

MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Docket Number SOM-17-489

STATE OF MAINE

Appellee

v.

J.R.,

Appellant

Appeal from the Juvenile Court

BRIEF OF AMICUS CURIAE, AMERICAN CIVIL LIBERTIES UNION OF
MAINE FOUNDATION

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BRIEF OF AMICUS CURIAE THE AMERICAN CIVIL LIBERTIES UNION OF MAINE

STATEMENT OF INTEREST

The American Civil Liberties Union of Maine Foundation (the “ACLU of Maine”) is a nonprofit, nonpartisan organization founded in 1968 to protect and advance the civil rights and civil liberties of all Mainers. The ACLU of Maine strives to ensure that defendants’ rights are protected at all stages of criminal and juvenile proceedings, including sentencing and disposition. The ACLU of Maine has a long history of involvement, both as direct counsel and as amicus curiae, in cases involving the proper functioning of our criminal justice system.

The unique developmental differences of juveniles compared to adults means that juveniles are constitutionally entitled to special protections in juvenile and criminal proceedings. The ACLU of Maine submits this brief to provide information about how these protections should be applied when determining whether a juvenile may be committed in a secure detention facility in Maine.

STATEMENT OF THE CASE

In October 2017, the juvenile court ordered J.R. to an indefinite period of incarceration in Long Creek Youth Development Center (“Long Creek”). A41. By all accounts, the judge, prosecutor, guardian ad litem, and defense counsel each wanted to help J.R., who, like many other adolescents, had engaged in minor juvenile offenses. A41. Specifically, J.R. admitted to several minor charges that

would have been Class D and Class E misdemeanors if committed by an adult. These include criminal mischief and receiving stolen property relating to a scooter that belonged to another boy's mother, A50-51; criminal mischief relating to damaging school property, A52-53; and theft charges relating to items J.R. took from his brother, A54-56. If committed by an adult, the maximum possible term of imprisonment for a Class D offense is less than one year. 17-A M.R.S. § 1252 (2014).¹

Yet the court ordered J.R. to imprisonment in Long Creek until his 18th birthday—up to almost one and a half years. According to the record, the court did so for numerous reasons, each ostensibly for J.R.'s own good. Specifically, the court was concerned that J.R. was missing school, therapy appointments, and court dates. A39-40. The court also accepted the prosecutor's argument that J.R. "really needs . . . services. He needs counseling. He has some substance problems." A29, A39-40. The court noted that everyone involved in the case, including the court, "all want what's best" for J.R. A41. These good intentions paved the way for the court to order J.R. to an indefinite period of imprisonment of well over one year. A41.

¹ Even when there are multiple counts, the default rule is that sentences imposed on the same date run concurrently. 17-A M.R.S. § 1256(2).

As a result of the court's order, J.R. has been imprisoned in Long Creek since October 2017. Long Creek has been the site of numerous recent tragedies, including the death of a 16-year-old boy and the brutal beating of an 11-year-old boy.² Long Creek is a place where many children fear for their personal safety and where children languish on a waiting list just to see a mental health clinician.³ This is the place where J.R. was sent to receive rehabilitation.

STATEMENT OF ISSUES

- (1) Whether courts are barred from sending kids to prison for “rehabilitation” when the data show that prison actually harms children, rather than rehabilitating them.
- (2) Whether the juvenile code prohibits sending children to prison for their own rehabilitation, when imprisonment is neither the least restrictive alternative nor necessary to protect the public.
- (3) Whether a juvenile sentence of imprisonment longer than the maximum sentence for the same adult offense is disproportionate and unconstitutional.

² Matthew Byrne, *Mother of transgender teen who died at Long Creek begged officials repeatedly to help her son*, Portland Press Herald (Nov. 16, 2016), <https://www.pressherald.com/2016/11/15/transgender-teen-who-died-at-long-creek-denied-mental-health-treatment-mother-says/>; Children's Center for Law and Policy, Long Creek Youth Development Center Conditions Assessment Narrative Report (Sept. 2017) (“CCLP Report”) at 55, available at https://www.aclumaine.org/sites/default/files/field_documents/report-long_creek_youth_development_center_-_conditions_of_confinement_assessment.pdf; *Ali v. Long Creek Youth Development Center*, No. 18-cv-109-JAW (D. Me.). Lawyers from the ACLU of Maine represent the plaintiff in *Ali v. Long Creek Youth Development Center*.

³ CCLP Report at 6, 8, 36.

SUMMARY OF ARGUMENT

The Juvenile Court abused its discretion by ordering J.R. to prison for the purpose of “rehabilitation.” That disposition flies in the face of the reality that imprisonment in Long Creek is a harsh and life-altering punishment—not rehabilitation.

There are three primary reasons why the juvenile court’s disposition is excessive and violates basic constitutional and statutory principles. **First**, the juvenile court erred in concluding that incarceration in Long Creek would rehabilitate J.R. To the contrary, data show that prison increases the risk of reoffending, places children at risk of bodily harm, and worsens their educational, employment, and mental health outcomes. A recent report confirms that imprisonment at Long Creek, Maine’s youth prison, harms children in our state.

Second, the court’s order is inconsistent with the juvenile code, 15 M.R.S. §§ 3001-3508, which provides myriad rehabilitation options less restrictive than imprisonment and mandates that the court impose the least restrictive option. The code also imposes strict limits on sentences to a “secure” institution like Long Creek, allowing such a sentence only when the court finds it “necessary for protection of the public.” 15 M.R.S. § 3313(1). No such finding was made in this case, making J.R.’s sentence unlawful.

Third, the juvenile court’s disposition violates constitutional principles because it fails to account for the fact that juveniles are different than adults and should be punished *less* harshly. Yet the juvenile court sentenced J.R. to a term of imprisonment for up to almost one and a half years—more than the maximum possible punishment for an adult convicted of a Class D offense. Such a disproportionate sentence violates the federal and Maine constitutions.

