

EXHIBIT 1

STATE OF MICHIGAN
IN THE THIRD CIRCUIT COURT CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

Case No.: 71-001558-01-FC

vs.

HON. BRUCE U. MORROW

ZERIOUS BOBBY MEADOWS,

Sentencing Date: 09-23-2016

Defendant.

JON P. WOJTALA, P-49474
Assistant Prosecuting Attorney
1441 St. Antoine Street, 11th Flr.
Detroit, Michigan 48226
(313) 224-5777
Email: jwojtala@co.wayne.mi.us

MELVIN HOUSTON, P-36280
Attorney for Defendant
15346 Asbury Park
Detroit, MI 48227-1545
(313) 835-6479
Email: aa4624@wayne.edu

DEFENDANT ZERIOUS BOBBY MEADOWS'
RE-SENTENCING MEMORANDUM

Introduction:

On September 30, 1971, Mr. Zerious Bobby Meadows, who was 17 years-old at the time, was convicted by a jury of felony-murder under then *M.C.L.A. Section 750.316*¹. On April 26, 1973, Mr. Meadows' conviction was overturned by the Michigan Court of Appeals because the presiding trial judge prevented his defense attorney from questioning one of the key prosecution

¹ At the time, *M.C.L.A. Section 750.316* defined first-degree murder as including any killings that resulted from the perpetration or attempted perpetration of any arson, rape, robbery or burglary.

witnesses, Mr. Jeffrey Coleman, about his contact with the juvenile justice system. (See *People v. Meadows*, 46 Mich. App. 741, 208 N.W.2d 593 (1973)).

A second jury trial began in this matter before the Honorable Susan D. Borman in late May of 1975. On June 13, 1975, after a ten day trial, Mr. Meadows was again found guilty of felony-murder. On July 11, 1975, Mr. Meadows, consistent with *M.C.L.A. Section 750.316*², was sentenced to serve life without the chance of parole with the Michigan Department of Corrections (MDOC). All subsequent appeals taken by Mr. Meadows to his second conviction, including a writ of *habeas corpus* in federal district court, were denied.³

On June 25, 2012, the United States Supreme Court, in *Miller v. Alabama*, 576 U.S. ___, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012), after questioning the penal justifications for imposing life without parole on juveniles, held that juveniles cannot be sentenced to life without parole absent an individualized sentencing hearing. Earlier this year, the United States Supreme Court, in *Montgomery v. Louisiana*, ___ U.S. ___, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016), held that its decision in *Miller* should be applied retroactively to defendants like Mr. Meadows.

On March 4, 2014, the Michigan legislature enacted *M.C.L. Section 769.25a* (2014 Public Act 22), which was adopted in response to the United States Supreme Court's decisions in *Miller* and *Montgomery*. Subsection (4)(b) of *M.C.L. 769.25a* provides that:

² The statute used to convict Mr. Meadows was changed in 1980. The Michigan Supreme Court abolished the old felony-murder rule with its decision in the case of *People v. Aaron*, 409 Mich. 672, 733, 299 N.W.2d 304 (1980). Under *Aaron*, the Michigan Supreme Court held that malice would have to be independently proven for each element of an alleged offense. Unfortunately for Mr. Meadows, particularly given there was no evidence he intended to harm the two young occupants, the Court further held that this decision would only apply to future cases and should not be applied retroactively.

³ It should be noted, the conviction of Mr. Meadows' co-defendant, Mr. Cornell Fuller, was set aside by the Honorable U.S. District Court Judge John Feikens, who granted Mr. Fuller's writ of *habeas corpus*. A three-judge panel from the United States Court of Appeals for the Sixth Circuit affirmed Judge Feikens' grant in a 2-to-1 decision. (See *Fuller v. Anderson*, 662 F.2d 420 (1981)).

"[w]ithin 180 days after the [S]upreme [C]ourt's decision becomes final, 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."

M.C.L. 769.25a goes on to provide that 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 imprisonment for which the maximum term shall be 60 years and the minimum term shall be no less than 25 years and no more than 40 years. In the instant case, on July 22, 2016, the office of the Wayne County Prosecutor filed its Notice of Intent to Seek a Term-of-Years Sentence against Mr. Meadows. (See attached Exhibit 1).

In response to the Prosecutor's Notice, this Court scheduled this matter for a re-sentencing hearing for Friday, September 23, 2016. This Memorandum is submitted in support of Mr. Meadows' request to be resentenced to a minimum term equal to 25 years and a maximum term equal to the 45 years he has already served.

Factual Summary:

On the morning of May 18, 1970, a fire destroyed the home of Mrs. Safronia Turner on Lemay Street located on the city of Detroit's southeast side. Mrs. Turner and several children managed to escape the blaze, but two of her children – Ruth and Regina (ages 4 and 14) – were killed in the fire. An investigation by the Detroit Fire Department revealed that the fire was apparently caused by a "Molotov cocktail" that was deliberately thrown into the rear of the Turner residence. Mr. Robert Kuntz, a chemist with the Detroit Fire Department, testified that gasoline was present on portions of the house siding.

Ms. Helen Brownlee, who lived next-door to the Turner residence, testified that on the morning of May 18th she saw five or six boys together in a group in front of the Turner home. Ms. Brownlee testified she observed two of the boys go through the front gate of the Turner yard and continue towards the rear of the residence. She then reported one of the other boys, who was still in front of the residence, threw something. Ms. Brownlee reported yelling at the boys because she thought the item thrown was directed towards her house. She reported running out of her house onto the front porch where she then observed that the Turner residence was on fire.

