

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE  
CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff,

Circuit Court Case No. 76-5890

vs

CHARLES LEWIS  
Defendant.

PROOF OF SERVICE

STATE OF MICHIGAN )  
COUNTY OF WAYNE ) ss

The undersigned deponent, being duly sworn, deposes and says that she served a true copy of **PEOPLE'S MOTION TO IMPOSE A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER MCL769.25a(4)(b)**.

Upon: Vanessa Miller

the within named attorney(s) for defendant(s), by    / PERSONAL SERVICE or    / X / DEPOSITING SAID PLEADING(S) IN THE U.S. MAIL IN THE CITY OF DETROIT, enclosed in an envelope bearing postage fully prepaid on    plainly addressed as follows:

Vanessa Miller P67794  
Attorney at Law  
500 Woodward, Ste. 2700  
Detroit, MI 48226  
313-234-7100

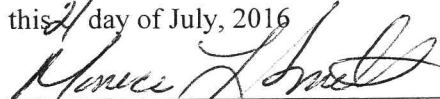
  
JON P. WOJTALA

and said pleading was filed by PERSONAL SERVICE at the following addresses:

Clerk  
Third Circuit Court- Criminal Division  
Frank Murphy Hall of Justice, 9<sup>th</sup> Floor  
1441 St. Antoine  
Detroit, MI 48226

Judge Timothy Kenny  
Third Circuit Court- Criminal Division  
Frank Murphy Hall of Justice, Room 602  
1441 St. Antoine  
Detroit, MI 48226

Subscribed and sworn to before me  
this 21 day of July, 2016



MONICA SMITH  
Notary Public, Wayne County, Michigan  
My commission expires: January, 2019

2016 JUL 21 P 4: 26  
FILED  
CATHY M. GARRETT  
WAYNE COUNTY CLERK

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**Defendant.**

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**PEOPLE'S MOTION TO IMPOSE A SENTENCE OF IMPRISONMENT  
FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE  
UNDER MCL 769.25a (4)(b)**

The People of the State of Michigan, by WAYNE COUNTY PROSECUTOR, KYM L. WORTHY, hereby request that this Honorable Court hold a sentencing hearing pursuant to MCL 769.25a(4)(b) and MCL 769.25(6) and then impose a life-without-parole sentence for Defendant's first-degree murder conviction.

Defendant was convicted of First-Degree Murder and sentenced to serve a term of Life without the possibility of parole, as mandated by MCL 750.316. Defendant was less than 18 years of age at the time that the murder was committed. Under MCL 769.25a(1), Defendant's case is final for appellate purposes.

On March 4, 2014, MCL 769.25a (2014 Public Act 22) was enacted in response to the United States Supreme Court's decision in *Miller v Alabama*,<sup>105</sup> which held that juveniles cannot be sentenced to life without parole absent an individualized sentencing hearing. MCL 769.25a, in compliance with *Miller*, would allow defendants - who were under the age of 18 years of age at the time of committing the crime, found guilty of First-Degree Murder, and mandatorily sentenced to Life imprisonment with the possibility of parole – to be resentenced. However, MCL 769.25a states that its provisions were not applicable to defendants whose cases were final for appellate purposes until either the state supreme court or the United States Supreme Court found that the decision in *Miller* applies retroactively. On January 25, 2016, the United States Supreme Court, in *Montgomery v. Louisiana*,<sup>106</sup> found that the *Miller* decision applied retroactively, thereby triggering the provisions of MCL 769.25a.

Defendant qualifies for resentencing under the provisions of MCL 769.25a, *Miller*, and *Montgomery*. MCL 769.25a(4)(b) provides that “[w]ithin 180 days after the supreme court’s decision becomes final,<sup>107</sup> the prosecuting attorney shall file motions for resentencing in all cases in which the prosecuting attorney will be requesting the court to impose a sentence of imprisonment for life without the possibility of parole.

A hearing on the motion shall be conducted as provided in section 25 of this chapter [MCL 769.25].” If the prosecuting attorney does not file a motion seeking a sentence of life imprisonment without the possibility of parole, the court shall sentence the defendant to a term of

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<sup>105</sup> *Miller v. Alabama*, 576 US \_\_\_\_; 132 S Ct 2455; 183 L Ed 2d 407 (2012),

<sup>106</sup> *Montgomery v. Louisiana*, \_\_\_\_ US \_\_\_\_, 136 S Ct 718, 193 L Ed2d 599 (2016). On February 26, 2016, the Supreme Court issued a mandate finalizing its decision.

<sup>107</sup> On July 22, 2016, 180 days will have passed since the release of the *Montgomery* decision. Because, under Supreme Court Rules 44 and 45, a Supreme Court opinion does not become final until the period for requesting resentencing expires and the court issues a mandate, the People argue that *Montgomery* became final on February 26, 2016 and the 180-day period would expire on August 24, 2016.

imprisonment for which the maximum shall be 60 years and the minimum term shall be no less than 25 years and no more than 40 years.<sup>108</sup>

Here, the People are requesting the court to impose a sentence of imprisonment for life without the possibility of parole. MCL 769.25 provides that the trial court must conduct a hearing on the motion, and then must resentence the defendant either to (a) life without parole or (b) to a term of years with the minimum between 25 and 40 and the maximum not less than 60. In so doing, the court must consider the factors listed in *Miller v Alabama*, and may consider “any other criteria relevant to its decision, including the individual’s record while incarcerated.” Moreover, the court must “specify on the record the aggravating and mitigating circumstances considered by the court and the court’s reasons supporting the sentence imposed.” The court may base its decision on the trial evidence together with any evidence presented at the sentencing hearing.

Defendant’s crime in the current case was not the result of unfortunate yet transient immaturity, but, rather, evinced irreparable corruption that requires a Life without parole sentence. Defendant is deserving of a sentence of Life without the possibility of parole.

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<sup>108</sup> MCL 769.25a(4)(c).

**RELIEF**

WHEREFORE, the People respectfully request that this Court impose a sentence of Life without the possibility of parole for Defendant's First-Degree Murder conviction, pursuant to MCL 769.25a.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kym Worthy".

KYM WORTHY,  
Prosecuting Attorney, Wayne County