ARGUMENT

I. Standard of Review

This Court possesses jurisdiction over direct appeals in juvenile cases, including jurisdiction to review “[a]n order of disposition” sentencing a juvenile to Long Creek. 15 M.R.S. § 3402.⁴

Each of the statutory goals of the Court’s appellate jurisdiction supports close review to ensure the best outcome for the youth. For instance, the statute enshrines the goals of ensuring “uniformity of treatment” to similarly situated juveniles and promoting the goals of the juvenile justice system. 15 M.R.S. § 3401. To accomplish these goals and provide guidance to lower courts, this Court is obligated to engage in close review of each juvenile appeal. Another statutory goal is “[t]o correct errors in the application and interpretation of law.” 15 M.R.S. § 3401. By allowing for review of both “*application* and interpretation of law,” the

⁴ See also L.D. 416 (128th Legis. 2015) (“An Act to Provide for Direct Appeals under the Maine Juvenile Code to the Supreme Judicial Court”) (enacted May 24, 2015).

statute indicates that this Court should exercise searching review, even to issues of mixed fact and law. *Id.* (emphasis added).

In the adult context, this Court reviews sentencing decisions for “abuse of discretion.” *State v. Sweet*, 2000 ME 14, ¶ 22, 745 A.2d 368. Out of special solicitude for Maine’s youth, the Court should apply an even more searching review to juvenile dispositions. *See, e.g., State v. Gleason*, 404 A.2d 573, 586 (Me. 1979). Any underlying questions of law are reviewed *de novo*. *See Viles v. Town of Embden*, 2006 ME 107, ¶ 10, 905 A.2d 298.⁵

Finally, in exercising its review, this Court has historically prioritized the juvenile’s welfare over procedural rules like waiver or mootness. For example, in *Gleason*, this Court declined “to penalize a juvenile for the procedural defaults of his attorney” (if any), “in light of the historic concern of our courts for the welfare of minors and the rehabilitative goals of juvenile proceedings[.]” *Gleason*, 404 A.2d at 579 n.4 (Me. 1979) (citation omitted). The Court further elected to consider matters “of great public interest . . . despite the elements of mootness which are present.” *Id.* at 579. In this case, likewise, the Court should engage in searching review of all arguments to ensure that the disposition accords with principles of equity, the juvenile code, and the federal and State Constitutions.

⁵ *Viles v. Town of Embden*, 2006 ME 107, ¶ 10, 905 A.2d 298 (“The *de novo* standard is generally reserved for questions of law[.]”).

II. Children Should Never Be Sent To Prison for their Own “Rehabilitation”

The juvenile court abused its discretion by sentencing J.R. to a term of imprisonment in Long Creek for rehabilitation and J.R.’s own “best” interests.⁶ A39. In doing so, the court adopted the common, but wrong, assumption that Long Creek helps youth by providing rehabilitation. The court even imposed an indefinite sentence of more than one year (rather than 30 days) based on the mistaken proposition that the longer sentence would better advance J.R.’s treatment and rehabilitation.⁷ A38-41. That was reversible error.

As described below, juveniles are harmed, not helped, by incarceration. Although this Court previously accepted (almost 40 years ago) that juvenile incarceration advances rehabilitation, *Gleason*, 404 A.2d at 582, decades of later research demonstrate the harmful consequences of imprisonment in juvenile detention centers. A recent report even shows that the same harms apply to Maine youth incarcerated at Long Creek.

This is not a new idea. In the adult context, federal and state laws have long recognized that incarceration causes more harm than good for the prisoner. As a result, adult defendants are generally protected against courts imposing or

⁶ Although the court acknowledged that it was “bound to impose the least restrictive dispositional alternative,” it ultimately agreed with the state’s recommendation to send J.R. to Long Creek because he “needs real treatment.” A39-41.

⁷ Indeed, the Court even rejected the defense attorney’s request for a shorter 30-day sentence at Long Creek because that wouldn’t be “best” for J.R. A39-41.

lengthening prison sentences for the purpose of rehabilitation. The same protections should apply to juveniles, who are entitled to adult-like protections so long as they do not undermine the rehabilitative purposes of the juvenile code.

A. Data Shows that Incarceration Is Bad for Children

Local and national research shows that juvenile prison does not rehabilitate children and youth, but instead (1) increases the risk of reoffending, (2) exposes youth to physical danger, (3) worsens educational and employment outcomes, and (4) worsens mental health outcomes. Each of these harms is discussed below.

First, a recent report found that secure juvenile incarceration “can actually increase reoffending for certain youth.”⁸ Another study likewise showed that prior incarceration was associated with a higher likelihood of youth reoffending.⁹ In fact, incarceration had a much stronger negative effect than carrying a weapon, gang membership, or a poor parental relationship, and was the single most significant predictor of recidivism.¹⁰ Another study found that, even controlling for other

⁸ Mara Sanchez, Erica King, and Jill Ward, *Youth Justice in Maine: Imagine a New Future Summit, Summary & Recommendations* at 7, Muskie School of Public Service (Jan. 2018) https://muskie.usm.maine.edu/justicersearch/Publications/Juvenile/Youth_Justice_in_Maine_Summary_Recommendations.pdf (“Muskie Report”) (citing Pew Charitable Trusts, *Re-Examining Juvenile Incarceration*, <http://www.pewcharitabletrusts.org/reports-and-publications/2015/04/re-examining-juvenile-incarceration/> (2015)).

⁹ Barry Holman & Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Justice Policy Institute, at 4, http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf (citing B.B. Benda and C.L. Tollet, *A Study of Recidivism of Serious and Persistent Offenders Among Adolescents*, *Journal of Criminal Justice*, Vol. 27, No. 2 111-126 (1999)).

¹⁰ *Id.* (citing B.B. Benda and C.L. Tollet, *A Study of Recidivism of Serious and Persistent Offenders Among Adolescents*, *Journal of Criminal Justice*, Vol. 27, No. 2 111-126 (1999)).

factors, youth in community placements are 14 percent less likely to reoffend than incarcerated youth.¹¹

Data on juvenile development further supports that incarceration increases recidivism. Studies of adolescent brain development shows that many youth engage in so-called “delinquent” behavior, but most naturally age out of such behavior as they grow up.¹² Yet incarceration can derail that normal developmental process. Research by Carnegie Mellon has “shown that incarcerating juveniles may actually interrupt and delay the normal pattern of ‘aging out’ since detention disrupts their natural engagement with families, school, and work.”¹³

Data from Maine confirm that the pattern applies here. As a recent report explained, low-risk youth in Maine who were committed between 2010 and 2014 were assessed as *more* likely to reoffend after their period of incarceration than

¹¹ *Id.* at 6 (citing Fendrich, M. and Archer, M., *Long-Term Re-arrest Rates in a Sample of Adjudicated Delinquents: Evaluating the Impact of Alternative Programs*, *The Prison Journal* Vol. 78 No. 4 360-389 (1998)).

