

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)**

BETWEEN:

I.M.

Appellant

-and-

HIS MAJESTY THE KING

Respondent

AND:

S.B.

Appellant

-and-

HIS MAJESTY THE KING

Respondent

-and-

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PART I – OVERVIEW

1. The presumption of diminished moral blameworthiness outlined in s. 72(1)(a) of the *Youth Criminal Justice Act* (“YCJA”)¹ is at the core of a young person’s liberty and security interests under the *Charter*, as well as their fundamental rights as enshrined in the United Nations *Convention on the Rights of the Child* (“UNCRC”).² Since this Court’s affirmation in *R v DB*³ that the presumption is a principle of fundamental justice, young people experiencing disadvantage remain disproportionately represented among those facing adult sentences. In determining whether the Crown has rebutted the presumption of reduced moral blameworthiness, courts should adopt a child rights perspective that recognizes the intersecting identities of children as members of an inherently vulnerable, equity-seeking group. Such an approach is vital to safeguarding the *Charter*⁴ rights of adolescents in accordance with the norms and standards established in international law.

PART II – QUESTIONS IN ISSUE

2. Justice for Children and Youth (“JFCY”) submits the following regarding the interpretation and application of s. 72(1) of the YCJA:
 - a. the presumption of diminished moral blameworthiness must be informed by established principles and standards of international human rights law concerning juvenile justice (“child justice”); and
 - b. in determining whether the Crown has rebutted the presumption, courts must consider the intersecting grounds of marginalization disproportionately experienced by teenagers facing adult sentences. The cumulative impact of personal and social factors should underpin the analysis of whether a young person has exceptional adult-like maturity, moral sophistication, and independent judgment.⁵

PART III – STATEMENT OF ARGUMENT

A. The Presumption must be Interpreted in Accordance with International Law

¹ [Youth Criminal Justice Act](#), S.C. 2002, c. 1 [YCJA].

² *Convention on the Rights of the Child*, 20 November 1989, [1577 UNTS 3](#) (entered into force 2 September 1990) [UNCRC].

³ *R v DB*, [2008 SCC 25](#) at para [95](#) [DB].

⁴ *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, [c 11](#).

⁵ *R v MW*, [2017 ONCA 22](#) at para [98](#) [MW].

3. The *UNCRC* and other international human rights instruments prohibit the imposition of adult sentences on individuals under the age of 18.⁶ While the *YCJA* permits adult sentences to be imposed where the two-pronged test in s. 72(1) is satisfied, Canada's international law obligations require a narrowly circumscribed interpretation to limit their application to only the rarest of cases.
4. Customary and conventional international law should inform statutory interpretation. Domestic legislation is presumed to comply with Canada's international obligations.⁷ The *Charter* is presumed to provide at least the same level of protection as that found in international human rights documents ratified by Canada.⁸ The presumption of conformity with international law assumes added force when Parliament has made that intent explicit through incorporation into the statute.⁹
5. The *UNCRC* is incorporated by reference in the *YCJA*.¹⁰ Parliament drafted the *YCJA* with significant fidelity to its international obligations, demonstrating a clear intention to be guided by international standards on child rights.¹¹ This Court has also consistently recognized the importance of international law in interpreting the scope of the *YCJA*.¹²
6. In *DB*, this Court referenced Canada's international law commitments, including the *UNCRC* and the *Beijing Rules*, in recognizing the presumption of diminished moral blameworthiness as a principle of fundamental justice.¹³ Abella J. cited Article 40 of the *UNCRC* in affirming that young people are entitled to the presumption due to their age, heightened vulnerability, and reduced capacity for moral judgment. The provision requires treatment of children in the justice system in a manner that promotes their dignity, human rights, and reintegration into society.¹⁴

⁶ *UNCRC*, [supra](#) note 2 at Articles 1, 40; *United Nations Standard Minimum Rules for the Administration of Juvenile Justice*, UNGAOR, [UN Doc A/Res/40/33](#) (29 November 1985) at Rules 14.2, 19.1 [*Beijing Rules*]; *United Nations Guidelines for the Prevention of Juvenile Delinquency*, UNGAOR, 68th plenary meeting, [UN Doc A/RES/45/112](#) (14 December 1990) at Article 46 [*Riyadh Guidelines*]; *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, UNGAOR, 68th plenary meeting, [UN Doc A/RES/45/113](#) (14 December 1990) at Rules 1, 2 [*Havana Rules*].