Fourteen year-old Jeffrey Coleman, a key witness for the prosecution, gave testimony that implicated Mr. Meadows. He testified that on the morning of the 18th he left his house at eight o'clock to head for the Turner's residence. As he walked through the backyard of a neighbor and approached the Turner's residence from the rear, he reported observing Mr. Meadows on the Turner's back porch igniting a rag stuffed inside a Coca-Cola bottle.

Jeffrey Coleman then testified that Mr. Meadows threw the bottle against the Turner's house, starting a fire. He added that Mr. Meadows, who was sixteen years-old at the time, struck another match which he used to start a second fire to certain material in a back window. He testified that Mr. Meadows and his co-defendant, Mr. Cornell Fuller, then both jumped off the porch and ran down the alley towards Kercheval Street.

Initially, since Ms. Brownlee reported believing someone named "Jeffrey" was with the boys in front of the Turner residence, police authorities arrested and questioned Jeffrey Coleman before taking him to the juvenile home. Eventually, the charges considered against Jeffrey Coleman were dropped, while those against Messrs. Meadows and Fuller proceeded to trial.

Law and Discussion:

The Eighth Amendment's prohibition of cruel and unusual punishment "guarantees individuals the right not to be subjected to excessive sanctions." *Roper v. Simmons*, 543 U.S. 551, 560, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005). This right, as explained by the Court, "flows from the basic 'precept of justice that punishment for crimes should be graduated and proportioned'" to both the offender and the offense. *Weems v. United States*, 217 U.S. 349, 367, 30 S.Ct. 544, 54 L.Ed. 793 (1910).

The *Roper* case establishes that juveniles are emotionally different from adults for purposes of sentencing because they have diminished culpability and greater prospects for reform. (See also, *Graham v. Florida*, 560 U.S. ___, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010)). Specifically, the United States Supreme Court relied on three significant differences between the emotions of juveniles and those of adults with reaching this result: (1) children have a "lack of maturity and an underdeveloped sense of responsibility," leading to recklessness, impulsivity, and heedless risk-taking; (2) children "are more vulnerable...to negative influences and outside pressures," including from their family and peers, and they have limited "contro[l] over their own environment" and lack the ability to extricate themselves from horrific, crime-producing settings; and, (3) a child's character is not as "well formed" as an adult's, his traits are "less fixed," and his actions are less likely to be "evidence of irretrievabl[e] deprav[ity]." *Roper*, at 569-570.

The United States Supreme Court then held in *Miller* that its conclusion juveniles are entitled to diminished culpability rests not only on common sense -- i.e., what any parent knows -- but on science and social science as well. The Court cited studies showing that only a small portion of adolescents who engage in illegal activity develop entrenched patterns of problem

behavior. (See, e.g., Steinberg & Scott, *Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty*, 58 *Am. Psychologist* 1009, 1014 (2003)). In *Graham*, the Court referred to various studies addressing developments in psychology and brain science showing fundamental differences between the minds of juveniles versus those of adults as those differences relate to transient rashness, proclivity for risk, and inability to answer consequences. *Graham*, at 2026-2027. These studies show that as years go by and neurological development occurs, the juveniles' "deficiencies will be reformed." *Id.* In summary, it is the position of the United States Supreme Court that by deciding a juvenile offender will be forever a danger to society would require making a "judgment that [he] is incorrigible," but that "incorrigibility is inconsistent with youth." *Graham*, at 2029. Further, that if rehabilitation cannot justify such a sentence, then life without parole "forswears altogether the rehabilitation ideal." *Graham*, at 2030.

Mr. Meadows, who was born on April 29, 1954, was 16 years-old when he reportedly set fire to the Turner's residence. He has been incarcerated for over 44 years and is currently being held at the lowest possible security-level for his conviction at the Macomb Correctional Facility in New Haven, Michigan. Mr. Meadows has received only three major misconducts during his incarceration (fighting on 7/5/78, unauthorized occupation of a cell on 9/17/88, and disobeying a direct order on 9/18/95), the last of which was over 20 years ago. Staff at the unit where Mr. Meadows resides report he is "not a management problem," while characterizing his institutional adjustment as "good."

Consistent with the aforementioned behavioral studies cited and relied on by the United States Supreme Court in *Miller*, and its progeny, Mr. Meadows was a juvenile when he was arrested in this case and has since matured into an adult: in other words, the person convicted of

setting fire to the Turner's home back in 1970 is not the same person appearing for re-sentencing today. Mr. Meadows completed his G.E.D., as well as some post-high school education while incarcerated. He has also completed both AA and NA programs offered by the MDOC. Mr. Meadows' work performance has received numerous positive evaluations. (See select copies of evaluations attached as Exhibit 2). These reports note that Mr. Meadows is a good worker, doing a good job, and that he takes pride in completing assignments. Mr. Meadows was recommended for and completed Machine Shop I and II. He has clearly taken advantage of the opportunities made available to him by the MDOC.