¹² *Id.* (citing Elliott, D. S., *Serious Violent Offenders: Onset, Developmental Course, and Termination. The American Society of Criminology 1993 Presidential Address*, *Criminology*, Volume 32, Number 1 (1994); Sampson, R. and Laub, J., *Crime in the Making: Pathways and Turning Points Through Life*, Harvard University Press (1994)); *see also* Brief for the Am. Psychol. Ass’n. et al. as Amici Curiae Petitioners at 7, *Miller v. Alabama*, 567 U.S. 460 (2012) (Nos. 10-9646, 110-9647) (citation omitted) (stating “it is statistically aberrant to refrain from crime during adolescence”) (citation omitted).

¹³ *Id.* at 7 (citing Golub, A. (1990), *The Termination Rate of Adult Criminal Careers*, Pittsburgh: Carnegie Mellon). “[M]odels of youth justice that rely heavily on confinement are not effective at rehabilitation[.]” *See* Muskie Report at 6 (citing McCarthy, P., et al., *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model* (2016), *New Thinking in Community Corrections*, October 2016 No. 2, available at goo.gl/xLHX93).

before.¹⁴ As the report explained, incarceration is “not only inconsistent with the purpose of the juvenile system,” but also “both ineffective and inadequate in addressing youth needs, especially youth who have experienced trauma or who have developmental challenges.”¹⁵

An independent investigation of Long Creek by the Children’s Center for Law and Policy (CCLP Report) likewise found that incarcerating youth with mental illness only “makes it *more* likely that youth will graduate to the adult corrections system in Maine.”¹⁶ In other words, incarceration does not rehabilitate youth, but instead makes them more likely to commit a new offense.

Second, incarcerating kids can also cause them physical harm. Nationwide, a recent report found “evidence of systemic or recurring youth maltreatment in 45 different states between 1970 and 2015.”¹⁷ Specific instances in Maine show that youth suffer from physical harm at Long Creek. The Children’s Law and Policy Center (CCLP) recently completed an investigation of Long Creek and found “a

¹⁴ Muskie Report at 7 (citing Dumont, R. & King, E., *Youth recidivism: Diversion to discharge in Maine’s juvenile justice system* (2017), available at <http://muskie.usm.maine.edu/justiceresearch/>).

¹⁵ *Id.*

¹⁶ CCLP Report at 8.

¹⁷ Muskie Report at 7 (citing Annie E. Casey Foundation, Richard A. Mendel, *No Place for Kids* (2011), available at www.aecf.org; Annie E. Casey Foundation, Richard A. Mendel, *Maltreatment of Youth in U.S. Juvenile Corrections Facilities* (2015), available at www.aecf.org).

number of dangerous and harmful conditions and practices,” including instances of excessive force against incarcerated youth.¹⁸

In one specific instance at Long Creek, correctional officers brutally beat an 11-year-old child and knocked out his teeth.¹⁹ Like many children at Long Creek, this 11-year-old had mental health diagnoses (including Attention Deficit Hyperactivity Disorder (ADHD)) that required treatment. Yet instead of providing medication or other treatment, Long Creek officials punished him for his ADHD symptoms, and ultimately knocked out his front teeth by bashing his head into a bare metal bed frame.

The CCLP Report also found that “there are clearly many youth who do not feel safe at [Long Creek],”²⁰ including many lesbian, gay, bisexual, questioning, gender non-conforming, and transgender youth (LGBQ/GNCT). The CCLP Report corroborated numerous allegations of harassment and abuse against LGBQ/GNCT youth and identified a culture of discrimination against such youth.²¹ It should be no surprise that such verbal and physical harm occurs at Long Creek. As one expert explained, “it is the nature of institutionalization that is the problem.”²²

¹⁸ CCLP Report at 6-7.

¹⁹ Compl., *Ali v. Long Creek Youth Development Center*, No. 18-cv-109-JAW (D. Me. Mar. 14, 2018).

²⁰ CCLP Report at 8.

²¹ *Id.* at 8-9.

²² Muskie Report at 7 (citation omitted).

Third, incarceration also harms youth's educational and employment outcomes. A study from 2013 studied "empirically how incarceration as a juvenile influences high school completion – a partial measure of social and human capital formation – and the likelihood of incarceration later in life."²³ Even after controlling for age, race, criminal background, and neighborhood, the study found that juvenile incarceration is associated with worse future grades.²⁴

In Maine, the CCLP Report found that many youth were not receiving legally mandated educational services while in Long Creek.²⁵ Although the state Department of Education "considers the school at Long Creek a local education agency, Long Creek's school does not have the autonomy or resources to provide legally mandated services to youth."²⁶ The problem is especially dire for the more-than-85-percent of youth at Long Creek with special education needs. As found by the CCLP Report, "[t]he current special education staffing at Long Creek is inadequate to meet the needs of residents."²⁷ Additionally, "the problems with the

²³ Anna Aizer and Joseph Doyle, *What is the Long-Term Impact of Incarcerating Juveniles*, Vox CEPR Policy Portal (July 2013), <https://voxeu.org/article/what-long-term-impact-incarcerating-juveniles>.

²⁴ *Id.*; see also Anna Aizer and Joseph Doyle (2013), "Juvenile Incarceration, Human Capital and Future Crime: Evidence from Randomly-Assigned Judges," NBER Working Paper, 19102, available at http://www.mit.edu/~jjdoyle/aizer_doyle_judges_06242013.pdf.

²⁵ CCLP Report at 9.

²⁶ *Id.* at 29.

²⁷ *Id.* at 29-30.

lack of educational services for detained youth are an invitation for litigation by child advocates and parents of youth at the facility.”²⁸

Incarceration also affects later employment. One study found that jailing youth “reduced work time over the next decade by 25-30 percent.”²⁹ Another report found that youth with a prior history of incarceration “experienced three weeks less work a year” compared to non-incarcerated youth.³⁰

Finally, incarceration is bad for youth’s mental health. “[Y]oung people with behavioral health problems simply get worse in detention, not better.”³¹ Data also supports the inference that incarceration itself causes the harm: “for one-third of incarcerated youth diagnosed with depression, the onset of depression occurred *after* they began their incarceration.”³² Indeed, the data suggest that “poor mental

²⁸ *Id.* at 9.