⁷ *Mason v Canada (Citizenship and Immigration)*, [2023 SCC 21](#) at para [105](#) [*Mason*]; *Baker v Canada*, [1999 SCC 699](#) at paras [70-71](#); see also: *DB* [supra](#) note 3 at para [60](#).

⁸ *Divito v Canada (Public Safety and Emergency Preparedness)*, [2013 SCC 47](#) at paras [22-23](#).

⁹ *Mason*, [supra](#) note 7 at para [106](#).

¹⁰ *R v RC*, [2005 SCC 61](#) at para [41](#) [*RC*].

¹¹ *YCJA*, [supra](#) note 1 at Preamble, s. 3; *R v KJM*, [2019 SCC 55](#) at para [140](#) [*KJM*].

¹² *R v CP*, [2021 SCC 19](#) at paras [147-148](#) [*CP*]; *DB*, [supra](#) note 3 at paras [60](#), [85](#).

¹³ *DB*, [supra](#) note 3 at paras [60](#), [85](#).

¹⁴ *Ibid* at paras [60-61](#), [69](#).

7. International human rights law, standards, and principles require children to be sentenced exclusively within a State's youth justice system. The *UNCRC*, the *Beijing Rules*, and the *Riyadh Guidelines*, among other international human rights instruments, emphasize that the primary objective of youth justice is the well-being and best interests of the child.¹⁵
8. The evolving development of adolescents renders them less morally culpable for their actions.¹⁶ In recognition of this diminished moral culpability, sentencing must prioritize the principles of rehabilitation and reintegration¹⁷ regardless of the nature of the underlying offence. The United Nations Special Rapporteur on Torture has affirmed that laws allowing children to be sentenced as adults are "inherently cruel, inhuman or degrading because they fail to consider any of the special measures of protection or safeguards that international law requires for children."¹⁸ These values find domestic expression in section 12 of the *Charter*.¹⁹
9. The general comments of the United Nations Committee on the Rights of the Child (the "Committee") interpret and clarify the normative content of rights under the *UNCRC*. The comments reflect international standards on child justice, the growing consensus and understanding of adolescent development, and effective State practice.²⁰
10. The Committee has long interpreted the *UNCRC* as prohibiting the imposition of adult sentences on any person who committed an offence when under the age of 18. Its authoritative interpretation responds specifically to concerns regarding the persistent use of deprivation of liberty, contrary to the *UNCRC*, as manifest in the ongoing treatment of children as adult offenders.²¹
11. General Comment No. 24 (2019) on children's rights in the criminal justice system expressly

¹⁵ *UNCRC*, [supra](#) note 2 at Article 3; *Beijing Rules*, [supra](#) note 6 at Rules 1.4, 5.1, 14.2; *Riyadh Guidelines*, [supra](#) note 6 at Article 46; *Havana Rules*, [supra](#) note 6 at Rule 1.

¹⁶ *YCJA*, [supra](#) note 1 at Preamble, s. 3(1)(b); *DB*, [supra](#) note 3 at paras 58-59.

¹⁷ Committee on the Rights of the Child, *General Comment No. 20: On the implementation of the rights of the child during adolescence*, UNCRCOR, [UN Doc CRC/C/GC/20](#) (6 December 2016) at para 88 [*General Comment No. 20*]; *UNCRC*, [supra](#) note 2 at Article 3(1); *YCJA*, [supra](#) note 1 at Preamble, ss. 3, 38.

¹⁸ *Report of the Special Rapporteur on Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment*, UNHRCOR, 28th Sess, [UN Doc A/HRC/28/68](#) (5 March 2015) at para 73 [*Report Spec Rap on Torture*].

¹⁹ *Charter*, [supra](#) note 4 at s 12.

²⁰ Committee on the Rights of the Child, *General Comment No. 24 on children's rights in the child justice system*, UNCRCOR, [UN Doc CRC/C/GC/24](#) (18 September 2019) at para 1 [*General Comment No. 24*].

