

## Direct Appeals in the Michigan Supreme Court

DA attorneys appear frequently in the Michigan Supreme Court and consistently achieve excellent results for their clients. In 2024, DA attorneys filed 151 pleadings and had nine oral arguments in the Michigan Supreme Court.

**Jonathan Sacks:** The Court held there was a Confrontation Clause violation when the trial court allowed the implicit introduction of an out-of-court statement of a non-testifying witness. The Court remanded to the Court of Appeals to determine whether the Confrontation Clause violation was harmless beyond a reasonable doubt.

**Steven Helton:** In lieu of granting leave, the Court issued a substantive order finding the Court of Appeals had erred in holding that the jury instruction for resisting and obstructing was sufficient, given the need for a jury to be instructed on “the applicable law governing the officer’s legal authority to act.” The Court remanded to the Court of Appeals to analyze whether it was ineffective assistance of counsel to fail to ask for a proper instruction.

**Jessica Zimbelman:** The Court held that it was cruel or unusual punishment under the Michigan Constitution to require a person to register as a sex offender who has not committed a sex offense.

**Steven Helton:** The Court granted a new trial because the trial court misapplied *Kowalski* to conclude that an expert in false confessions could never pass muster under *Daubert*, and the Court of Appeals misapplied *Kennedy* to conclude that despite the trial court’s error, Mr. Warner could not show harm. The Court held that Mr. Warner demonstrated a reasonable probability that his expert could help his defense, and that the absence of the expert would result in a fundamentally unfair trial.

**Jackie McCann:** The Court remanded for an evidentiary hearing on the voluntariness of Mr. Samuels’s plea when it was based on a promise of leniency to his twin brother. The Court adopted the *Ibarra* totality of the circumstances test to determine if this type of plea was involuntary. This holding extends to all promises of leniency to third parties, not just promises to relatives.

**Maya Menlo:** The Court reversed and vacated part of the Court of Appeals opinion and remanded to the trial court for resentencing. The Court reasoned that a trial court cannot base its sentence even in part on a person’s refusal to admit guilt or for exercising their right to trial.

**Angeles Meneses, Gabby Barber:** After supplemental briefing and oral argument, the Court remanded to the trial court to impose concurrent sentencing, as the consecutive sentences violated the ex post facto clause. Mr. Wimberly received a 39-year time cut.



**Jessica Zimbelman, former**

**SADOite Doug Baker:** The Court remanded Mr. Adams’s case to the Court of Appeals for further consideration: “On remand, the Court of Appeals shall, in further considering whether the defendant’s criminal conviction violated his right not to be subjected to multiple punishments for the same conduct, address the actual punishment imposed on the defendant, including the total amount of time he spent in administrative segregation and the reason for that length of time.”

**Michael Mittlestat:** The Court remanded for resentencing where Mr. Parker must have an opportunity to allocute.

## [Direct Appeals in the Michigan Court of Appeals](#)

DA attorneys filed 313 substantive pleadings and advocated at 140 oral arguments in the Court of Appeals in 2024. Through their work in the Court of Appeals, DA attorneys sought to correct errors and change the law. They also secured freedom and other results for their clients, including:

### **New trials/convictions vacated:**

**Erin Bartels:** The Court vacated Mr. Parish’s conviction and sentence for CSC-I based on the ineffective assistance of trial counsel in failing to ask for a specific unanimity instruction. The Court instructed the trial court to enter a conviction for CSC-III.

**Mike Waldo:** The Court granted a new trial where Mr. Smith was denied his right to counsel. Mr. Smith began representing himself in the district court without any evidence that the court complied with *Anderson* or the court rules. Compounding this error, the circuit court did not conduct the required colloquy until after jury selection concluded. The Court agreed that the absence of counsel at critical stages amounted to structural error. Mike obtained bond for Mr. Smith after the Court granted him a new trial.