²⁹ Barry Holman & Jason Zidenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Justice Policy Institute, at 10, http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf (citing Freeman, R.B., *Crime and the Employment Disadvantage of Youth*, National Bureau of Economic Research (2011)).

³⁰ *Id.* (citing Bruce Western and Katherine Beckett, *How Unregulated Is the U.S. Labor Market?: The Penal System as a Labor Market Institution*, *The American Journal of Sociology*, 104: 1030-1060 (1992)).

³¹ *Id.* at 8.

³² *Id.* (citing Kashani, J.H., et al., *Depression Among Incarcerated Delinquents*, *Psychiatry Resources Volume 3* 185-191 (1980)) (emphasis added). “The transition into incarceration itself . . . may be responsible for some of the observed [increased mental illness in detention] effect.” *Id.* (citing Forrest, C.B., et al., *The Health Profile of Incarcerated Male Youths*, *Pediatrics* Vol. 105, No. 1 286-291 (2000)).

health and the conditions of detention conspire together to generate higher rates of depression and suicide ideation.”³³

The experiences of Maine’s youth at Long Creek support the correlation between incarceration and poor mental health. The CCLP report documented a “high rate of youth engaging in self-harming behavior at Long Creek.”³⁴ As it explained, “there are clearly many youth who are engaging in this behavior because of mental illness and trauma.”³⁵ “[A]ny outside observer should see the number of suicide attempts and self-harming gestures as clear evidence of the inappropriateness of Long Creek as a placement for many youth.”³⁶

The CCLP Report also found that youth in Long Creek “require greater access to counseling services” and that “the facility’s mental health services are inadequate[.]”³⁷ Youth may wait for weeks on a waiting list to see a mental health clinician.³⁸ In fact, clinician services are so scarce that some youth may feel that

³³ *Id.* (citing Mace, D., *et al.*, *Psychological Patterns of Depression and Suicidal Behavior of Adolescents in a Juvenile Detention Facility*, *Journal of Juvenile Justice and Detention Services*, Vol. 12 No. 1 18-23 (1997)).

³⁴ CCLP Report at 8.

³⁵ *Id.*

³⁶ *Id.* Although the report noted that some youth engage in self-harming behavior as a strategy to obtain individual attention or to be removed from general programming, that strategy should “raise[] concerns about those youth’s perceptions of their own safety.” CCLP Report at 8.

³⁷ CCLP Report at 36.

they have to “engage in negative or suicidal behavior in order to obtain” basic mental healthcare.³⁹

The CCLP Report also found an “overuse of room confinement” at Long Creek, which worsened youth’s mental health disabilities.⁴⁰ As stated in the report, “[y]outh with mental health problems can see those problems worsen while in room confinement, which raises the likelihood of youth engaging in self-harming behaviors.”⁴¹ The report also found “a relative lack of mental health resources at [Long Creek] given the profound mental health problems of so many youth at the facility.”⁴²

Just last year, a transgender youth ended his life while detained at Long Creek.⁴³ His mother said that she “begged authorities there to give her son mental health treatment,” but was repeatedly rebuffed.⁴⁴ The youth, Charles Knowles, had

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ CCLP Report at 7.

⁴¹ *Id.*

⁴² CCLP Report at 5. Although DOC has recently added five new behavioral health technicians, they have also added *twenty-eight* new correctional officers—confirming that Long Creek is first and foremost a prison, not a rehabilitation facility. *See Questions Regarding Downeast Correctional Facility and Long Creek Youth Development Center*, The Joint Standing Committee on Criminal Justice and Public Safety, For the Session on February 28, 2017.

⁴³ Matthew Byrne, *Mother of transgender teen who died at Long Creek begged officials repeatedly to help her son*, Portland Press Herald (Nov. 16, 2016), <https://www.pressherald.com/2016/11/15/transgender-teen-who-died-at-long-creek-denied-mental-health-treatment-mother-says/>.

⁴⁴ *Id.*

been intermittently placed on suicide watch, but was not even seen regularly by a psychiatrist until an outside physician intervened. Charles Knowles ended his life on Long Creek's watch in October 2016.⁴⁵ This tragic incident illustrates that Long Creek often harms the mental health outcomes for our youth.

In short, the data overwhelmingly show that incarceration is bad for kids and does not rehabilitate them.

B. Adults Are Already Protected Against Prison Sentences for “Rehabilitation” and Children Deserve the Same Protection

Adult defendants are generally protected against sentences of imprisonment imposed or lengthened for the purpose of rehabilitation, and the same protection should apply to juveniles.

In the federal context, the Supreme Court has held that adult offenders are protected against prison sentences imposed for their own rehabilitation. *Tapia v. United States*, 564 U.S. 319, 334–35 (2011). Courts “may not impose or lengthen a prison sentence to enable an offender to complete a treatment program or otherwise to promote rehabilitation.” *Id.*; *see also* 18 U.S.C. § 3582(a); 28 U.S.C. § 994(k). Rather, a prison sentence may be imposed or lengthened only for one of the other three sentencing purposes: retribution, deterrence, or incapacitation. *Tapia*, 564 U.S. at 325.

⁴⁵ *Id.*

This rule stemmed from experience showing that prison harms, rather than rehabilitates. As the Supreme Court explained, Congress was “skeptical that ‘rehabilitation can be induced reliably in a prison setting.’” *Id.* at 334-35 (citing S. Rep. No. 98-225 at 38). “Lawmakers and others increasingly doubted that prison programs could ‘rehabilitate individuals on a routine basis’—or that parole officers could ‘determine accurately whether or when a particular prisoner ha[d] been rehabilitated.’” *Id.* at 324-25 (quoting S. Rep. 98-225 at 40).⁴⁶

Applying this rule, the Supreme Court reversed a sentence when there was a mere “possibility” that the defendant’s sentence “was based on her rehabilitative needs.” *Id.* at 335. While acknowledging that courts may encourage rehabilitation for defendants already sentenced to prison, the Supreme Court held that the goal of rehabilitation could not justify *imposing or extending* a prison sentence. *Id.*

An analogous rule appears in Maine’s sentencing statute. One purpose of Maine’s adult sentencing scheme is “[t]o minimize correctional experiences which serve to promote further criminality.” 17-A M.R.S. § 1151(3).⁴⁷ In other words,

⁴⁶ Another factor in the Court’s reasoning in *Tapia* was that Congress would have authorized courts to order specific “prison correctional programs” had Congress intended “to allow courts to base prison terms on offenders’ rehabilitative needs.” *Tapia*, 564 U.S. at 331. Yet Congress did not grant courts this authority, instead leaving treatment programs entirely in the Bureau of Prisons’ discretion. *Id.* The same is true here, where the Department of Corrections decides which programs to provide, and the juvenile court lacks authority to order specific rehabilitative programs for a particular child. *Cf.* 15 M.R.S. § 3319 (stating that the location of juvenile facility lies in the “complete discretion” of the Department of Corrections commissioner).