²¹ *Ibid* at paras 1, 29-30.

recommends removing existing legal exceptions that allow adult sentences to be imposed on those who committed an offence as a child.²² An aged-based bright line that prohibits any aspect of the adult criminal justice system from being transferred into the child justice system accords with scientific evidence that brain development continues into a person's twenties.²³ The *Beijing Rules* affirm that child justice principles apply equally to all people below age 18 and, in fact, recommend the extension of these protections to young adults.²⁴ Additionally, youth sentencing should be informed by international legal standards that require detention of any form to be a measure of last resort and imposed for the shortest duration possible.²⁵

12. In its *Concluding observations on the combined fifth and sixth periodic reports of Canada* in 2022, the Committee denounced Canada for the ongoing application of adult sentences contrary to its international human rights obligations, and urged Canada to bring its child justice system into compliance with international standards by ensuring that “no person under 18 years of age is sentenced as an adult, irrespective of the circumstances or the gravity of the offence.”²⁶
13. The use of adult sentences on children is not only contrary to Canada's commitment to the rights of children, but to the duties owed under international law to safeguard civil and political rights.²⁷ The United Nations Human Rights Committee, responsible for monitoring the implementation of the *International Covenant on Civil and Political Rights* (the “ICCPR”), has urged States to refrain from imposing life sentences for offences committed by persons under 18 years old.²⁸ Having ratified the ICCPR in May 1976, Canada must undertake measures to give effect to its commitments under this key international human rights treaty.²⁹

²² *Ibid* at para 30.

²³ *Ibid* at para 32.

²⁴ *Beijing Rules*, *supra* note 6 at Rule 3.3.

²⁵ *General Comment No. 24*, *supra* note 20 at para 85; *General Comment No. 20*, *supra* note 17 at para 88; *Beijing Rules*, *supra* note 6 at Rule 19.1.

²⁶ Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Canada*, UNCRCOR, [UN Doc CRC/C/CAN/CO/5-6](#) (23 June 2022) at para 45.

²⁷ *International Covenant on Civil and Political Rights*, 19 December 1966, [999 UNTS 171](#) at Article 14 [ICCPR]; UNCRC *supra* note 2 at Article 3(1).

²⁸ *Human rights in the administration of justice, including juvenile justice: resolution/adopted by the Human Rights Council*, UNHRCOR, 30th Sess, [UN Doc A/HRC/RES/30/7](#) (12 October 2015) at para 24; see also: *Report Spec Rap on Torture*, *supra* note 18 at para 38.

²⁹ Department of Canadian Heritage, [Canada's Sixth Report on the United Nations' International Covenant on Civil and Political Rights Sixth Report of Canada](#) (Quebec, 2013).

14. Canada's international legal obligations require the abolition of adult sentences in youth criminal justice; failing which, the presumption in s. 72(1)(a) should be rebutted only in exceptional cases.

B. Inherent Vulnerability and Intersecting Marginalization in Youth Justice

15. Since *DB*, courts have struggled to give consistent constitutional effect to the age-based presumption of diminished moral culpability, applying the s. 72(1) test with divergent methods and results.³⁰ While appellate courts have appropriately found that analysis under the first prong of the test should consider the circumstances of the young person,³¹ these factors have frequently been misconstrued. Personal characteristics and social context factors that should bolster the presumption of diminished moral blameworthiness are instead used to support its rebuttal, leading to flawed findings of adult-like maturity.³²
16. The recognition that children are *inherently* vulnerable based on age, not on the sensitivity of a particular child, is well established in law, and is what entitles them to the presumption of diminished moral culpability.³³ To ensure compliance with Canada's international law obligations, *Charter* values, and the principles of the *YCJA*, judicial consideration of s. 72(1)(a) must be informed by expert evidence on a specific young person's developmental maturity in their unique social context.
17. A clear roadmap for s. 72(1)(a) that gives effect to the broad constitutional proclamation in *DB* requires the Crown to adduce expert evidence demonstrating that the specific young person has the level of maturity, moral sophistication, and independent judgment of an adult.³⁴ Evidence used to unseat the presumption must satisfy the court that the young person should be attributed *increased* moral blameworthiness due to their exceptional adult-like maturity.
18. This exceptionality should be tantamount to a prohibition where the young person's heightened vulnerability is augmented because of personal and social circumstances that suppress maturity. This is particularly true where elevated vulnerability is a live issue due to a young person's

³⁰ Hillarie Tasche, "[Fourteen to Life: Giving Constitutional Effect to the Age-Based Presumption of Diminished Moral Blameworthiness by Respecting Parliament's Two-Prong Test for Adult Sentence Applications Pursuant to Section 72 of the Youth Criminal Justice Act](#)" (University of Manitoba Master of Laws Thesis, 2024) at 3-4, 114-115 [*Tasche*].

