



State Appellate Defender Office

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SADO Juvenile Lifer Unit Report: FY 22

I. BACKGROUND AND INTRODUCTION

A decision of the United States Supreme Court in January of 2016 created an extraordinary one-time constitutional requirement involving 364 children serving life without parole sentences in Michigan. [Montgomery v. Louisiana](#) requires resentencing of all individuals serving unconstitutional mandatory sentences of life without parole for offenses committed as youth. Recognizing a shortage of qualified counsel to handle these complex cases, SADO agreed to represent 193 of Michigan's 364 juvenile lifers, many former clients. 155 of these clients have now received new sentences, and almost all no longer serve life without parole.

Since 2016, SADO has successfully represented these clients through a dedicated Juvenile Lifer Unit.

Phase one – 2016: The project began

The first phase of the work began in January 2016, immediately after the *Montgomery* decision. Michigan prosecutors had six months to designate each of Michigan's 364 cases into one of two categories: first, individuals eligible for resentencing to a term of years, and second, individuals in which the prosecution again seeks a life without parole sentence.

The SADO Juvenile Lifer Unit was formed, and it began the massive task of gathering decades-old files and records, investigating and triaging cases, consulting with clients, and presenting mitigation packages to prosecutors as they deliberated whether to seek a term of years Sentence, or life without parole again.

Phase two - 2017-2018: Clients resentenced to Term of Years

Despite the United States Supreme Court's admonition that life without parole sentences for juveniles should be "rare," Michigan prosecutors decided to seek these sentences in 229 of the 364 juvenile lifer cases in Michigan. Nearly 70%, or 132 of SADO's clients, were originally designated for life without parole sentences by prosecutors.

During FY 2017 and 2018, phase two of SADO's project began, as resentencing hearings for people designated for term of years sentences were held.

Phase three – Starting 2019: Contested resentencing hearings

In 2019 and 2020, the Michigan Supreme Court resolved significant legal questions on the process for resentencing hearings. The most contested, intricate, and time-consuming sentencing hearings for juvenile lifers have now started, where people face the longest possible penalty in Michigan: life without parole in prison for an offense committed as a child.

With the COVID-19 pandemic and the resulting shutdown of many in person court proceedings through the start of FY 22, the pace of these contested hearings slowed. COVID impacted SADO's juvenile lifer clients, and one of SADO's clients, [William Garrison](#) died of COVID-19 weeks before his parole.

II. SNAPSHOT OF WORK TO DATE

193 SADO Juvenile Lifer Clients in October 2016

- 61 originally designated for term of years sentences, where prosecution agrees a life without parole sentence is not appropriate (31.6%)
- 132 originally designated for life without parole (68.4%)

Progress to Date:

- 60 additional clients where prosecutors withdrew motions seeking life without parole due to negotiation and mitigation evidence presented by SADO, 16 of these in FY 22.

- 148 term of years clients resentenced
 - ▶ Approximate average sentence: 32.34 years
 - ▶ Approximate average time served: 27.34 years
 - ▶ Approximate average age at time of resentencing: 45.36 years
- There have been thirty-seven contested hearings for SADO clients where prosecutors have pushed for another life without parole sentence. Twenty-seven have resulted in term of years sentences, seven resulted in a life without parole sentences, and three await decisions. Appellate courts have reversed two of the life without parole sentences.
- 74 people represented by SADO have been released from the Department of Corrections, either on parole or discharged.

Financial Benefits:

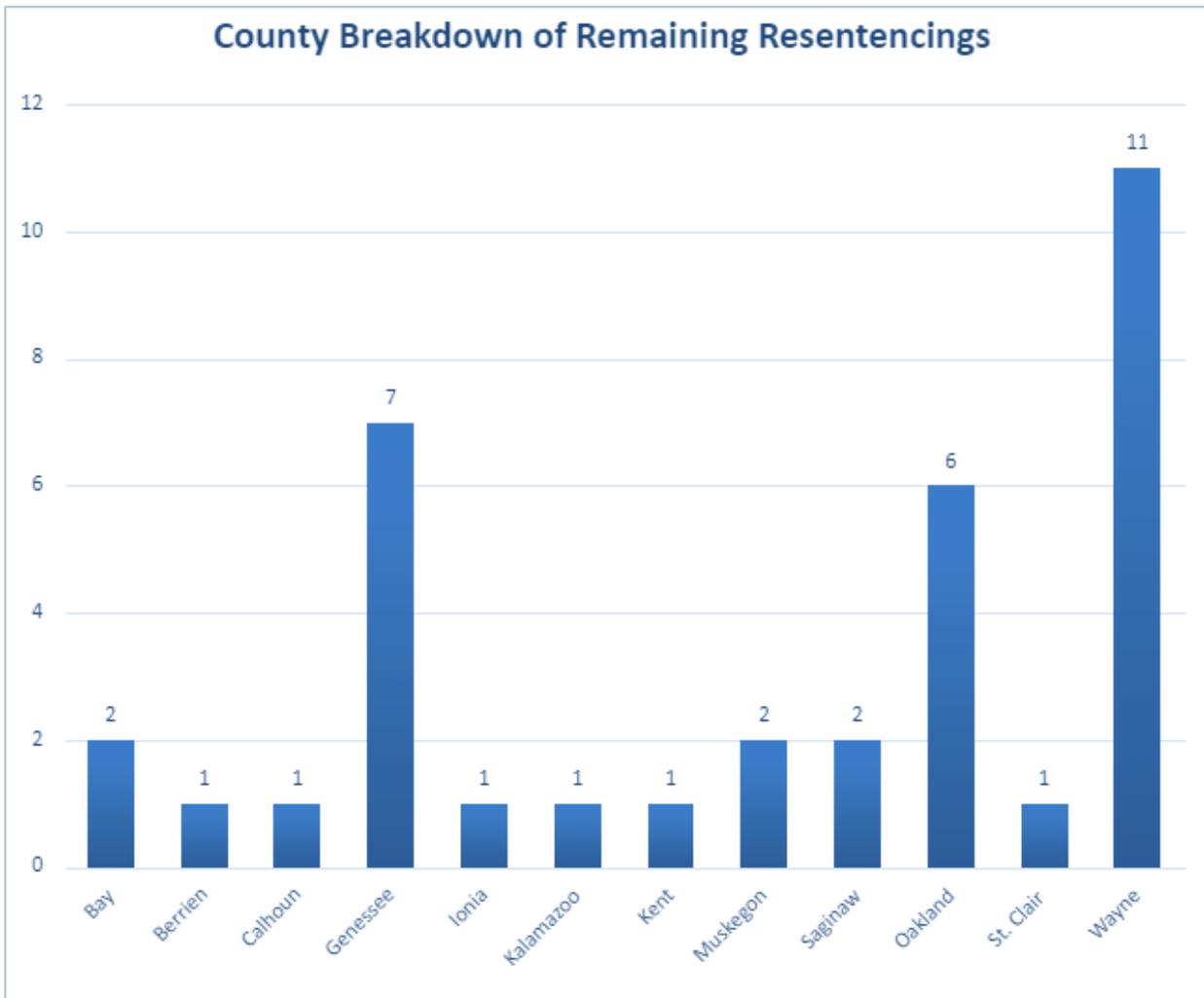
- Estimated cumulative reduced sentences for 148 clients no longer serving life sentences (based on an estimated average lifespan of 64 years): 1,880 years
- Estimated savings in incarceration costs: \$68,061,317.28
- Return on investment: 12.8:1 (1276%)

What Remains of Original 193 Cases:

29 clients await resentencing hearings:

- 7 term of years sentencing hearings
- 22 *Miller* hearings, where the prosecution pushes for a life without parole sentence and SADO advocates for a term of years sentence.
- 3 people await decisions from contested hearings and 4 people in miscellaneous situations.