⁴⁷ Another purpose is to “give fair warning of the nature of the sentences that may be imposed on the conviction of a crime.” 17-A M.R.S. § 1151(4).

Maine recognizes, in statute, that “correctional experiences” in secure prison settings simply “serve to promote further criminality”—and do not promote rehabilitation. *Id.*

These protections should apply in the juvenile context, especially considering the weight of evidence showing that incarceration is at least as bad for children as it is for adults. As a general rule, adult protections should apply to juveniles to the extent consistent with the goals of the juvenile code. *Gleason*, 404 A.2d at 580. “Normal adult criminal procedures must be afforded to the extent consistent with the basic rehabilitative purposes of the juvenile justice system.” *Id.* (citations omitted).

Here, protecting children against prison sentences for their own “rehabilitation” is consistent with the goals of the juvenile code and would not compel Maine “to abandon or displace any of the substantive benefits of the juvenile process.” *Gleason*, 404 A.2d at 580 (quoting *In re Winship*, 397 U.S. 358, 367 (1970)). To the contrary, Maine could continue advancing rehabilitation (far more effectively) by pursuing the numerous community rehabilitative options that are enshrined in the juvenile code. *See, e.g.*, 15 M.R.S. § 3314(1)(A).⁴⁸

⁴⁸ As one example of rehabilitation in the community, section 3314(1)(A) provides for continued legal custody of parents with accompanying “treatment services aimed at the rehabilitation of the juvenile and improvement of the home environment.” 15 M.R.S. § 3314(1)(A). To be clear, the rule regarding rehabilitation does not mean that Long Creek should not strive to rehabilitate youth in its care.

Nor does this Court’s precedent require a different result in this case. Almost forty years ago, the Court in *Gleason* accepted that the Maine Youth Center (now Long Creek) was rehabilitative and “far less punitive and coercive” than comparable adult institutions.⁴⁹ *Gleason*, 404 A.2d at 582. Yet decades of additional experience show that child prisons like Long Creek do not provide rehabilitation. The atmosphere at Long Creek is far more punitive and coercive than this Court contemplated in *Gleason*, including instances of children being harshly beaten by guards and punished by lengthy room confinement.⁵⁰

Even the statutory aims of Long Creek are not meaningfully different than adult prisons. For example, the statute provides that Long Creek is established to: “*detain juveniles,*” “*confine juveniles,*” and “*protect the public from dangerous juveniles.*” 34-A M.R.S. § 3802 (emphases added). Although it also provides for “rehabilitation,” *id.*, the same is true for adult prisons like the Maine State Prison, which “is established for the confinement *and rehabilitation*” of prisoners. 34-A M.R.S. § 3201-A. The fact that the Department of Corrections may seek to rehabilitate prisoners in its custody does not mean that courts may send someone to prison, or lengthen their sentence, for the purpose of rehabilitating them. *Cf. Tapia*, 564 U.S. at 334-35; 17-A M.R.S. § 1151(3).

⁴⁹ The Court in *Gleason* also assumed “a radical functional difference between institutions such as the Maine Youth Center and the Maine State Prison”—namely, the rehabilitative goal of the Maine Youth Center. *Gleason*, 404 A.2d 573 at 586.

⁵⁰ See generally CCLP Report at 7-8, 55-56.

For juveniles as for adults, confinement in a secure prison setting does not rehabilitate; it harms. Although rehabilitation remains the guiding purpose of the juvenile code, rehabilitation does not justify imposing or lengthening a prison sentence in Long Creek. Accordingly, J.R.’s lengthy prison sentence—imposed to advance his own rehabilitation—should be vacated.

III. The Court’s Order Violates the Juvenile Code and Federal Statute

The juvenile court’s order also conflicts with the Maine juvenile code, which strictly limits the situations in which juveniles may be sentenced to a “secure” juvenile detention institution like Long Creek. 15 M.R.S. § 3313(1). The juvenile court may order such incarceration only when it is the “least restrictive alternative” and “necessary for the protection of the public”—neither of which is true here.

Sending children to Long Creek for their own rehabilitation and treatment may also violate the Americans with Disabilities Act, which forbids institutional isolation when community treatment would suffice. *See, e.g., Olmstead v. Zimring*, 527 U.S. 581 (1999).

A. The Juvenile Code Imposes Strict Limits on Incarceration

The juvenile code imposes numerous strict limits on incarceration, including (1) a policy favoring treatment in the juvenile’s home, (2) a default rule against incarceration, (3) numerous additional factors weighing against incarceration, and (4) the express provision of many community rehabilitative options, plus the

requirement to order the least restrictive option. Considered together, these rules show that the juvenile code does not permit incarceration for the juvenile's own rehabilitation.

First, the policy of the juvenile code strongly prefers rehabilitative options that leave the child in his home and his community. Specifically, juveniles should receive “such care and guidance, *preferably in the juvenile's home*, as will best serve the juvenile's welfare.” 15 M.R.S. § 3002(1)(A) (emphasis added). Another goal is to “preserve and strengthen family ties whenever possible.” *Id.* § 3002(1)(B).

Second, the statute sets a high burden for any prosecutor seeking incarceration in Long Creek. By statute, a juvenile can be incarcerated only when “confinement is *necessary for protection of the public*.” 15 M.R.S. § 3313(1) (emphasis added). Such confinement must be necessary to protect the public for at least one of three reasons: (1) because of an “undue risk” that the juvenile would commit another crime, (2) because the juvenile requires “correctional treatment” in an institution, or (3) because “[a] lesser sentence will depreciate the seriousness of the juvenile's conduct.” *Id.* Each of these criteria—including the umbrella “public necessity” requirement—should be interpreted narrowly, consistent with the juvenile code's preference to keep each child in the home. *See* 15 M.R.S. § 3002(1). A narrow interpretation is also consistent with the provision's title—

“Criteria for *withholding* an institutional disposition”—which demonstrates that institutional disposition in Long Creek is a disfavored result. 15 M.R.S. § 3313 (emphasis added).