³¹ *R v Chol*, 2018 BCCA 179 at para 61 [*Chol*]; *R v JFR*, 2016 ABCA 340 at para 26 [*JFR*].

³² *JFR*, *supra* note 31 at paras 27-29; *R v NM*, 2021 ONCJ 617 at para 80 [*NM*].

³³ *DB*, *supra* note 3 at paras 61; *A.B. v Bragg Communications Inc.*, 2012 SCC 46, at para 17.

³⁴ *MW*, *supra* note 5 at paras 97-98.

cognitive or developmental disability, mental health condition, or adverse childhood experiences.

19. In such circumstances, the Crown should bear a higher evidentiary burden to rebut the first-prong presumption.³⁵ Adolescent development experts must examine the extent to which a young person's development may have been impacted by cognitive impairments, mental health challenges, or trauma.³⁶ Specialized neurobiological and social context expertise is required to accurately assess the cumulative effects that intersecting factors may have on a teenager's moral judgment and maturity.
20. Such an approach gives proper effect to the constitutional presumption of diminished moral blameworthiness by requiring its rebuttal to be found in only exceptional cases,³⁷ after judicial consideration of expert evidence and the impact of disadvantage that young people may face.

(i) Cognitive, Intellectual, and Developmental Disability and Mental Health Considerations

21. Cognitive, intellectual, or developmental disability are hallmarks of further reduced moral blameworthiness. *General Comment No. 24* advocates a prohibition on criminal justice sanctions for children with neurodevelopmental disability.³⁸ Adherence to child rights requires that a young person is never found to exhibit adult maturity in the presence of these factors.
22. Research reveals that young people with cognitive disabilities and mental health conditions are disproportionately the subject of adult sentence applications. An academic review found that in nearly 39% of cases where the Crown sought an adult sentence, the young person had a cognitive disability, and in over 58% of cases, the young person had mental health challenges.³⁹
23. Since *DB*, lower courts have acknowledged that cognitive impairments and mental health challenges are relevant to the first prong of the adult sentence test as they inherently impact a young person's processing, cognition, impulse control, and behaviour regulation.⁴⁰ Judicial approaches differ, however, on how these personal circumstances are to be assessed in determining moral

³⁵ *General Comment No. 24*, [supra](#) note 20 at para 28.

³⁶ See Factum of the Appellant, IM, at paras 70-72.

³⁷ Jamie Campbell, "In Search of the Mature Sixteen Year Old in Youth Justice Court" (2015) 19 Can Crim L Rev 47, BOA of the Appellant I.M., Tab 20 at 54 [*Campbell*]; *R v Anderson*, [2018 MBCA 42](#) at para 61; Nicholas Bala, "[R. v. B. \(D.\): The Constitutionalization of Adolescence](#)" (2009) 47 SCLR 211 at 230-231.

³⁸ *General Comment No. 24*, [supra](#) note 20 at para 28.

³⁹ *Tasche*, [supra](#) note 30 at 137-142.

⁴⁰ *R v HM*, [2022 MBPC 42](#) at paras 47-49, 79, 93-94; *JFR*, [supra](#) note 31 at paras 26-27.

blameworthiness.

24. For example, in *R v JMO*, the Manitoba Court of Appeal upheld the imposition of an adult sentence on a 14-year-old Indigenous boy with cognitive impairment, fetal alcohol spectrum disorder, and an IQ of below 75.⁴¹ A psychological assessment concluded persons with this cognitive profile are typically “unable to weigh the consequences of their actions, reflect little and struggle with problem solving.”⁴² While the Court acknowledged “some *Gladue* factors in this case,”⁴³ it neglected to consider the reduced development inherent in his disabilities, and the significance of *Gladue* factors such as the inter-generational trauma of residential schools and alcohol abuse.⁴⁴
25. The Court in *JMO* held that for a young person’s cognitive limitations to have the legal effect of *reducing* their moral blameworthiness, there must be a causal link between the condition and the criminal conduct.⁴⁵ In other words, a young person’s moral blameworthiness for an offence is seen as reduced only if their disability “played a role in the criminal conduct” and not simply because they have cognitive limitations.⁴⁶ Among other flaws, this approach fails to recognize that disability is connected to every aspect of a young person’s experience and behaviour. Other courts have subsequently followed the approach outlined in *JMO*.⁴⁷
26. Further, a requirement of a nexus between a young person’s cognitive or developmental disability and offending conduct negates the constitutionally protected presumption of diminished moral blameworthiness, which is founded on chronological age alone.⁴⁸ The approach in *JMO* represents a *de facto* shift of the onus to the young person to prove reduced blameworthiness, rather than requiring the Crown to satisfy the court of adult-like maturity. In the adult context, a link between an offender’s disability and the offence can be considered a mitigating factor in sentencing.⁴⁹ In the context of the *YCJA*, diminished moral culpability is the starting point. Any impediment to