**Garrett Burton:** Mr. Roby represented himself at trial and was convicted of two counts of first-degree murder. The trial was rife with error and the Court granted a new trial based on cumulative error. The Court agreed that Mr. Roby was questioned in custody without the benefit of *Miranda* warnings, that he was subjected to further questioning without an attorney after he requested counsel, and that his due process rights were violated when an officer was permitted to testify that he was guilty of the crime. This officer also repeatedly offered non-responsive testimony that contained multiple levels of hearsay. Additionally, the Court held that the trial court's admission of other acts and character evidence constituted plain error.

**Steven Helton:** The Court reversed Mr. Straws's convictions due to Confrontation Clause violations.

**Jackie McCann:** The Court reversed Mr. Holtman's CSC convictions and remanded for a new trial based on two evidentiary errors: (1) the other acts evidence of sexual assault that was admitted for propensity under the statute had little probative value because Mr. Holtman was a child/young teenager at the time of the alleged acts. Given the lack of probative value and the high risk of prejudice, the Court found error and held that *Watkins* supported exclusion of the evidence; and (2) the trial court erred by admitting hearsay testimony from Dr. Debra Simms under MRE 803(4) because the statements were made for the purpose of criminal investigation rather than medical treatment and lacked indicia of reliability.

**Adrienne Young:** The Court granted a new trial based on a violation of *Batson*.

**Garrett Burton:** The Court reversed two of Mr. Chapple's convictions and remanded for a new trial (witness tampering and witness intimidation) due to the admission of his codefendant's police interview, which was inadmissible hearsay.

**Michael Mittlestat:** The Court reversed and remanded for a new trial, holding that trial counsel was ineffective for failing to request jury instructions that would support the defense theories, namely, M Crim JI 7.20 (burden of proof for self-defense) and M Crim JI 7.3a (accident as a defense to specific-intent crime).

**Kierston Nunn, Angeles Meneses:** The Court granted a new trial because the trial court failed to instruct the jurors on the elements of the offenses and because it was improper to admit portions of the recorded forensic interview of the complaining witness during her testimony.

#### **Remands for evidentiary hearings:**

**Steven Helton, Gabby Barber:** The Court remanded for a *Ginther* hearing regarding counsel's failure to object to inadmissible other acts evidence and inadmissible "expert" testimony related to the decedent's injuries.

**Maya Menlo, Taylor Fellows:** The Court remanded to the trial court to take evidence concerning the Romulus Police Department's evidence retention policy for 911 calls, body-worn camera footage, and dashcam footage and the police department's failure to retain the audio recordings of the 911 calls and camera footage generated in this case. The Court instructed the trial court to make findings whether the Romulus Police Department acted in bad faith when it failed to retain evidence.

**Maya Menlo:** The Court remanded for an evidentiary hearing on issues related to trial counsel's failure to advise Mr. Askew regarding plea offers and sentencing issues.

**Maya Menlo:** The Court remanded for an evidentiary hearing to hear from witnesses who remember seeing the decedents after the day they were seen with Mr. Johnson, which was when the prosecution theorized the murders happened.

**Jessica Zimbelman:** The Court remanded to the trial court to determine whether the reports/statements of non-testifying DNA experts were testimonial.

**Emma Lawton:** The Court remanded for a *Ginther* hearing about counsel's failure to object to a first-time-in-court identification, failure to call an expert in eyewitness identification, and failure to object to factually incorrect rebuttal testimony, which was also hearsay and violated the Confrontation Clause.

**Marilena David:** At a *Ginther* hearing, the trial court would not permit testimony from a defense expert regarding prevailing professional norms of defense attorneys. The Court remanded for a continued *Ginther* in front of a different judge.

**Emma Lawton, Julianne Cuneo:** The Court remanded for a *Ginther* hearing on trial counsel's failure to investigate child suggestibility experts and failing to obtain impeachment evidence before trial. The Court also granted our motion to expand the scope of the remand to include claims of newly discovered evidence and additional claims about ineffective assistance of counsel for failing to discover certain relevant facts.

**Garrett Burton:** The Court granted a second remand for Mr. Newman – this time addressing the prosecutor's failure to turn over the forensic interviews that were the subject of the first remand and *Ginther* hearing.

**Katherine Marcuz, Julianne Cuneo, 2023 summer intern Derek Willie:** The Court granted remand for a *Ginther* hearing to present evidence of trial counsel's failure to investigate and present exculpatory cell phone evidence and object to/correct the prosecution's use of inaccurate cell tower and call detail record evidence.

