama* (mandatory life without parole). However, the “deterrent mentality” regarding juvenile homicides continues to hold sway in many jurisdictions. From reviewing the available evidence, I believe waiver decisions based upon an effort to “send a deterrent message” to other youth are misguided.

For one thing, the degree to which potential juvenile killers engage in a rational cost/benefit analysis before committing criminal violence is very limited. In my experience, it is a rare occurrence. That short-sightedness is intrinsic to adolescence, based upon the well-documented liabilities of immature brains in matters of “executive function” (decision-making) and “affective regulation” (emotional intelligence). Juveniles are generally at a disadvantage when it comes to making good decisions about the future. The US Supreme Court has recognized the limitations of juveniles to conduct adult-like weighing of costs and benefits in its decisions (e.g. *Roper v. Simmons* and *Miller v. Alabama*).

What is more, many juvenile homicide perpetrators either exhibit a fatalistic world view born of chronic trauma—often called “terminal thinking” in which they do not expect to live into adulthood, OR, are in the throes of a mental health crisis (particularly if it includes depression and has led to a prescription of Lexapro—which is linked to suicidal and homicidal behavior in individuals as young as Carly in 2024). In both cases, youth are not motivated by conventional concepts of reward and punishment, which require “future orientation.”

Research on the lack of deterrent effect of dealing with juveniles in the adult criminal system is clear. An authoritative review conducted by Jeffery Fagan, a well-respected expert in these matters, concluded: "Most of the evidence on general deterrence suggests that laws that increase the threat of sentencing and incarceration as an adult do not affect youth crime rates. Research on specific deterrence consistently finds that adolescent offenders transferred to criminal court have higher rates of reoffending than do those retained in juvenile court. Rarely do social scientists or policy analysts report such consistency and agreement under such widely varying samples, measurement, and analytic conditions." (Fagan, 2008, pp 31-32) In the current case, there is no reason to believe that dealing with Carly in the adult criminal justice system would have any deterrent effect on other juveniles.

Rather, dealing with Carly's case in juvenile court would signal that the community (through its representative, the Court) takes seriously the psychologically toxic impact of mental health crises in the lives of vulnerable youth. *Protecting and caring for these youth, rather than simply disposing of them by locking them up in adult correctional facilities, is a measure of the degree to which the community recognizes the seriousness of the issues that spawned their crimes.*

Based upon my 30 years as a developmental psychologist studying criminally violent youth as a researcher and an expert witness, I am confident, to the best of my abilities, that trying Carly Gregg as a juvenile would be a sound decision.

I offer my opinions to a reasonable degree of scientific certainty, based upon the information available to me. I reserve the right to supplement my conclusions subject to additional information.

References:

Fagan, J. (1996) The comparative advantage of juvenile vs. criminal court sanctions on recidivism among adolescent felony offenders. *Law and Policy*, 18, 1-2)

Garbarino, J. (2018) *Miller's children: Why giving teenage murderers a second chance matters for all of us*. Berkley, CA: University of California Press.

Loeber, R. and Farrington, D. (1998) *Serious and violent juvenile offenders: risk factors and successful interventions*. NYU: Sage),

Steinberg, L. and Scott, E. (2003) Less guilty by reason of adolescence: developmental immaturity, diminished responsibility and the juvenile death penalty. *American Psychologist*. 58 (12) 1009-1018).

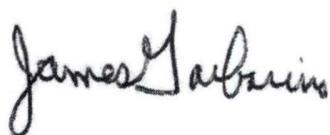
Professional Background and Credentials:

I am a developmental psychologist who is a member and Fellow of the American Psychological Association (Division 7: Developmental Psychology and Division 53: Child and Adolescent Clinical Psychology). From 1989-1990, I served as president of the Association's Division 37 (Child, Youth and Family Services). I am currently Emeritus Profess of Psychology at Cornell University and at Loyola University Chicago. From

2005 to 2020 I was Maude C. Clarke Professor of Psychology at Loyola University Chicago. Prior to this I served as Elizabeth Lee Vincent Professor of Human Development at Cornell University in Ithaca, New York and from 1985 to 1994, as President of the Erikson Institute for Advanced Study in Child Development in Chicago, a graduate school and research center.

I am the author of over 100 scholarly articles and book chapters dealing with family, child, and adolescent development issues, with an emphasis on violence and trauma, and I am the author or editor of 26 books including *Miller's Children: Why Giving Teenage Killers a Second Chance Makes Sense for All of Us* (2018), *Listening to Killers: Lessons Learned from My 20 Years as a Psychological Expert Witness in Murder Cases* (2015), *Lost Boys: Why Our Sons Turn Violent and How We Can Save Them*. (1999), *Children and the Dark Side of Human Experience* (2008), *See Jane Hit: Why Girls Are Becoming More Violent and What We Can Do About It* (2006), *And Words Can Hurt Forever: How to Protect Adolescents from Bullying, Harassment and Emotional Violence* (2003), *What Children Can Tell Us* (1989), *The Psychologically Battered Child* (1986), *Children in Danger: Coping with the Consequences of Community Violence* (1992), *No Place To Be A Child: Growing Up in a War Zone* (1991), *Raising Children in a Socially Toxic Environment* (1995), *Adolescent Development: An Ecological Perspective*. (1985), and *for children Let's Talk About Living in a World With Violence* (1993). My work with children and youth experiencing severe violence has included communities across the United States and war zones across five continents. I was the first recipient of the C. Henry Kempe Award from the National Conference on Child Abuse and Neglect. In 1989, I received the American Psychological Association's Award for Distinguished Professional Contributions to Public Service, and in 1995, the Dale Richmond Award from the American Academy of Pediatrics, specifically honoring my work in the field of community violence and trauma. I have served as a consultant to a wide range of organizations, including the American Medical Association, the National Committee to Prevent Child Abuse, and the FBI. I have received awards for my empirical research, including in 1992, from the Society for Psychological Study of Social Issues. In 2018, I was cited by the American Psychological Association as one of 33 "Influential Psychologists" for my work on the developmental impact of trauma.

Since 1994, I have served as a psychological expert in more than 300 murder cases, approximately 125 of which involve the re-sentencing of individuals convicted of murder as juveniles and sentenced to life without parole. I have been qualified as an expert in developmental psychology in jurisdictions including Florida, Pennsylvania, Illinois, New Jersey, New York, South Carolina, Connecticut, Michigan, Oregon, South Carolina, Indiana, Arizona, Virginia, Washington, DC, and Georgia.



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