⁴¹ *R v JMO*, [2017 MBCA 59](#) at paras [25](#)-28, [166](#) [*JMO*].

⁴² *Ibid* at para [29](#).

⁴³ *Ibid* at para [26](#).

⁴⁴ Truth and Reconciliation Commission of Canada, [Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada](#) (Ottawa, 2005) at 221; *R v Goodman*, [2019 MBPC 77](#) at para [30](#); *R v Drysdale*, [2016 SKQB 312](#) at paras [62](#)-65.

⁴⁵ *JMO*, [supra](#) note 41 at paras [72](#)-73, [108](#), [115](#), [136](#).

⁴⁶ *Ibid* at para [73](#).

⁴⁷ *R v SWP*, [2018 BCPC 71](#) at para [28](#) [*SWP*]; *R v JM*, [2020 MBPC 13](#) at para [154](#); *R v TJH and ADWC*, [2023 MBKB 5](#) at para [57](#) [*TJH*]; *R v SRM*, [2018 MBQB 86](#) at para [51](#) [*SRM*].

⁴⁸ *Chol*, [supra](#) note 31 at para [61](#).

⁴⁹ *R v Hart*, [2015 ONCA 480](#) at para [6](#).

typical adolescent development only serves to intensify that presumption.

27. In *R v SWP*, the Court cited *JMO* in considering the impact of the young person’s mental health and cognitive limitations on whether the presumption of diminished moral blameworthiness had been rebutted. The Provincial Court of British Columbia found that the young person’s need for long-term treatment and supervision due to cognitive deficits, mental illness, and risk of reoffending weighed against the presumption of diminished moral culpability.⁵⁰ This approach inappropriately imports factors relevant to the second prong – such as risk of reoffending – to the first prong analysis, which is concerned with maturity. An application of s. 72(1)(a) that requires the Crown to prove *increased* moral blameworthiness despite the presence of cognitive deficits or mental health issues would mitigate against such errors.

(ii) *Social Factors and Impacts*

28. In assessing whether the Crown has rebutted the s. 72(1)(a) presumption, courts must avoid myths and misconceptions about adulthood, especially as it relates to over-represented young people in the youth criminal justice system. Social context evidence shows a nexus between youth criminal justice involvement and adverse childhood experiences, including family violence, neglect, poverty, and out-of-home care.⁵¹ Inferences drawn by non-experts regarding the existence of adult-like characteristics may be based on stereotypes, misconceptions, or unconscious bias. Factors used to support rebuttal or determined to “cut both ways”⁵² may, in fact, reveal a young person’s impulsiveness and lack of judgement when seen through a developmentally appropriate “lens of immaturity.”⁵³
29. Caregiver neglect may force a young person to display a degree of self-reliance,⁵⁴ such as living independently. However, these “attributes of adulthood” should not be conflated with the moral judgment, emotional regulation, and executive functioning typical of an adult, nor should they be given undue weight at the first prong.⁵⁵ A young person’s ability to survive in a hostile environment without adult guidance does not make them adult-like. Despite exhibiting “street smarts,” a young

⁵⁰ *SWP*, [supra](#) note 47, at paras [28](#), [134](#), [137](#)-138.

⁵¹ *Tasche*, [supra](#) note 30 at 59.

⁵² *SRM*, [supra](#) note 47 at paras [26](#), [66](#); *Chol*, [supra](#) note 31 at para [62](#).

⁵³ *JFR*, [supra](#) note 31 at paras [28](#)-29.

⁵⁴ *Campbell*, [supra](#) note 37 at 50.