**Erin Bartels:** The Court remanded for an evidentiary hearing about trial counsel's failure to explain the terms of the plea offer and failure to object to the complainant-officer sitting at the prosecutor's table.

**Michael Mittlestat:** The Court remanded for an evidentiary hearing on Mr. Gray's *Lafler* claim.

**Maya Menlo:** The Court granted remand for an evidentiary hearing about whether Mr. Robinson was denied the effective assistance of counsel when his trial counsel failed to present evidence of the decedent's character for aggression and past acts of violence and failed to present statements Mr. Robinson made to his brother that supported self-defense.

**Remands for resentencing/rearticulation:**

**Matt Monahan:** The Court remanded for resentencing based on the variables being scored in violation of *Beck* and *McGraw*.

**Garrett Burton:** The Court remanded for resentencing due to improper consecutive sentencing.

**Mike Waldo:** The Court remanded for resentencing, reasoning that Mr. Blust's sentence was disproportionate under *Posey*.

**Michael Mittlestat:** In a published opinion, the Court remanded for resentencing due to an error in the scoring of OV 5 and OV 7.

**Jackie McCann:** The Court remanded for resentencing because the trial court prevented Mr. Killian from allocuting.

**Maya Menlo:** The Court held that *Parks* was retroactive and remanded Mr. Poole's case back to the trial court for resentencing.

**Jackie McCann:** The Court remanded for resentencing due to improper consecutive sentencing.

**Steven Helton, Emma Lawton:** The Court remanded for resentencing due to an error in scoring OV 11.

**Matt Monahan:** The Court granted resentencing due to an error in the scoring of OV 9.

**Angeles Meneses:** The Court of Appeals remanded for resentencing based on an error in the scoring of OV 19.



*Assistant Defender Emma Lawton advocating for her client in the Court of Appeals in Grand Rapids.*

**Other:**

**Mike Waldo:** The Court remanded to the trial court because Mr. Bushman's probation was improperly revoked.

**Mike Waldo:** The Court remanded under *Posey* for justification of the sentence imposed or for resentencing.

**Michael Mittlestat:** The Court remanded for administrative correction to the judgment that the sentences should run concurrently, not consecutively.

**Maya Menlo:** The Court remanded to the trial court, instructing that the trial court vacate court costs and refund any money paid to Mr. Wandolowski.

**Maya Menlo, former SADOite Lindsay Ponce:** The Court reversed the trial court and reinstated the grant of parole concluding that the trial court improperly substituted its judgment for the Parole Board.

**Mike Waldo:** The Court remanded for articulation of the trial court's rationale for imposing consecutive sentences.

**Michael Mittlestat, Dominica Convertino:** The Court held that trial court erred in finding the house was abandoned because the evidence showed it was not abandoned and that the police's failure to obtain a warrant was not because they believed it to be abandoned. The Court further held that the search of the home violated the Fourth Amendment. Because the trial court's standing analysis focused

solely on abandonment, the Court remanded back to the trial court to ascertain whether Mr. Ross has standing to assert the violation.

## Direct Appeals in Michigan's Trial Courts

In 2024, DA attorneys filed 233 pleadings in the trial courts. DA attorneys traversed the state and fought for our clients in the local trial courts, at 341 different hearings.

### New trials/convictions vacated:

**Garrett Burton:** The trial court granted a new trial based on a violation of his Confrontation Clause rights.

**Emma Lawton:** The trial court granted a new trial. Trial counsel also represented our client's mother who was charged with witness tampering for her contact with a witness in our client's case. The trial court reasoned this was an unwaivable, prejudicial conflict.

**Mike Waldo:** The trial court granted a new trial where trial counsel was ineffective for failing to ensure the jury instructions on self-defense were complete.

**Katherine Marcuz, Dominica Convertino, Julianne Cuneo:** The trial court granted a new trial where the prosecutor repeatedly introduced inadmissible other acts evidence, and the curative instruction was not sufficient to negate the prejudicial effect of the evidence.