Canons of interpretation also favor a strict interpretation. Principles of statutory interpretation require that exceptions be construed narrowly. *See Comm’r of Internal Revenue v. Clark*, 489 U.S. 726, 739 (1989). As the Supreme Court has explained, “[i]n construing [statutes] in which a general statement of policy is qualified by an exception, we usually read the exception narrowly in order to preserve the primary operation of the provision.”⁵¹ *Id.* In this case, community disposition is the default and institutional placement in Long Creek is the exception. 15 M.R.S. § 3313. Specifically, the statute orders disposition “*without* imposing placement in a secure institution as disposition,” unless strict requirements are met. *Id.* § 3313(1) (emphasis added).

Applying those requirements here, the juvenile’s own rehabilitation is not necessary to “protect the public.” 15 M.R.S. § 3313(1). Any contrary ruling would make the exception so broad that it would “swallow the rule”—an impermissible result. *See Cuomo v. Clearing House Ass’n, LLC*, 557 U.S. 519, 531 (2009).

⁵¹ Other courts and authorities have said the same. *See, e.g., City of New York v. Beretta U.S.A. Corp.*, 524 F.3d 384, 403 (2d Cir. 2008) (following the “interpretive principle that statutory exceptions are to be construed narrowly in order to preserve the primary operation of the [general provision]”); *cf.* 2A Norman J. Singer, *Statutes and Statutory Construction* § 47:11, at 250–51 (6th ed. 2000) (“[W]here a general provision in a statute has certain limited exceptions, all doubts should be resolved in favor of the general provision rather than the exceptions.”).

In sum, to give effect to the statutory default against institutional placement, courts must make specific findings that incarceration is necessary to protect the public for one of the three narrow reasons listed by statute. 15 M.R.S. § 3313(1). The juvenile court made no such finding in this case.

Third, even where the strict criteria for incarceration are met, the juvenile code further requires the court to consider numerous factors that weigh against placement in a secure institution. 15 M.R.S. § 3313(2). These factors include whether the “conduct neither caused nor threatened serious harm,” and whether “[t]he juvenile did not contemplate that his conduct would cause or threaten serious harm.” *Id.* § 3313(2). These additional considerations further support the juvenile code’s policy against incarceration for the purpose of rehabilitation.

Finally, by ordering J.R. to imprisonment at Long Creek instead of to a community disposition, the juvenile court failed to order the least restrictive disposition. The juvenile court correctly acknowledged that it must “impose the least restrictive dispositional alternative.” A39-40.⁵² As discussed below, however,

⁵² The court elaborated on the meaning of “least restrictive alternative,” stating “I should send you home, place you on probation, if those are in fact the least restrictive alternatives that would work for you.” A39. Indeed, the 1979 commentary on the juvenile code provides that the intent behind the statutory text, 15 M.R.S. § 3002(B),(C),(D), “is to give priority to the least restrictive release condition . . . or disposition[.]” 15 M.R.S. § 3002 (Commentary – 1979). As stated in legislative history, “[t]he State has the burden of justifying why any given intrusion—and not a lesser one—is called for.” *Id.* (quoting Commission to Revise the Statutes Relating to Juveniles, Summary of Preliminary Report (Guiding Principles) at 4 (1979)).

imprisonment in Long Creek for almost one-and-a-half years was not the least restrictive option for J.R.

To the contrary, the juvenile code details numerous options—including options primarily administered by the Department of Health and Human Services (DHHS)—that are less restrictive than incarceration. 15 M.R.S. § 3314. For example, the court may (1) allow the juvenile to remain in the custody of his parent or guardian, with required participation “in treatment services aimed at the rehabilitation of the juvenile and improvement of the home environment,” *id.* § 3314(1)(A); (2) order participation “in a supervised work or service program,” including a program requiring the juvenile to work to provide restitution to the victim,⁵³ *id.* § 3314(1)(B); (3) commit the child to the custody of a relative or another person in the best interests of the youth (so long as the parent or guardian is provided with due process), *id.* § 3314(1)(C-2), or (4) order the youth to pay restitution, *id.* § 3314(1)(E), or to pay a fine, *id.* § 3314(1)(G).

Many of these options specifically mention rehabilitation. *See, e.g., id.* § 3314(1)(A),(B),(C-1). By contrast, the option of disposition to Long Creek makes no mention of rehabilitation, further confirming the legislature’s recognition that rehabilitation does not justify incarceration. *Id.* § 3314(1)(F).

⁵³ Such a supervised work or service program may be a condition of probation, so long as it does not deprive the youth of education, does not exceed 180 days, and is appropriate to the age and physical ability of the juvenile. 15 M.R.S. § 3314(1)(B) (among other requirements).

The court also has added flexibility to suspend, defer, or delay disposition. Specifically, it has discretion to impose a suspended disposition with a period of probation, 15 M.R.S. § 3314(2), to defer the disposition and ultimately allow for dismissal of the charges,⁵⁴ *id.* § 3311-B, or to delay the dispositional hearing during a period of continuance, *id.* § 3312(3).⁵⁵

The juvenile court must consider each of these alternatives in determining whether incarceration is the “least restrictive” option. To give meaning to the “least restrictive alternative” requirement, the juvenile court must consider and address each less restrictive alternative before imposing a sentence of incarceration. As indicated above, moreover, incarceration at Long Creek is the least restrictive option *only* when it is “necessary for protection of the public.” *See* 15 M.R.S. § 3313(1). Incarceration is never the least restrictive option available to rehabilitate a child or treat mental illness.

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⁵⁴ This option applies to youth who admit to a juvenile crime that would a Class C, D, or E crime (if committed by an adult). 15 M.R.S. § 3311-A.

⁵⁵ The court may continue the dispositional hearing for a number of reasons, including youth rehabilitation. 15 M.R.S. § 3312. Specifically, the court may continue the hearing: (1) for a period up to 12 months “to place the juvenile in a supervised work or service program or a restitution program, or for such other purposes as the court in its discretion determines appropriate,” or (2) for up to 15 months “to place the juvenile in a juvenile drug treatment court program.” *Id.* At the end of the continuance period, the court may evaluate whether the juvenile has complied with the program or treatment. *Id.* The juvenile may remain in the parents’ or guardians’ custody during the period of continuance. *Id.*

In J.R.’s case, the juvenile court failed to comply with any of these four strict requirements. First, the juvenile court did not give appropriate weight to the juvenile code’s policy against incarceration. *See* 15 M.R.S. § 3002.