A psychological evaluation of Mr. Meadows back in 1971 was quite telling and offers further support for our request of diminished responsibility. The evaluation indicated that he had a rather poor self-image and was considered mildly retarded. The evaluation recommended confinement to a stable, corrections environment so his "behavior and personality can be altered towards a better life adjustment." During the nearly 45 years he has been incarcerated, Mr. Meadows has clearly benefitted from the suggested treatment received while in custody at the MDOC and has exhibited strong evidence of rehabilitation and social conformity.

On a personal note, Mr. Meadows enjoys broad support from his large circle of family and friends; he has eight siblings, along with numerous nieces and nephews. Since his incarceration began, the record shows Mr. Meadows has received at least one visit each month from either his mother (his father, who passed away about twenty years ago, was also a frequent visitor), one of his sisters, one of his brothers, the children of his siblings, or one of his many friends. Because of this large support network, Mr. Meadows will have a stable place to live with the support of people who love him thereby assisting with his transition when he gets

released on either probation or parole. In this connection, initially Mr. Meadows anticipates returning home to live with his mother.

It was clear from the statements made by Judge Borman during the Sentencing Hearing held in this matter on July 11, 1975, that she would have sentence Mr. Meadows to a different term than that required by statute if she could. Judge Borman first stated: "...I do not believe Mr. Meadows intended that anybody should die in that house. That was the tragedy. This was an immature act." (See attached Exhibit 3, Transcript of the Sentencing Hearing, dated July 11, 1975, p. 3). She later added: "...I really don't feel that there should be every door slammed on a sixteen year old boy." (See attached Exhibit 3, Transcript of the Sentencing Hearing, dated July 11, 1975, p. 4). Now that the laws have changed, this Court has an opportunity to correct what we now know was wrong and arrange to set Mr. Meadows free.

Conclusion:

What happened to young Ruth and Regina Turner on May 18, 1970, was tragic and unfortunate; there was no evidence Mr. Meadows intended to harm those young children. The question now is what sort of penalty should this Court assess **TODAY** knowing that the juvenile who committed the subject act is entitled to diminished responsibility, while at the same time taking into consideration the maturation demonstrated by the man standing before you today? We respectfully request that this Honorable Court consider re-sentencing Mr. Zerious Bobby Meadows, consistent with *M.C.L.A. 769.25a*, to serve a period of between 25 and 45 years. Mr. Meadows' behavior at the tender age of 16 is the type of unthinking and uncontrolled behavior that cases like *Miller* and *Montgomery* squarely address. A sentence such as this would mean Mr. Meadows should be released from custody immediately. While a short period of probation

would appear necessary under the circumstances, continuing to incarcerate Mr. Meadows in this case is both unreasonable and unnecessary.

Respectfully submitted,

/s/Melvin Houston

Melvin Houston, P-36280
Attorney for Defendant Meadows
15346 Asbury Park
Detroit, Michigan 48227-1545
(313) 835-6479

Dated: September 11, 2016

CERTIFICATE OF SERVICE

I, Melvin Houston, attorney for the Defendant, hereby attest under the penalties of perjury that on September 11, 2016, I served a copy of Defendant Zerious Bobby Meadows' Re-Sentencing Memorandum on Jon P. Wojtala, Assistant Wayne County Prosecutor, by enclosing same in an envelope and depositing same in a U.S. Postal Depository in the City of Detroit, Michigan, regular mail, with postage fully prepaid, plainly addressed as follows:

**Jon P. Wojtala, Assistant Wayne County Prosecutor
1441 St. Antoine Street, 12th Floor
Detroit, Michigan 48226**

Respectfully submitted,

/s/Melvin Houston

Melvin Houston (P-36280)