**Katherine Marcuz, Dominica Convertino:** Our client was charged with second-degree murder and felony firearm for shooting her abusive boyfriend. She raised self-defense and was acquitted of murder yet convicted of felony firearm. The trial court granted a new trial where the jury instructions for felony firearm did not fully and properly instruct the jury about the applicability of self-defense to that count. The trial court also granted our client's bond motion and released her immediately on a PR bond.

**Katherine Marcuz, Dominica Convertino, Julianne Cuneo, 2023 summer intern Derek Willie:** Our client was convicted of AWIM in 2016 for allegedly shooting his childhood friend. After an evidentiary hearing showing that the prosecutor's expert's analysis of the cell phone evidence was objectively false and the cell phone evidence actually supported our client's alibi, the trial court granted a new trial.

### Grants of evidentiary hearings:

**Jason Eggert:** The trial court granted an evidentiary hearing on several claims of ineffective assistance of counsel.

**Katherine Marcuz, Ali Wright:** The trial court granted a *Ginther* hearing concerning whether trial counsel failed to adequately advise our client about the elements of the offense and accomplice liability rendering the plea involuntary and unknowing.

**Ali Wright:** The trial court granted a *Ginther* hearing on several claims of ineffective assistance of counsel.

**Ali Wright:** The trial court granted a *Ginther* hearing on several claims of ineffective assistance of counsel.

**Angeles Meneses, Julianne Cuneo:** The trial court granted a *Ginther* hearing on several claims of ineffective assistance of counsel.

**Garrett Burton, Tabitha Harris, Angie Jackson:** The trial court granted a *Ginther* hearing on failing to call an alibi witness.

**Garrett Burton:** The trial court granted a *Ginther* hearing about whether counsel was ineffective for failing to object to the admission of a jailhouse video under MRE 405.

**Ali Wright:** The trial court granted a *Ginther* hearing on various claims of ineffective assistance of counsel.

**Matt Monahan:** The trial court ordered a *Ginther* hearing on a motion for relief from judgment to address whether our client's mandatory minimum sentence relied on facts never alleged in the Information, never included in the plea agreement, never found by the court, and never admitted to by the client – and the Sixth Amendment impact.

**Jason Eggert:** The trial court granted an evidentiary hearing from Jason's supplemental 6.500 motion. The hearing will be about ineffective assistance of counsel for concession of guilt and for failure to request an accident instruction when the theory of defense was accident. The prosecutor agreed to resentencing due to errors in the scoring of OVs 3 and 5.

**Brett DeGroff, Julianne Cuneo, Monique Dake:** The trial court granted a *Ginther* hearing regarding whether trial counsel was ineffective for failure to call a medical expert.

**Abrial Neely, Matt Monahan:** The trial court granted a *Ginther* hearing after our client's trial attorney introduced damaging evidence about him and failed to impeach the complaining witness.

### **Resentencing Hearings:**

**Jessica Zimbelman, Anna Kohn, Monique Dake, former SADO reentry specialist Jose Burgos:** Our client was sentenced to life with parole for a CSC-1 and armed robbery committed when he was 18 years old. He filed a 6.500 motion, and the trial court appointed SADO to supplement. The Washtenaw prosecutor agreed he was entitled to resentencing. In the meantime, after serving 47 years in prison, our client was paroled in August 2023, with the help of Anna and Jose, given he had no family support. In January 2024, with mitigation from Monique and wonderful letters of support, our client was resentenced to 25-40 years and was discharged off parole.

**Jessica Zimbelman:** Our client was sentenced to a mandatory 25 years in prison as a habitual fourth, but two of his three prior felonies were unconstitutional under *Betts*. MAACS roster attorney Ron Ambrose represented him on appeal and properly challenged this. Jessica filed the Application for Leave to Appeal in the Michigan Supreme Court. The prosecutor agreed to resentence our client with a sentencing agreement of a 5-year minimum if he withdrew his Application. Our client was resentenced to a minimum term of 5 years in prison.