- Time served of clients awaiting resentencing or other resolutions
 - ▶ 10 years or less: 1 client (2.8%)
 - ▶ 10-25 years: 23 clients (63.9%)
 - ▶ 25+ years: 12 clients (33.3%)



Appeals

- There remain a number of potential resentencing appeals (SADO and non-SADO)
- SADO can handle a limited number of term of years resentencing appeals for clients it currently represents in trial court, in appropriate cases and with informed consent of the clients
- SADO is able to accept conflict-free appointment to handle certain life without parole appeals.

Ten appellate cases of *Miller* hearings have been assigned to SADO (Macomb, Muskegon, Oakland, Saginaw, & Kent Counties). SADO has successfully resolved four of these appeals, resulting in relief and new sentencing hearings for each of those clients.

Other Juvenile Lifer Unit Projects:

- According to MDOC, of 170 former juvenile lifers released, only one has reoffended, which is well below Michigan's standard recidivism rate of [23.6%](#). The success of Michigan's Juvenile Lifers may be due in at least some part to the services of SADO's Project Reentry. Project Reentry develops Comprehensive Reentry Plans to assist with the return to the community, holds [monthly reentry workshops](#) and published a [Reentry Guidebook](#) and a [Reentry Services Locator to help individuals find assistance for their specific needs](#).
- Through its Criminal Defense Resource Center, SADO has trained hundreds of practitioners and has published resources on the representation of youth in response to *Montgomery*.

III. NEXT STEPS – SUPREME COURT YOUTH SENTENCING DECISIONS

On July 28, 2022, the Michigan Supreme Court issued multiple decisions on youth sentencing. In [People v. Parks](#), the Court held that a mandatory sentence of life imprisonment without the possibility of parole for 18-year-olds constituted cruel or unusual punishment under the Michigan Constitution. In [People v. Stovall](#), the Court held that a parolable life sentence for a youth convicted of second-degree murder violates Michigan's constitution. These cases significantly expand the impact of the United State Supreme Court *Montgomery* decision.

According to Michigan Department of Corrections records, 77 people are serving sentences of life with parole for offenses committed as seventeen-year-olds or younger and 274 people are serving life without parole sentences for offenses committed as eighteen-year-olds.

Per the *Stovall* decision, each of the 77 people can now request a new sentencing hearing, while a companion case to the *Parks* decision will likely require new sentencing hearings for all 274 people in the near future. Taken together, these decisions will require 351 new sentencing hearings, many where prosecutors will again request severe sentences and courts will hold multi-day hearings with significant mitigation evidence and multiple experts.

SADO has the expertise, training, and social work capacity to represent a large portion of this group of people and looks forward to stepping up to conduct this work. SADO has made a supplemental FY 23 budget appropriations request to begin this critical work.

IV. COST PER CASE FOR JUVENILE LIFER SENTENCING HEARINGS

| Type of Case Work | Avg Hours Per Case | Hourly Rate for Work (includes benefits/taxes) | Avg Costs |
|-------------------------------|--------------------|--|--------------------|
| Legal | 344 | \$74.42 | \$25,600.48 |
| Mitigation / Investigation | 256 | \$53.43 | \$13,678.08 |
| Research/Document Review | 22 | \$44.63 | \$981.86 |
| Clerical | 59 | \$51.92 | \$3,063.28 |
| Average Total Per Case | 681 | | \$43,323.70 |

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|---|----------------|
| Estimated Cost for the 132 resentencing hearings. | \$5,718,728.40 |
|---|----------------|

1. The cost per case for SADO averages \$43,323.70. This amount totals \$5,718,728.40 for the 132 sentencing hearings originally designated as life without parole, either negotiated term of years sentencings or contested *Miller* Hearings.¹
2. Hours per case calculated through September 26, 2022.
3. Significant additional in-kind contributions have been made by SADO, including staffing hours, equipment, and administrative costs.
4. SADO has successfully advocated for 1,880 years in reduced prison terms for juvenile lifer clients. The return on investment in SADO’s Juvenile Lifer Unit to date is 12.8:1 (1276%) from \$68,061,317.28 in savings to the Michigan Department of Corrections (Based on an estimated cost \$36,000 per year to incarcerate each inmate).

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¹ This number also includes some cases where work was done even though SADO ultimately withdrew from representation because of a conflict of interest or a decision to retain private counsel.