Attorney for Defendant Meadows

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EXHIBIT 2

MICHIGAN DEPARTMENT OF CORRECTIONS
PRISONER PROGRAM AND WORK ASSIGNMENT EVALUATION

4835-3363
CSI-363 3/94

Prisoner Name (last)	Meadows	(first)		(middle initial)		Prisoner No.	130610	Lock No.	4-D 47	Institution Code	RRE
Assignment Name	Unit Porter					Assignment No.	684	Date Assigned	1/96	Date Evaluated	2/2/01
Assignment Classification:	<input type="checkbox"/> Student <input type="checkbox"/> Unskilled <input checked="" type="checkbox"/> Semi-Skilled <input type="checkbox"/> Skilled <input type="checkbox"/> Other					Race	NW	Date Terminated		Will Take Back	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Circle the number beside each statement which describes the prisoner's work/school assignment performance:						3 or more exceptions	1 - 2 exceptions	No exceptions			
1. The prisoner was on time.						0	2	3			
2. The prisoner came on the correct days.						0	2	3			
3. The prisoner followed all safety rules.						0	2	3			
4. The prisoner followed all other rules.						0	2	3			
5. The prisoner followed the assignment authority's instructions.						0	2	3			
6. The prisoner cooperated with the assignment authority, followed the working chain of command, and refrained from arguing about assignments. (Working relationship with Authority)						0	2	3			
7. The prisoner discussed work/education related problems with peers/tutor, listened to peer's/tutor's point of view, encouraged discussion without argument, and limited disruptive vocalizations. (Communication with Peers)						0	2	3			
8. The prisoner did the assigned share of the work/education assignment, remained in the assigned area until the end of the shift, and engaged in no horseplay. (Teamwork with Peers)						0	2	3			
9. The prisoner kept a neat, clean, and well groomed personal appearance, suitable for the assignment.						0	2	3			
10. The prisoner did job/education tasks according to the job/education description.						0	2	3			
11. The prisoner kept the work area neat and clean.						0	2	3			
12. The prisoner worked without constant supervision or direction when appropriate.						0	2	3			
13. The prisoner was willing to perform additional duties or stay beyond scheduled time. When asked, the prisoner did not argue or complain and performed additional assignments in a satisfactory manner.						0	2	3			
I RECOMMEND: Entry Pay with 30 Days <input type="checkbox"/> Conditional Below Average Score 0-27			Status Pay <input type="checkbox"/> Satisfactory Average Score 28-34			<input type="checkbox"/> *Above Average Score 35-39 <input type="checkbox"/> Bonus Pay for Food Service Workers			<input type="checkbox"/> Termination <input type="checkbox"/> Close Supervision		
TOTAL SCORE						39					
Fill in the appropriate information for school programming * No notations in the 3 or more exceptions column.											
14. Academic CBI Modules in Progress		<input type="checkbox"/> N/A		Subject		Letter		Number			
15. GED Test Version				I		II		III		IV	
				V		VI		VII		Avg. Standard Score	
				VIII		IX		X		Date Tested	
16. Voc Ed Program in Progress				<input type="checkbox"/> N/A				Duties (capital letter) Completed. If duty not complete, print duty letter & task (number) completed.			
17. Pre-Release/Job Seeking Skills Completed				<input type="checkbox"/> YES <input type="checkbox"/> NO				Date Completed			
18. Attendance				Hours Attended				Hours Missed			
COMMENTS AND RECOMMENDATIONS:											
Prisoner Meadows is an excellent worker.											
<div style="text-align: right;"> FEB 01 2001 AB </div>											
Evaluator's Signature						Supervisor's Signature					
Evaluator's Printed Name and Title						Supervisor's Printed Name and Title					
W. JONES						H. B. B. B.					

DISTRIBUTION: White - Record Office; Green - Assignment Supervisor; Orange - School Principal; Pink - RUC; Gold - Prisoner

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MICHIGAN DEPARTMENT OF CORRECTIONS
PRISONER PROGRAM AND WORK ASSIGNMENT EVALUATION

4835-3363
CSI-363 3/94

Prisoner Name (last) (first) (middle initial)			Prisoner No.	Lock No.	Institution Code
MEADOWS			130610	40-47L	RRF
Assignment Name			Assignment No.	Date Assigned	Date Evaluated
PORTER - BASE			684		2-16-97
Assignment Classification: <input type="checkbox"/> Student <input type="checkbox"/> Unskilled <input type="checkbox"/> Semi-Skilled <input type="checkbox"/> Skilled <input type="checkbox"/> Other			Race	Date Terminated	Will Take Back
			NW	NA	<input type="checkbox"/> Yes <input type="checkbox"/> No
Circle the number beside each statement which describes the prisoner's work/school assignment Performance:				3 or more exceptions	1 - 2 exceptions
				No exceptions	
1. The prisoner was on time.				0	2
2. The prisoner came on the correct days.				0	2
3. The prisoner followed all safety rules.				0	2
4. The prisoner followed all other rules.				0	2
5. The prisoner followed the assignment authority's instructions.				0	2
6. The prisoner cooperated with the assignment authority, followed the working chain of command, and refrained from arguing about assignments. (Working relationship with Authority)				0	2
7. The prisoner discussed work/education related problems with peers/tutor, listened to peer's/tutor's point of view, encouraged discussion without argument, and limited disruptive vocalizations, (Communication with Peers)				0	2
8. The prisoner did the assigned share of the work/education assignment, remained in the assigned area until the end of the shift, and engaged in no horseplay. (Teamwork with Peers)				0	2
9. The prisoner kept a neat, clean, and well groomed personal appearance, suitable for the assignment.				0	2
10. The prisoner did job/education tasks according to the job/education description.				0	2
11. The prisoner kept the work area neat and clean.				0	2
12. The prisoner worked without constant supervision or direction when appropriate.				0	2
13. The prisoner was willing to perform additional duties or stay beyond scheduled time. When asked, the prisoner did not argue or complain and performed additional assignments in a satisfactory manner.				0	2
I RECOMMEND: <input type="checkbox"/> Entry Pay with 30 Days Conditional Below Average Score 0-27 <input type="checkbox"/> Status Pay Satisfactory Average Score 28-34 <input type="checkbox"/> *Above Average Score 35-39 <input type="checkbox"/> Bonus Pay for Food Service Workers			<input type="checkbox"/> Termination <input type="checkbox"/> Close Supervision TOTAL SCORE 39		
Fill in the appropriate information for school programming * No notations in the 3 or more exceptions column.					
14. Academic CBI Modules in Progress <input type="checkbox"/> N/A		Subject Letter Number			
15. GED Test Version		I II III IV V		Avg. Standard Score Date Tested	
16. Voc Ed Program in Progress <input type="checkbox"/> N/A		Duties (capital letter) Completed. If duty not complete, print duty letter & task (number) completed.			
17. Pre-Release/Job Seeking Skills Completed <input type="checkbox"/> YES <input type="checkbox"/> NO		Date Completed			
18. Attendance		Hours Attended		Hours Missed	
COMMENTS AND RECOMMENDATIONS:					
MR. MEADOWS does his job with supervision; HE TAKES GREAT PRIDE in seeing that EVERYTHING is in A number one order. HE WORKS OVER WITHOUT being ASKED... HE gets along with staff and his peers.					
Evaluator's Signature			Supervisor's Signature		
Evaluator's Printed Name and Title			Supervisor's Printed Name and Title		
Mitchell - RUD			[Signature]		