**Matt Monahan:** The trial court granted resentencing due to an error in the scoring of OV 10.

**Steven Helton, Gabby Barber, Monique Dake:** Our client's life sentence was reduced to 10-20 years.

**Matt Monahan, Monique Dake, Adrienne Young:** After our client's conviction for pandering was vacated on sufficiency grounds, he was resentenced. At the resentencing hearing, the court was very complimentary of Monique's mitigation memo and reduced our client's controlling minimum sentence from 72-months to 58-months.

**Matt Monahan, Monique Dake, Abrial Neely:** At a resentencing ordered by the Court of Appeals due to an error in scoring OV 9, the trial court resentenced our client to 38 months, reducing his sentence by 19 months. The trial court appreciated our client's thoughtful allocution where he accepted responsibility and expressed genuine remorse. Monique worked closely with our client to help develop his allocution.

**McKenna Thayer, Monique Dake, Jackie McCann:** Our client was resentenced after the prosecutor conceded error on OV 17. The trial court reduced his minimum

sentence by two years. Monique worked with our client on his allocution and collected support letters.

**Abrial Neely, Matt Monahan, Monique Dake:** The trial court granted resentencing due to an error in the scoring of OV 19. The trial court reduced our client's minimum sentence by 4 years.

**Jackie McCann:** The trial court granted resentencing before a different judge, given that the trial court sentenced our client based on acquitted conduct.

**Steven Helton:** The trial court granted resentencing due to errors in the scoring of PRV 2 and OV 12. Our client was resentenced, and her minimum term was reduced from 51 months to 36 months.

**Maya Menlo:** The trial court granted resentencing due to an error in the scoring of OV 2.

**Taylor Fellows, Marilena David, Monique Dake, Marcus Williams:** The trial court reduced our client's minimum sentence by one year.

**Taylor Fellows, Maya Menlo:** The trial court granted resentencing based on an error in scoring PRV 5 and OV 13.

**Maya Menlo, Taylor Fellows, Julianne Cuneo, Monique Dake:** Our client was serving LWOP for a first-degree murder committed when he was 19 years old. Maya raised competency to waive *Miranda* on appeal and there was an evidentiary hearing in the trial court. Before the judge ruled on this issue, Maya negotiated with the prosecutor and he agreed to vacate our client's first-degree murder conviction in exchange for a guilty but mentally ill plea to second degree murder and withdrawing the appeal. Our client was resentenced to 28 years to 45 years.

**Steven Helton, Jason Eggert:** Our client's sentences were erroneously imposed consecutively. In response to a motion for resentencing, the trial court fixed the errors administratively, which resulted in a time cut of 5 years to his minimum sentence.

**Jason Eggert:** The prosecutor stipulated to the motion to vacate counts of conspiracy and solicitation to commit second-degree murder and to resentencing.

**Michael Mittlestat, Monique Dake:** At resentencing, our client's sentence was reduced by 25 months.

**Angeles Meneses:** The trial court resentenced our client to time-served after the Court of Appeals remanded for resentencing based on an error in scoring OV 19.

**Ali Wright, Monique Dake:** The trial court granted resentencing based on an unsubstantiated departure from the guidelines.

**Maya Menlo:** Maya represented this client for several years. Early on, Maya won a motion for bond pending appeal and our client was released from prison. He remained out on bond for three years and literally saved lives as an ambassador for the Group Violence Intervention Program in Kalamazoo. The Michigan Supreme Court remanded his case to the Michigan Court of Appeals and the COA affirmed his sentence. But, after years of attempted negotiations, the prosecutor finally agreed that the interests of justice warranted resentencing. At resentencing, the trial court imposed SADO's requested sentence: one year in jail with credit for time served and no new costs or fees. Our client's original sentence was 42 months. SADO's advocacy allowed him to reunite with his family and avoid needless incarceration.

**Other:**

**Jessica Zimbelman:** The trial court granted our client's 6.500 motion and vacated his failure to register conviction under *Betts*. He was discharged from prison immediately.

**Jonathan Sacks:** The trial court affirmed the Parole Board's grant of parole to our client after the prosecutor appealed.

**Jonathan Sacks:** The trial court denied the request to stay our client's parole and denied the application of the victim who had asked the circuit court to reverse the grant of parole.