⁵⁵ *Ibid* at 54; *SRM*, [supra](#) note 47 at para [66](#); *R v MM*, [2012 ABPC 153](#) at para [51](#).

person's maturity can, in fact, lag behind that of their peers.⁵⁶

30. Likewise, attention to meeting one's needs, planning, and deliberation are developmental skills common to persons younger than 18 and are typical of adolescent development.⁵⁷ The presence of these traits in the context of criminal behaviour does not signify exceptional maturity and should not be used to rebut the presumption of reduced moral culpability.
31. Adverse childhood experiences, such as family neglect and community dislocation or displacement,⁵⁸ significantly impede adolescent development⁵⁹ and emotional regulation, which in turn can manifest in offending behaviour.⁶⁰ Further, the impact of adverse childhood experiences on young people is cumulative. For youth with multiple sources of trauma, the full effect of their lived experiences can be complex and multi-faceted.⁶¹
32. Since childhood trauma may impair a young person's ability to exercise sound judgment and self-regulate,⁶² to rebut the s. 72(1)(a) presumption, the Crown should be required to adduce expert evidence capable of proving that, notwithstanding these experiences that tend to stall development, the specific young person demonstrates adult-like maturity, moral sophistication, and judgment.
33. A young person's resort to anti-social responses, such as gang membership, should not be used as a proxy for establishing maturity. Social context evidence confirms that gang affiliation may be a refuge-seeking response to social dislocation or a lack of family stability, physical protection, or emotional or financial support.⁶³
34. Young people who are particularly vulnerable to social influence as a result of disability or dislocation from their community are at an elevated risk of gang recruitment.⁶⁴ In *R v BR*, the young person was apprehended by Child and Family Services and dislocated from his Indigenous community. After being placed in care and relocated to Winnipeg, he was recruited by a street gang. In finding the presumption of diminished moral blameworthiness had not been rebutted,

⁵⁶ *R v Skeete*, 2013 NSPC 3, at paras 118-119.

⁵⁷ Laurence Steinberg & Grace Icenogle, "[Using Developmental Science to Distinguish Adolescents and Adults Under the Law](#)" (2019) 1:1 Annual Review of Developmental Psychology 21 at 28, 34.

⁵⁸ *R v BR*, 2016 MBPC 74 at paras 18-23 [*BR*]; *R v HJR*, 2019 MBPC 12 at paras 19-23 [*HJR*].

⁵⁹ *Tasche*, [supra](#) note 30 at 64.

⁶⁰ *R v ZC*, 2020 ONSC 5999 at paras 161-165.

⁶¹ *Tasche*, [supra](#) note 30; *NM*, [supra](#) note 32 at paras 70, 89.

⁶² *Tasche*, [supra](#) note 30 at 60.

⁶³ *BR*, [supra](#) note 58 at para 19-21, 23; *Tasche*, [supra](#) note 30 at 85.

⁶⁴ *Tasche*, [supra](#) note 30 at 85; *BR*, [supra](#) note 58 at paras 19-23.

Corrin J. noted: “I perceive his gang involvement as more related to a personal struggle to survive than to criminal or anti-social predisposition or tendencies.”⁶⁵

35. Similarly, the Court in *HJR* observed a link between the young person’s gang involvement and the concurrence of family dysfunction, a lack of community support, dislocation from his Indigenous community, and cognitive deficits. Harvie J. concluded that these disadvantages serve to confirm, rather than rebut, his diminished moral blameworthiness.⁶⁶

C. Conclusion

36. To give full constitutional effect to the principle of diminished moral blameworthiness and comply with Canada's obligations under international law, a more restrictive approach to adult sentence applications is required. S. 72(1)(a) should be narrowly interpreted such that the presumption is only rebutted in the rarest instances. To satisfy the first prong, the Crown must provide robust expert evidence capable of showing a young person’s adult-like maturity. Where a young person is disadvantaged by cognitive disability, mental health issues, or childhood trauma, the Crown has an elevated evidentiary burden to overcome to establish a maturity beyond their chronological age.

PARTS IV – SUBMISSION ON COSTS

37. JFCY seeks no costs and requests that none be awarded against it.

PART V – ORDERS SOUGHT

38. JFCY takes no position regarding the specific outcome of the appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 13th day of June, 2024.



Justice for Children and Youth

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⁶⁵ *BR*, [supra](#) note 58 at paras [20](#), [23](#).

⁶⁶ *HJR*, [supra](#) note 58 at paras [20](#), [24](#).

PART VI – TABLE OF AUTHORITIES

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