DISTRIBUTION: White - Record Office; Green - Assignment Supervisor; Canary - School Principal; Pink - RUD; Goldenrod - Prisoner

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EXHIBIT 3

STATE OF MICHIGAN
IN THE RECORDER'S COURT FOR THE CITY OF DETROIT

THE PEOPLE OF THE
STATE OF MICHIGAN,

Plaintiff,

-vs-

File No.: 71-01558

ZERIOUS MEADOWS,

Defendant,

SENTENCE PROCEEDINGS had before
the HONORABLE SUSAN D. BORMAN, A Judge of the Recorder's Court
of the City of Detroit on Friday, July 11, 1975 at Room 404
Frank Murphy Hall of Justice.

APPEARANCES:

MR. EDWARD BABCOCK, Assistant Prosecuting Attorney,
on behalf of the People of the State of Michigan

MR. ARTHUR ARDUIN, Attorney at Law;
on behalf of the Defendant Zerious Meadows

JANICE K. GURAN
Official Court Reporter

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JUL 22 1975
THE RECORDER'S COURT
APPELLATE DIVISION

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1 THE CLERK: Case number 71-01558,
2 People of the State of Michigan versus Zerious Meadows. Mr.
3 Meadows was convicted of murder in the first degree by a jury
4 on June 13, 1975. The matter is here today for sentencing.

5 THE COURT: Counsel, do you have any-
6 thing to say before the court passes sentence?

7 MR. ARDUIN: No, your Honor, there is
8 nothing I can say. And I know that it is mandatory the sen-
9 tence he is going to receive, so there is nothing I can say.

10 THE COURT: Mr. Meadows, do you have
11 anything to say before I pass sentence?

12 THE DEFENDANT: No.

13 THE COURT: All right, Mr. Meadows
14 was convicted by a jury of murder in the first degree. The
15 charge was felony murder. That two children died in the
16 course of a fire which the jury found was deliberately set
17 by the defendant Zerious Meadows.

18 Mr. Meadows was convicted originally
19 I believe it was five years ago, is that 1971 or 1970?

20 MR. ARDUIN: '71, your Honor.

21 THE CLERK: September of 1971.

22 THE COURT: So it was approximately
23 four years ago the defendant was convicted at the age of six-
24 teen. Was he not sixteen at that time?

25 MR. ARDUIN: Yes, that's right,

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1 your Honor.

2 THE COURT: By another court.

3 MR. ARDUIN: Yes, your Honor.

4 THE COURT: The case was reversed
5 by the court of appeals, the defendant was convicted again by
6 a jury on a re-trial of this case. I believe that there is no
7 doubt of the defendant's guilt in this case, that he did, in
8 fact, set the fire, two children did, in fact, die, which
9 was a tragedy.

10 Mr. Meadows, at the time of this
11 offense was sixteen years old. There is no doubt in my mind
12 that Mr. Meadows deliberately set the fire and intended to
13 set the fire. But I do not believe that Mr. Meadows intended
14 that anybody should die in that house. That was the tragedy.
15 This was an immature act. It was a violent act.

16 Mr. Meadows has an extensive juvenile
17 record from the age of ten continuously up until the time that
18 Mr. Meadows was waived by the juvenile authorities to this
19 court. He has a continuous record of criminal offenses, both
20 violent and non-violent.

21 But I do not believe in this case
22 that there was any intention that anybody should die in this
23 case. I think it was purely motivated by argument or some in-
24 cident that happened between a member of the family of the
25 people, the...that the two children died, and between Mr.

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1 Meadows.

2 Now, in this type of case there is
3 no discretion within the court as far as sentencing goes.
4 Mr. Meadows has been convicted of first degree murder, that
5 is mandatory life. And I have no discretion as far as
6 sentencing.

7 I do feel, though, that in a case
8 such as this where the defendant was sixteen at the time of
9 the alleged act and where there was no specific intent to
10 cause death, although there was the specific intent to create
11 a life endangering situation, I really don't feel that there
12 should be every door slammed shut on a sixteen year old boy.

13 I think there should be some room
14 after the serving of a very long sentence, true, there should
15 be some room for eventual parole in a case such as this.

16 I think that there is something
17 wrong with the law that gives the court no discretion at
18 all. Where the defendant has to spend the rest of his
19 natural life behind bars, and it is particularly tragic
20 in a case where it is a sixteen year old child that has been
21 -onvicted.

22 Well, but that has nothing to do
23 with the sentence in this case. That is just the court's
24 views. And perhaps some day that will be changed, for specific
25 cases such as this.

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1 The sentence of this court, Mr.
2 Meadows, is that you be committed to the Department of Cor-
3 rections for the rest of your natural life. The statute
4 reads that you are sentenced to solitary confinement at hard
5 labor. But that doesn't heally happen.