Second, the juvenile court made none of the findings necessary to support the narrow exception of incarceration. It did not find that incarceration was necessary to protect the public because of (A) an undue risk of committing another crime, (B) the need for correctional treatment most effectively provided in an institution, or (C) the need to avoid depreciating the seriousness of the juvenile’s conduct. 15 M.R.S. § 3313. Although the court indicated that some treatment was necessary, A39-41, it did not explain why such treatment *in Long Creek* was “necessary for protection of the public.” *See* 15 M.R.S. § 3313(1). Nor could it where, as here, J.R. merely engaged in low-level juvenile offenses of the sort common among adolescent boys. A23-41.⁵⁶

Third, the juvenile court failed to give proper weight to the statutory factors against incarceration. *See* 15 M.R.S. § 3313(2). None of J.R.’s offenses caused serious harm, nor did J.R. contemplate that they would, thus weighing against incarceration. *See* A23-41.

⁵⁶ *See, e.g.*, Brief for the Am. Psychol. Ass’n. et al. as Amici Curiae Petitioners at 7, *Miller v. Alabama*, 567 U.S. 460 (2012) (Nos. 10-9646, 110-9647) (stating it is “statistically aberrant” for juveniles “to refrain from crime during adolescence”) (citation omitted).

Finally, the court gave no serious consideration to less restrictive alternatives before ordering incarceration. A39-42. Although the court expressed concern that J.R. had missed court dates and school, A40, it failed to consider whether alternative dispositions could help address those issues. The court also failed to consider additional in-home treatment options, options for supervised work, or other options in the community. Instead, the court expressed a concerning sentiment of powerlessness in ordering appropriate rehabilitative treatment:

“I have limited tools with which I can work. [The prosecutor] referred to the tools in the State’s toolbox. Well, they’ve used up all of their tools so now they’re coming asking for I guess one of the tools I can use [namely, incarceration].

A41. Specifically, the court suggested that rehabilitative options lie in “the State’s” toolbox, whereas the court’s toolbox contains incarceration. *Id.* Far from it. The court’s toolbox includes all of the myriad rehabilitative options listed in the juvenile code. *See, e.g.*, 15 M.R.S. § 3314.⁵⁷ And before ordering incarceration, it is the court’s obligation to consider *all* rehabilitative alternatives. The juvenile court failed to do that here, instead ordering J.R. to prison for his own “best” interests.⁵⁸ A41. Accordingly, the dispositional order to Long Creek should be vacated.

⁵⁷ The court retains authority to enforce probation or other conditions imposed as part of a disposition. *See* 15 M.R.S. § 3314(7) (enforcement of a dispositional order).

⁵⁸ Notably, the juvenile court is also required to make additional findings whenever it removes the child from his home. *See, e.g.*, 15 M.R.S. § 3314(1)(F). Although the statute further states

B. Ordering Institutionalized Isolation for Rehabilitation May Violate the Americans with Disabilities Act

In addition to violating the juvenile code, sending a youth to Long Creek for his own “rehabilitation” may also violate the Americans with Disabilities Act (ADA). *See* 42 U.S.C. § 12132. The ADA prohibits discrimination because of a qualified individual’s disability. *Id.* Unjustified isolation because of a disability—including a mental health disability—qualifies as such discrimination. Indeed, “a public entity discriminates against an individual by reason of his disability when it unjustifiably isolates a disabled person in an institutional setting.” *Suzman v. Comm’r, Dep’t of Health & Human Servs.*, 2005 ME 80, ¶ 10, 876 A.2d 29 (citing *Olmstead v. L.C.*, 527 U.S. 581, 597 (1999)). “Unjustified institutional isolation is discrimination in violation of the integration mandate” in the ADA. *Id.* (citing *Olmstead*, 527 U.S. at 581; 28 C.F.R. § 35.130(d)).

Sending children to Long Creek for their own “rehabilitation” for mental health needs violates the ADA’s prohibition against unjustified institutional isolation. That standard was violated here, where the court accepted the prosecutor’s arguments to send J.R. to Long Creek (in part) because of J.R.’s need for services and counseling. A29, A41. If youth have unmet mental health needs or other rehabilitative needs, the ADA requires that rehabilitative services should be

that this finding does not alter the sentence of imprisonment, *id.*, that does not alter the basic statutory requirement to make the findings—which were not made here. *See* A39-42.

provided in the community, if possible. Accordingly, the ADA further shows that J.R. should not have been sent to Long Creek for his own rehabilitation.

IV. The Punishment Is Disproportionate and Unconstitutional

As demonstrated above, a sentence of imprisonment at Long Creek is punishment, not rehabilitation. J.R.'s sentence of imprisonment of well over one year is a disproportionate punishment for the minor juvenile offenses for which he was adjudicated. Children are developmentally different than adults and should be punished less harshly, if at all. Yet here, the juvenile court sentenced J.R. to a punishment harsher than the *maximum* possible punishment an adult could serve for a Class D crime. That violates the federal and state constitutions.

A. The Federal Constitution Requires Consideration of Juveniles' Unique Developmental Characteristics

Imposing a lengthy prison sentence for a minor juvenile crime is disproportionate under the Eighth Amendment because children are different, and less culpable, than adults. *See* U.S. Const. amend. VIII. A prison sentence is particularly disproportionate when it is longer than the maximum prison sentence for an adult convicted of the same crime.

