

**STATE OF MICHIGAN
IN THE THIRD JUDICIAL CIRCUIT COURT
CITY OF DETROIT**

**PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff**

Case No. 76-005890-01-FC

V

HON. QIANA LILLARD

**CHARLES LEWIS
Defendant**

_____ /

**MOTION TO DISMISS THE PROSECUTION'S REQUEST TO SENTENCE THE
DEFENDANT TO LIFE WITHOUT THE POSSIBILITY OF PAROLE PURSUANT TO
MCLA 769.a BECAUSE THE STATUTE DOES NOT APPLY TO THIS CASE.**

/s/ Charles Lewis

**CHARLES LEWIS #150709
LAKELAND CORRECTIONAL
FACILITY
141 FIRST STREET
COLDWATER, MICH 49036**

DATE: _____ April 3, 2018 _____

STATE OF MICHIGAN
THIRD CIRCUIT COURT FOR THE COUNTY OF WAYNE

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff

1..C. 76-005890-01-FC

V

CHARLES LEWIS
Defendant

**DEFENDANT’S MOTION TO DISMISS THE PROSECUTION’S REQUEST TO
SENTENCE THE DEFENDANT TO LIFE WITHOUT THE POSSIBILITY OF
PAROLE PURSUANT TO MCLA 769.a BECAUSE THE STATUTE DOES NOT
APPLY TO THIS CASE.**

NOW COMES, Charles Lewis, the above named Defendant by and through himself and moves this Honorable Court to DISMISS THE PEOPLE'S MOTION TO IMPOSE A SENTENCE OF IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER MCL 769.25a (4)(b) for the following reasons listed below:

1. On October 17, 2012, Judge Edward Ewell Jr granted the Defendants Pro Per motion for resentencing.
2. The prosecution did not make a sentence recommendation to Judge Edward Ewell Jr., to sentence the Defendant to LIFE WITHOUT PAROLE or to a term of years.
3. On April 1, 2013, the prosecution filed an untimely interlocutory appeal in the Michigan Court of Appeals.
4. On August 29, 2013 the Michigan Court of Appeals reversed Judge Edward Ewell Jr's ORDER granting the Defendant a resentencing.
5. On December 30, 2014, the Michigan Supreme Court upheld the Michigan Court of Appeals August 29, 2013 Order.
6. In March of 2014 Foley & Lardner filed a petition for a writ of certiorari in the United States Supreme Court.
7. On March 7, 2016 the United States Supreme Court granted certiorari and reversed the Michigan Supreme Court and remanded this case to the Michigan Supreme Court.

8. The Michigan Supreme Court reversed the Michigan Court of Appeals August 29, 2013 decision and remanded this case to the trial court.
9. On REMAND this case should have returned to either Judge Edward Ewell Jr., the judge that granted resentencing on October 17, 2012 or the current judge of record Judge James Chylinski for resentencing.
10. This Court has never explained how she obtained subject matter jurisdiction over this case. On October 17, 2012 Judge Qiana Denise Lillard was employed by Wayne County Prosecutor Kym Worthy as an assistant Wayne County Prosecutor.
11. In August of 2016, assistant Wayne County Prosecutor, Jason Williams filed a motion to conduct a mitigation hearing pursuant to MCLA 769.25 to resentence the Defendant Charles Lewis to life without parole.
12. When Jason Williams filed the motion to conduct a mitigation hearing pursuant to MCLA 769.25 to resentence the Defendant to life without parole, there was no criminal file in this case. Because there was no criminal file in this case Jason Williams did not have anything to base his request for life without parole on. Jason Williams did not recite the procedural history of this case in his request for life without parole. Jason Williams also did not recite the facts of this case in his request for life without parole.
13. Jason Williams knew or should have known that MCLA 769.25 did not apply to the defendant in this case. On October 17, 2012 when Judge Edward Ewell Jr. granted the defendant's motion for a sentence that complied with *Miller v Alabama*, MCLA 769.25 did not exist. MCLA 769.25 became effective on March 4, 2014 well over a year after the defendant's motion for resentencing was granted.
14. Jason Williams did not make a sentence recommendation to Judge Edward Ewell Jr., for life without the possibility of parole. Instead, Jason Williams gambled and filed an out of time interlocutory appeal in the Michigan Court of Appeals.
15. The appeal ultimately ended up in the United States Supreme Court. On March 7, 2016, the United States Supreme Court granted certiorari in this case and reversed the Michigan Supreme Court.
16. On May 24, 2016 the Michigan Supreme Court reversed the August 29, 2013 decision of the Michigan Court of Appeals and remanded the case to the trial court for resentencing. In short Jason Williams gambled and lost on appeal.
17. This case should have returned to the status of the case prior to the April 1, 2013 appeal by Kym Worthy.
18. The Defendant now asks this Court to deny Kym Worthy's request to **CONDUCT A MITIGATION HEARING TO IMPOSE A SENTENCE OF LIFE WITHOUT THE**

POSSIBILITY OF PAROLE, because MCLA 769.25 would be applied *ex post facto*. See, *People v Doyle*, 203 Mich App 294: 512 N.W.2d 59 (1993). In *Weaver v Graham*, 450 U.S. 24; 101 S Ct 2446: (1987), the Court ruled that for the *ex post facto* rule to apply, the law must be retrospective, i.e., it must apply to events occurring before its enactment, and that it must disadvantage the offender affected by it.

WHEREFORE, for all of the above reasons the Defendant requests that this Court deny Kym Worthy's request to conduct a mitigation hearing.

/s/Charles Lewis

CHARLES LEWIS #150709

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was electronically filed with the Clerk of the Court on April 3, 2018 and the Clerk will in turn automatically electronically serve the same upon all ECF participants.

/s/ Charles Lewis

Charles Lewis, #150709