6 You have a constitutional right to
7 appeal your conviction to a higher court. If you are without
8 funds to hire a lawyer for your appeal, the court will
9 appoint a lawyer for you at no cost to you. The court will
10 furnish the appointed lawyer with transcripts and records of
11 your case to assist him in preparing post conviction motions
12 and to perfect your appeal.

13 If you claim financial inability
14 and request the court to appoint a lawyer you must do so
15 within 60 days from your sentence date.

16 The forms you have received are to
17 request your appeal. The forms must be filled out by you
18 and sworn to under oath by you. Both the request for a
19 lawyer and the questionnaire must be filled out and returned
20 to the sentencing judge within 60 days from your sentence
21 date.

22 You are requested to sign this form
23 to indicate you have received the quesetionnaire and form for
24 requesting a lawyer?
25

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COURT REPORTER'S CERTIFICATE

STATE OF MICHIGAN)

COUNTY OF WAYNE) SS

CITY OF DETROIT)

I, Janice K. Guran, Official Court Reporter in and for the Recorder's Court of the City of Detroit do hereby certify that I did electronically report the foregoing testimony and proceedings had in the above entitled cause, as hereinbefore set forth, and that the annexed and foregoing typewritten transcript does constitute a true, complete and accurate report of such proceedings, and of my electronic notes so taken.



Janice K. Guran
Official Court Reporter

Dated: This 27th day of October, 1975

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EXHIBIT 4

STATE OF MICHIGAN
IN THE COURT APPEALS

(ON APPEAL FROM THE WAYNE COUNTY CIRCUIT COURT, CRIMINAL DIVISION)

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

-VS-

ZERIOUS BOBBY MEADOWS,

Defendant-Appellee.

Court of Appeals No.: 334927

Lower Ct. No.: 71-001558-01-FH

JON P. WOJITALA, P-49474
Assistant Wayne County Prosecutor

MELVIN HOUSTON, P-36280
Attorney for Defendant-Appellee

DEFENDANT-APPELLEE ZERIOUS BOBBY MEADOWS'
RESPONSE TO THE PEOPLE'S MOTION TO
WAIVE PRODUCTION OF TRANSCRIPTS

NOW COMES Defendant-Appellee, ZERIOUS BOBBY MEADOWS, by and through his attorney, Melvin Houston, and with his Response to the People's Motion to Waive Production of Transcripts, states as follows:

By Order dated September 23, 2016, this Court, *sua sponte*, **DENIED** the People's request to waive production of the transcripts, while at the same time requiring that the entire matter be held in abeyance pending production of the transcripts. On September 27, 2016, the People filed and served the transcript of the hearing held in this matter before the Honorable Wayne County Circuit Court Judge Bruce U. Morrow on Friday, September 23, 2016.

WHEREFORE, it is Defendant-Appellee's belief that the subject request made by the People is now MOOT and no longer requires a response.

Respectfully submitted,

s/Melvin Houston

Melvin Houston, P-36280
Attorney for Defendant Meadows
15346 Asbury Park
Detroit, Michigan 48227-1545
(313) 835-6479

Dated: October 6, 2016

EXHIBIT 5

**STATE OF MICHIGAN
IN THE COURT APPEALS**

(ON APPEAL FROM THE WAYNE COUNTY CIRCUIT COURT, CRIMINAL DIVISION)

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

Court of Appeals No.: 334927

Lower Ct. No.: 71-001558-01-FH

-vs-

ZERIOUS BOBBY MEADOWS,

Defendant-Appellee.

JON P. WOJTALA, P-49474

Assistant Wayne County Prosecutor

MELVIN HOUSTON, P-36280

Attorney for Defendant-Appellee

**DEFENDANT-APPELLEE ZERIOUS BOBBY MEADOWS'
RESPONSE TO THE PEOPLE'S MOTION FOR
IMMEDIATE CONSIDERATION**

NOW COMES Defendant-Appellee, ZERIOUS BOBBY MEADOWS, by and through his attorney, Melvin Houston, and with his Response to the People's Motion for Immediate Consideration, states as follows:

1. In response to the allegations contained in Paragraph 1, Defendant-Appellee admits he was charged and convicted under the old felony-murder rule that predated the Michigan Supreme Court's decision in *People v. Aaron*, 409 Mich. 672, 733, 299 N.W.2d 304 (1980), which abolished that rule. In further response, Defendant-Appellee admits to being sentenced to a term of life without the possibility of parole.

Dated: October 6, 2016

s/Melvin Houston
Melvin Houston, P-36280
Attorney for Defendant Meadows
15346 Asbury Park
Detroit, Michigan 48227-1545
(313) 835-6479

Respectfully submitted,

September 23, 2016.

the same time **AFFIRMING** the Judgment of Sentence entered by the sentencing judge on requests that this Honorable Court enter an order **DENYING** the People's Application, while at Application for Emergency Leave, Defendant-Appellee, ZERIOUS BOBBY MEADOWS, **WHEREFORE**, for reasons explained in more detail in his Response to the People's

freedom that warrants this Court's immediate consideration. People's suggestion to the contrary, this dispute concerns an issue impacting his personal considers the Judgment of Sentence entered in this case to be valid and disagrees with the 4. In response to the allegations contained in Paragraph 4, while Mr. Meadows immediate release.

would, consistent with the Judgment of Sentence entered by Judge Morrow, require his should be noted Mr. Meadows has served over 47 years in the Department of Corrections, which ordered served was below the maximum required by that same statute. In further response, it Meadows was at the low-end mandated by subpart (f)(c), while the maximum of the range consistent with M.C.L. 769.25a(f)(c). The minimum of the range ordered served by Mr. that the sentence he was ordered to serve by Judge Morrow on September 23, 2016, was 3. In response to the allegations contained in Paragraph 3, Defendant-Appellee states 2. Defendant-Appellee admits the allegations contained in Paragraph 2.