**Marilena David:** Mari filed a 6.500 motion for our client, challenging his 15-year to life sentence for indecent exposure by a sexually delinquent person. The prosecutor filed an answer challenging relief but eventually stipulated to resentencing relief. Our client will be resentenced to one day to life, making him immediately parole eligible.

**Matt Monahan, Maya Menlo:** The trial court entered an order vacating over \$38,000 in attorney fees, relying on an opinion from the Court of Appeals in another case, litigated by Maya.

**Kierston Nunn, Angeles Meneses:** After winning a new trial in the Court of Appeals, Kierston and Angeles sought and obtained bond for our client.

**Steven Helton, Gabby Barber:** The prosecutor stipulated to reinstating our client's claim of appeal.

**Michael Mittlestat:** After obtaining a new trial on appeal, our client entered a plea that resulted in a sentence of time served.

**Mike Waldo:** Our client was found criminally responsible although no formal evaluation was done and despite ample evidence that he was experiencing delusions at the time he allegedly resisted or obstructed police. Mike raised this failure to have our client evaluated as ineffective assistance of counsel and court error. At the trial court hearing, the judge encouraged the parties to resolve the matter without further litigation. The prosecutor agreed to relief; our client's resisting and obstructing conviction was vacated, and he entered a plea to two counts of misdemeanor attempted resisting and obstructing.

**Maya Menlo:** The trial court granted a motion to correct our client's PSIR.

**Matt Monahan, Monique Dake:** Our client delivered a powerful allocution and the trial court reduced his minimum sentence by seven months, making him parole eligible. Monique, who read the original sentencing transcript, figured out what the trial court was concerned about, and helped our client accept responsibility in a sincere and touching manner.

**Gabby Barber, Angeles Meneses:** Our client was initially ordered to pay restitution for a case that was dismissed in exchange for his plea, but the agreement to pay that restitution was not part of his plea deal. His restitution was reduced by \$9,500.

**Emma Lawton:** After the prosecutor refused to stipulate to the reinstatement of our client's claim of appeal, the trial court ordered an evidentiary hearing on why his request for counsel was late. After the hearing, the trial court granted the motion, and his claim of appeal was reinstated.

**Matt Monahan:** The trial court held a hearing on our client's 6.500 motion filed in January 2021 and ordered a *Crosby* hearing.

**Taylor Fellows, Maya Menlo:** The prosecutor stipulated to corrections in the judgment of sentence, removing our client from SORA.

**Maya Menlo, Tabitha Harris:** The trial court granted the motion for bond pending appeal and ordered a PR bond for our client.

**Dominica Convertino, Jason Eggert:** The trial court granted all the requested changes to our client's PSIR.

**Jonathan Sacks, Lisa Lamarre:** Jonathan stepped in to represent Mr. Pearson in the trial court on a complicated pre-assignment situation where the prosecutor had

filed a motion to correct invalid sentence and our client had filed a pro per motion for new trial. Jonathan resolved it and with the help of Lisa, and got our client released on appellate bond.

**Maya Menlo:** The trial court amended the Judgment of Sentence to reflect the correct maximum and to waive court costs and attorney fees based on our client's inability to pay.

**Matt Monahan:** The trial court vacated \$4,000 in fees and costs.

**Jackie Ouvry, Wayne State University Law School Clinic student Eric Fishman:** The trial court struck an attorney fee for which there was no record support and reduced restitution by about \$8,000.

**Ali Wright:** The trial court reduced our client's restitution from \$1,750 to \$0.

**Ali Wright:** The trial court vacated \$300 in court costs.

## JLU

In calendar year 2024, the JLU conducted 26 resentencing proceedings:

- JH, Resentenced to 40-60 years after the prosecution withdrew its request for life without parole (Attorneys Tina Olson and Alison Swain, and former SADO Mitigation Specialist Jazmine Wells)
- MA, Stovall resentencing to 19-30 years (Attorney Ashley Craythorne and Mitigation Specialist Kate Woznicki)
- TM, *Miller* resentencing to 40 to 60 years (Attorneys Claire Ward, Jackie Ouvry, and Alison Swain)
- DR, *Stovall* resentencing to 40-60 years (Attorney Anna Ahronheim and Mitigation Specialist Tomiko Gumbleton)
- DB, after a contested *Miller* hearing, resentenced to 35-60 years (Attorneys Ashley Craythorne and Jessica Newton and Mitigation Specialist Beth Kuczma)
- VP, *Miller* resentencing to 40-85 years (Attorneys Erin Bartels and Emily New and Mitigation Specialist Tomiko Gumbleton)
- PC, *Poole* resentencing to 40-60 years (Attorney Tina Olson and Mitigation Specialist Tomiko Gumbleton)
- MK, resentencing to 40-60 years (Attorney Claire Ward)
- DR, resentencing to 35-60 years (Attorneys Jessica Newton and Tina Olson, external Mitigation Specialist Jessica Carrier)

- BW, resentencing to 40-60 years (Attorney Erin Bartels and Mitigation Intern Carley Davidson)
- WC, resentencing to 40-60 years (Attorney Ashley Craythorne and Mitigation Specialist Supervisor Chelsea Richardson)
- JC, Poole resentencing to 36-40 years (Attorney Tina Olson, Deputy Director Marilena David, and Mitigation Intern Amanda Lawson, and Legal Intern Manisha Misra)
- JL, Poole resentencing to 40-60 years (Attorney Anna Ahronheim and Mitigation Specialist Beth Kuczma)
- BH, *Poole* resentencing to 40-60 years (Attorney Anna Ahronheim and Mitigation Specialist Tomiko Gumbleton)
- OC, *Poole* resentencing to 40-60 years (Attorney Claire Ward and Mitigation Specialist Beth Kuczma)
- KM, *Poole* resentencing to 40-60 years (Attorney Alison Swain)
- JL, *Poole* resentencing to 33-60 years (Attorney Ashley Craythorne and Mitigation Specialist Kate Woznicki)
- KS, *Stovall* resentencing to 25-50 years (Attorney Tina Olson and Mitigation Specialist Tomiko Gumbleton)
- MO, *Miller* resentencing (following successful appellate litigation of an LWOP sentence), to 40-60 years (Attorney Claire Ward and former SADO Director Jonathan Sacks)
- LN, *Poole* resentencing to 40-60 years (Attorney Jessica Newton and Mitigation Specialist Beth Kuczma)
- RM, *Poole* resentencing to 40-60 years (Attorney Erin Bartels, Mitigation Specialist Beth Kuczma)
- JW, *Stovall* resentencing to 23-47 years (Attorney Claire Ward and Mitigation Specialist Kate Woznicki)
- HH, *Poole* resentencing to 40-60 years (Attorney Claire Ward)
- JR, *Poole* resentencing to 32-60 years (Attorney Jessica Newton)
- AS, *Poole* resentencing to 36-60 years (Attorney Erin Bartels)
- KM, *Poole* resentencing to 36-60 years (Attorneys Jessica Newton and Tina Olson)

## A SAMPLING OF MAACS SUCCESSES

### Michigan Supreme Court Orders and Opinions:

**John Zevalking:** The Court held that the police lacked reasonable, particularized suspicion that Mr. Prude was trespassing. And because the police did not act lawfully when they detained Mr. Prude, the Court also vacated his convictions for fleeing and eluding and assaulting, resisting, or obstructing a police officer – each of which required proof that the officers’ actions were lawful.

**Ian Kierpaul:** The Court granted oral argument on the application on three issues: (1) whether the trial court properly advised the defendant of his rights under MCR 6.302(B)(3), which, because the court used “a writing on a form approved by the State Court Administrative Office,” required the court to “address the defendant and obtain from the defendant orally on the record a statement that the rights were read and understood and a waiver of those rights[.]” MCR 6.302(B); (2) whether “without justification or excuse” is an element of second-degree murder that the trial court was required to address when eliciting the factual basis for the defendant’s guilty plea under MCR 6.302(D)(1); and (3) whether the defendant has demonstrated “good cause” and “actual prejudice” as required by MCR 6.508(D)(3).