“[C]hildren are constitutionally different from adults for purposes of sentencing.” *Miller v. Alabama*, 567 U.S. 460, 471 (2012). Such differences “must be accommodated in determining the rights and duties of children” in criminal and juvenile proceedings. *Thompson v. Oklahoma*, 487 U.S. 815, 823 (1988) (citation

omitted). The Court discussed three such differences in *Roper v. Simmons*, 543 U.S. 551 (2005). First, the Court noted, “as any parent knows and as the scientific and sociological studies . . . tend to confirm, [a] lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults[.]” *Id.* at 569 (internal quotation marks and citation omitted). “These qualities often result in impetuous and ill-considered actions and decisions.” *Id.* Next, the court explained that juveniles are more susceptible to peer influence and have less control over their environments. *Id.* Finally, the Court discussed that the juvenile character is still unformed, malleable, and apt to change. *Id.* at 570. Taken together, the *Roper* Court held, these facts show that juveniles are less culpable as adults and should be treated differently.⁵⁹

Since *Roper*, the Supreme Court has repeatedly invoked juveniles’ special status under the law. In *Graham v. Florida*, the Court held that any “criminal procedure laws that fail to take defendants’ youthfulness into account at all would

⁵⁹ In considering proportionality under the Eighth Amendment, the Court has also explored how society recognizes that juveniles are different than adults (including being less mature and more impulsive). *See, e.g., Thompson*, 487 U.S. at 825. For example, teenagers in Maine are only eligible for a full driver’s license at age 16. 29-A M.R.S. § 1251(5). Teenagers under the age of 18 cannot enter into legally-binding contracts. 33 M.R.S. § 52. Nor can they gamble unless the value of the winnings would be under \$10. 17 M.R.S. § 1835(4). Under-18s are also disabled from marrying without a parent or guardian’s consent, 19-A M.R.S. § 652(7), and under-16s may not marry without a judge finding it is in “the best interests of the parties[.]” *Id.* § 652(8)(C). Finally, teenagers under the age of 18 generally cannot vote. The United States Constitution protects teenager’s rights to vote only once they reach age 18, U.S. Const. amend XXVI, § 1, while Maine law allows 17 year olds to vote in primaries only if they will be 18 by the time of the general election, 21-A M.R.S. § 111-A.

be flawed.” 560 U.S. 48, 76 (2010) (holding life without parole (LWOP) for non-homicide juvenile offense violates the Eighth Amendment). Two years later, in *Miller v. Alabama*, the Court explained that imposing the State’s “harshest penalties” on a juvenile improperly ignore the diminished culpability of youth. 567 U.S. 460, 477 (2012) (holding that mandatory LWOP for juvenile offense violates the Eighth Amendment). As the Court explained in *Miller*, “juveniles have diminished culpability and greater prospects for reform,” and thus “are less deserving of the most severe punishments.” *Id.* at 471 (citation omitted). Most recently, in *Montgomery v. Louisiana*, the Court held that sentencing courts must “consider a child’s diminished culpability and heightened capacity for change[.]” __ U.S. __, 136 S. Ct. 718, 726 (2016) (citation omitted) (holding that the rule in *Miller* is retroactive).

Applying these precedents to J.R.’s case, the juvenile court erroneously failed to take J.R.’s “youthfulness into account” when ordering an indefinite disposition of incarceration for more than one year. *Cf. Graham*, 560 U.S. at 76. The court also failed to recognize that juveniles “are less deserving of the most severe punishments.” *Cf. Miller*, 567 U.S. at 473. If committed by an adult, the Class D offense of criminal mischief (the most serious offense of which J.R. was adjudicated) would have been punishable by no more than one year. 17-A M.R.S.

§ 1252(2)(D).⁶⁰ Yet J.R. was sentenced to well over one year in Long Creek. That punishment fails to give appropriate weight to “a child’s diminished culpability,” *Montgomery*, 136 S. Ct. at 726, and should be vacated.

B. J.R.’s Sentence Is Disproportionate Under the Maine Constitution

The Maine Constitution contains a separate proportionality requirement in Article I, section 9, which requires that “penalties and punishments shall be proportioned to the offense.” Me. Const. Art. I, § 9. In considering whether the punishment is proportionate to the offense, the court must give due weight to the decreased culpability of juveniles. Under this standard, a more-than-one-year sentence of imprisonment is disproportionate punishment for low-level juvenile offenses.

As an initial matter, the Maine constitution provides for “a broader proportionality review” than the federal constitution. *State v. Stanislaw*, 2013 ME 43, ¶¶ 26, 65 A.3d 1242 (citing *Harmelin v. Michigan*, 501 U.S. 957, 965 (1991)). Under Article 1 Section 9, this Court performs “meaningful appellate review of sentences that are claimed to be excessive.” *Id.* at ¶ 27 (citations omitted).

The Court has traditionally applied a two-part test to determine whether a sentence is excessive. First, it compares “the gravity of the offense” with “the

⁶⁰ Although an adult offender could have received multiple sentences of imprisonment for the four offenses at issue here, the default is for such sentences to be *concurrent*, rather than consecutive. 17-A M.R.S. § 1256(2).

severity of the sentence.” *Stanislaw*, 2013 ME 43, ¶ 29 (citations omitted). Second, if that comparison suggests gross disproportionality, the Court compares “the defendant’s sentence with the sentences received by other offenders in the same jurisdiction.” *Id.* (citations omitted).

Applying that test to a juvenile offender, the gravity of a juvenile offense is lower than an adult offense because of youth’s decreased culpability. Accordingly, under step one, juveniles should not receive sentences near the maximum possible for an adult. In this case, a juvenile adjudicated of a Class D offense (if committed by an adult) should not be sentenced to over a year in prison, when the maximum possible sentence for an adult is less than one year.⁶¹ *See* 17-A M.R.S. § 1252.

Under step two, moreover, a more-than-one-year sentence is far harsher than similar sentences imposed on juveniles and adults alike for minor offenses like Class D criminal mischief and Class E receiving stolen property.

Accordingly, the Court should now make clear that a juvenile’s status is paramount when applying proportionality review under the Maine Constitution.

Applying that test here, the juvenile court’s sentence of imprisonment for well over

⁶¹ Almost 40 years ago, this Court held that differences in sentencing between juveniles and adults (including a longer sentence for a juvenile than an adult) were permissible because the juvenile code maintained “the goals of rehabilitation and treatment.” *Gleason*, 404 A.2d at 582 (Me. 1979). As discussed above, however, decades of later data have shown that juvenile prisons are punitive and damaging just like adult prisons.

a year for minor misdemeanor offenses is disproportionate and invalid under the Maine Constitution.

CONCLUSION

We support J.R.'s request that the Court vacate the juvenile court's sentence, which conflicts with decades of data showing the damaging nature of juvenile imprisonment, violates statutory law, and imposes a disproportionate and unconstitutional result. The case should be remanded for the juvenile court to reconsider an appropriate disposition.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Emma E. Bond, hereby certify that on March 30, 2018, two copies of this brief were served via first-class mail to each of the following counsel:

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STATE OF MAINE

SUPREME JUDICIAL COURT

Sitting as the Law Court

Docket No. _____

v.

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