EXHIBIT 6

IN CIRCUIT OF THE THIRTEENTH JUDICIAL CIRCUIT OF THE
STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY
CRIMINAL DIVISION

STATE OF FLORIDA

v.

CHRISTOPHER BURTON

CASE NO. 94-10478

DIVISION TD-2

**ORDER DECLARING
FLORIDA STATUTE § 775.082 (1) (B) 1 UNCONSTITUTIONAL**

THIS MATTER is before the Court on defendant's motion to declare Florida Statute § 775.082(b)1¹ [sic] unconstitutional under the Eighth Amendment to the U.S. Constitution, filed by counsel for Christopher Burton on 29 July 2016, and the supplemental authority filed on 2 August 2016. The State filed its response in opposition on 15 August 2016, to which the defense filed a reply on 18 August 2016. The Court finds as follows.

Background

Christopher Burton was convicted of first degree murder and received a sentence of life imprisonment. He was sixteen years old at the time he committed the offense and is therefore entitled to a resentencing hearing under sections 775.082 (1) (b) 1 and 921.1401 of the Florida Statutes in accordance with *Miller v. Alabama*, 132 S.Ct. 2455 (2012), and *Falcon v. State*, 162 So.3d 954 (Fla. 2015).² His resentencing proceedings are pending before the Court.

Mr. Burton moves the Court to declare unconstitutional section 775.082 (1) (b) 1, which sets a mandatory minimum sentence of 40 years in prison for a juvenile convicted of actually killing, intending to kill, or attempting to kill. He contends this mandatory minimum sentence for juveniles prosecuted as adults violates *Miller* and its progeny, as well as the Eighth Amendment prohibition against cruel and

¹ Throughout his motion, Mr. Burton cites to "§775.082(b)1," omitting the reference to subsection (1) of section 775.082. It is clear he intends section 775.082 (1) (b) 1, the portion of the statute that controls his resentencing proceedings.

² See *Burton v. State*, 148 So.3d 541, 542 (Fla. 2d DCA 2014) (holding that Mr. Burton is entitled to resentencing in light of *Miller*); *State v. Burton*, 177 So.3d 1271 (Fla. 2015) (denying the State's request for discretionary review of Mr. Burton's case in light of *Falcon* and *Horsley v. State*, 160 So.3d 393 (Fla. 2015)).

unusual punishment. He posits that this arbitrary term of years precludes a sentencing court from following the directives of the United States Supreme Court and the Florida Supreme Court because it removes from the court the ability to exercise its discretion and adequately take into account not only the circumstances of the offense, but also the juvenile offender's youth, personal development, and personal history, in fashioning an appropriate sentence.

Discussion

The last decade has witnessed an evolution in United States Supreme Court jurisprudence based on the principle that juveniles "are constitutionally different from adults for purposes of sentencing." *Miller*, 132 S.Ct. at 2464. This line of cases "'flows from the basic precept of justice that punishment for crime should be graduated and proportioned' to both the offender and the offense," and emphasizes "that the distinctive attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes." *Id.* at 2458.

First, *Roper v. Simmons*, 543 U.S. 551, 125 S.Ct. 1183 (2005) banned capital punishment for juvenile offenders. Subsequently, *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011 (2011) prohibited a sentence of life without the possibility of parole for a juvenile convicted of a non-homicide offense. *Miller* then held that the Eighth Amendment's prohibition against cruel and unusual punishment "forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders" because such a penalty scheme prevents a sentencing judge "from assessing whether the law's harshest term of imprisonment proportionately punishes a juvenile offender." 132 S.Ct. at 2455, 2469. Collectively, this trilogy of cases establishes that children are different and that a sentencing judge must take into account a juvenile's age, particular characteristics, and the circumstances of the offense in fashioning the appropriate sentence.

The 2014 Florida Legislature unanimously enacted legislation intended to bring Florida's juvenile sentencing statutes into compliance with the dictates of *Graham* and *Miller*. See *Horsley v. State*, 160 So.3d

393, 394. Under this legislation, sections 775.082 and 921.1401 govern sentencing proceedings for juveniles convicted of homicide in adult court.³

Section 775.082 provides:

A person who actually killed, intended to kill, or attempted to kill the victim and who is convicted under s. 782.04 of a capital felony, or an offense that was reclassified as a capital felony, which was committed before the person attained 18 years of age shall be punished by a term of imprisonment for life if, after a sentencing hearing conducted by the court in accordance with s. 921.1401, the court finds that life imprisonment is an appropriate sentence. **If the court finds that life imprisonment is not an appropriate sentence, such person shall be punished by a term of imprisonment of at least 40 years.** A person sentenced pursuant to this subparagraph is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(a).