**Jack Rucker:** The Court remanded to the Court of Appeals for consideration as on leave granted.

**Melissa Freeman:** The Court remanded to the Court of Appeals for consideration as on leave granted.

**Joel Kershaw:** The Court reversed the judgment of the Court of Appeals that trial counsel was not ineffective and remanded for a new trial.

**Mitch Foster:** In lieu of granting leave to appeal, the Court vacated the order of the trial court denying the 6.500 motion and remanded for an evidentiary hearing for the claims of newly discovered evidence and *Brady* violations.

**Jennifer J. France:** The Court remanded to the Court of Appeals for plenary consideration finding that the Court of Appeals had incorrectly concluded that the client had not appealed to the circuit court – when he had.

**Melissa Krauskopf:** The Court remanded to the district court for articulation of the reasons for the sentence it had imposed.

**Jeanice Dagher-Margosian:** The Court remanded to the Court of Appeals for consideration as on leave granted to determine whether the trial court was authorized to order the client to pay a “\$10.00 local court cost.”

## **Michigan Court of Appeals:**

**Michael Faraone:** In a published opinion, the Court affirmed remanded to the trial court to modify the PSIR to ensure that it makes clear that the client was acquitted of three of the four charges discussed in the agent's description of the offense.

**David Herskovic:** In a published opinion, the Court remanded for resentencing due to error in scoring OV 4.

**Gary Strauss:** In a published opinion, the Court remanded for resentencing due to error in scoring OV 3.

**Michael Faraone:** In a published opinion, the Court held that the client had committed only a technical violation of his probation, vacated his prison sentence, and remanded for resentencing.

**Roman J. Tyszkiewicz:** The Court reinstated Mr. Siders's parole, finding that the circuit court erred when it substituted its judgment for that of the Parole Board when it reversed the Board's decision to grant parole.

**Nicholas Bostic:** The Court remanded for resentencing because the trial court failed to properly articulate its reasons for imposing consecutive sentences.

**Melissa Krauskopf:** The Court held that the prosecutor had not established that the client's acts were the proximate cause of the death, and so the district court abused its discretion by binding over the case to the circuit court.

**Mitchell Foster:** The Court remanded either for resentencing or to have trial court explain the proportionality of the original sentence.

**Christine A. Pagac:** The Court remanded for correction and amendment of the PSIR, possible resentencing, and to strike the imposition of attorneys' fees.

**Ronald D. Ambrose:** The Court vacated the trial court's order denying a motion to correct the PSIR, finding that the trial court had the authority to consider the motion.

**Joel D. Kershaw:** the Court remanded for resentencing due to error in scoring OV 1.

**John Zevalking:** The Court held that the trial court erred in denying the motion to suppress evidence found during a traffic stop.

**Michael Skinner:** The Court remanded for a new trial on several firearms charges due to ineffective assistance of counsel.

**Melissa Krauskopf:** The Court affirmed the trial court's sentence of one year in jail and five years of probation, after the prosecution appealed. The PSIR noted that the minimum sentence guidelines range was 51 to 85 months' imprisonment and recommended that the client be sentenced to a term of 5 to 25 years' incarceration. In sentencing this 18-year-old client, trial court made a detailed record in support of its decision, discussing the client's home life, limited criminal history, and mental health struggles, as well as the victim's alcoholism. The trial court also stressed the youth and lack of brain development, recognizing the impact of age on cognitive and emotional development, and capacity for rehabilitation and change.

### **Trial Court Successes:**

**Jana Mathieu:** The trial court struck the court-appointed attorney fees assessed at sentencing due to its failure to consider the MIDC funds providing for the county's attorney fees.

**Alona Sharon:** The prosecutor stipulated to a new trial in response to a Motion for New Trial, raising various errors by the trial court and the prosecution.

**Susan Walsh:** The trial court reduced the minimum sentence from 120 months to 76 months. Emily Swanson prepared a sentencing mitigation report.

**Ashlee N. Duplessis:** On remand from the Court of Appeals, the trial court reduced the minimum sentence from 32 months to 17 months, making the client immediately eligible for parole.

**Suzan Gabbara:** The trial court granted the motion to withdraw the client's plea.

**Laurel Kelly-Young:** The trial court reduced the minimum sentence from 75 months to 50 months.