§ 775.081 (1) (b) 1, Fla. Stat. (emphasis added). Section 921.1401 details a litany of factors “relevant to the offense and the defendant’s youth and attendant circumstances” that a sentencing court must consider in determining whether a life sentence is appropriate. See § 921.1401 (2), Fla. Stat. Under this sentencing scheme, a court has in essence three sentencing options: 1) life without the possibility of parole, or 2) a mandatory sentence of at least 40 years in prison, or 3) a term of years greater than 40. See § 775.082 (1) (b) 1.

This Court is now confronted with the question of whether the mandatory sentencing provision in section 775.082 (1) (b) 1 – which controls where a sentencing court determines the factors delineated in section 921.1401 (2) do not warrant the imposition of a life sentence (or term of years greater than 40) – runs afoul of *Miller*’s individualized sentencing requirement. The underpinnings of *Miller* support Mr. Burton’s argument that it does.

Miller requires consideration of a defendant’s chronological age and its hallmark features, including immaturity, impetuosity, and failure to appreciate risks and consequences; his family and home environment; and the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressure may have affected him. 123 S.Ct. at 2468. The statutory

³ They also retroactively apply in collateral review proceedings, such as the instant one, to cases rendered unconstitutional by *Miller*. See *Horsley*, 160 So.3d at 404-05.

factors enumerated in section 921.1401 (2) are consistent with this decree and properly guide a court's sentencing considerations. But the 40-year mandatory minimum sentencing provision of section 775.082(1) (b) 1 vitiates a court's ability to craft a lesser sentence it deems appropriate after its consideration of these factors.

Consider the circumstance of a court that evaluates the statutory factors and determines not only that a sentence of life imprisonment is not appropriate but that, more importantly, a sentence of 35 years in prison is appropriate given the totality of the circumstances. The dictates of section 775.082 (1) (b) 1 would render the court's individualized sentencing considerations moot, because the court would be required to impose a minimum mandatory sentence of 40 years in prison regardless of its findings under section 921.1401 (2). Every juvenile that does not receive a life sentence, or a term of years sentence greater than 40 years, will receive the same 40 year minimum sentence as every other juvenile, regardless of his or her particularized circumstances. This result is incongruous with the spirit of *Miller* and the Eighth Amendment. See *State v. Lyle*, 854 N.W.2d 378 (Iowa 2014) (holding that, in light of *Miller*, the Iowa constitution forbids all mandatory sentencing schemes for juvenile offenders because they deprive a sentencing court the discretion to consider youth and its attendant characteristics).

The Court recognizes that mandatory sentencing schemes for adults pass constitutional muster. See e.g. *Harmelin v. Michigan*, 501 U.S. 957 (1991) (holding that a sentencing scheme mandating life imprisonment did not constitute cruel and unusual punishment even though it precluded individualized sentencing consideration). "[C]hildren cannot be viewed simply as miniature adults," however. *Miller*, 132 S.Ct. at 2468 (quoting *J.D.B. v. North Carolina*, 564 U.S. 261, 275 (2011)). As *Roper*, *Graham*, and *Miller* make clear, a sentence that is constitutionally appropriate for an adult may very well be constitutionally infirm as applied to a juvenile offender. See also *Lyle*, 854 N.W.2d at 402 ("Mandatory sentencing for adults does not result in cruel and unusual punishment, but for children it fails to account for too much of what we know is child behavior.").

The State directs the Court's attention to *Williams v. State*, No. 2D15-2430, 2016 WL 746540 (Fla. 2d DCA February 26, 2016), and *Collins v. State*, 189 So. 3d 342 (Fla. 1st DCA 2016), arguing that both

the First and Second District Courts of Appeal have heard challenges to and upheld mandatory minimum term-of-years sentences for juveniles. As Mr. Burton points out in his reply, *Williams* and *Collins* are distinguishable. Both deal with sentencing issues under *Graham* (as opposed to the *Miller* issue Mr. Burton raises) and, more importantly, simply required the respective courts to determine whether each defendant's sentence – which incidentally incorporated a mandatory minimum term of imprisonment – constituted a *de facto* life sentence for a non-homicide offense. *Williams*, 2016 WL 746540, at 2; *Collins*, 189 So.3d at 343. The *Collins* and *Williams* courts did not have occasion to address the issue presently before the Court. The Court does not find their approval of minimum mandatory sentencing for juveniles relevant to the instant inquiry.

Conclusion

Miller requires “that a sentence follow a certain process – considering an offender’s youth and attendant characteristics – before imposing a particular penalty.” 132 S.Ct. at 2471. The Florida Legislature alleviated *Miller*’s concerns as they relate to factors a court should consider in fashioning a sentence befitting of the offense and the offender. See § 921.1401 (2) (enumerating factors for a sentencing court to consider that echo the factors identified in *Miller*, 132 S.Ct. at 2468). But the mandatory sentencing provision of section 775.082 (1) (b) 1 prevents a sentencing court from exercising the full extent of judicial discretion that *Miller* requires. This facet of the statute is irreconcilable with prevailing Eighth Amendment jurisprudence.

Defendant’s motion to declare Florida Statute § 775.082(b)1 [sic] unconstitutional under the Eighth Amendment to the U.S. Constitution is **GRANTED**. The Court finds section 775.082 (1) (b) 1 unconstitutional.

The State may seek review of this order in the manner and means provided by law. See Fla.R.App.P. 9.030 (b) (2), (3); 9.100 (c).

It is so ORDERED this 23 day of September 2016



William Fuente
Circuit Judge

Copies furnished to:

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