

SADO Juvenile Lifer Unit Report: FY 23

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 represent people on these complex issues, SADO agreed to represent 193 of Michigan's 364 juvenile lifers, many former clients. 155 of them 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.

SADO created the Juvenile Lifer Unit, 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 courts held resentencing hearings for people designated for term of years sentences.

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 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:

- 67 additional clients where prosecutors withdrew motions seeking life without parole due to negotiation and mitigation evidence presented by SADO.
- 155 clients resentenced to term of years sentences.

- There have been forty-two contested hearings for SADO clients where prosecutors have pushed for life without parole sentences. Thirty-three have resulted in term of years sentences, and nine resulted in a life without parole sentences. Appellate courts have reversed five of the life without parole sentences.
- 85 people represented by SADO on *Miller* sentencings have been released from the Department of Corrections, either on parole or discharged.

Financial Benefits:

- Estimated cumulative reduced sentences for 177 clients no longer serving life sentences (based on an estimated average lifespan of 64 years): 2,235.75 years. This amount includes some resentencings for individuals who were not part of the original 193 clients assigned to SADO.
- Estimated savings in incarceration costs: \$83,481,589.30
- Return on investment: 12:1 (1203%)

What Remains of Original 193 Cases:

13 clients await resentencing hearings (this number includes 2 clients of the original 193 who previously had resentencing hearings, where life without parole sentences were reversed on appeal):

- 3 term of years sentencing hearings
- 10 *Miller* hearings, where the prosecution pushes for a life without parole sentence and SADO advocates for a term of years sentence.
- Time served of clients awaiting resentencing or other resolutions
 - ▶ 10 years or less: 0 clients
 - ▶ 10-25 years: 7 clients
 - ▶ 25+ years: 6 clients

Additional *Miller* resentencings:

In addition to the resentencings, SADO has been appointed to additional *Miller* cases and has handled *Miller* resentencings that have occurred after successful appellate proceedings by Juvenile Lifer Unit attorneys. In FY 2023, three of these clients were resentenced to term of years after negotiations with prosecutors; another awaits a term of years resentencing in January 2024. In FY 2023, two full *Miller* hearings were held, post-appeal, and both resulted in term of years sentences for clients previously sentenced to life without parole. One other client awaits resentencing following reversal of his life without parole sentence on appeal, and one more remains held in abeyance in the Michigan Supreme Court.

Appeals

- There remain potential resentencing appeals (SADO and non-SADO). In addition to SADO's remaining *Miller* cases, outlined above, non-SADO attorneys have about a dozen cases around the state awaiting *Miller* hearings.
- 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, and Kent Counties). SADO has successfully resolved all but one of these appeals, resulting in relief and new sentencing hearings for each of those clients. The one remaining case has been stayed by the Michigan Supreme Court. SADO's Juvenile Lifer Unit attorneys are also handling one prosecution appeal of a term of years sentence.

Other Juvenile Lifer Unit Projects:

- According to MDOC, of 176 former juvenile lifers released, only three have 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 [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*. Immediately after the *Stovall* decision (discussed below), the CDRC organized a training on these cases, with presentations by Juvenile Lifer Unit attorneys and mitigation specialists.
- One of SADO's former clients, Lorenzo Harrell, now a reentry specialist for SADO has been recently [profiled](#) by National Public Radio. The Michigan Justice Fund supported a Summer Justice Fellow at SADO to create [Triumph Reports](#) to highlight other success stories of former juvenile lifers.

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, at the time of the *Stovall* decision, 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.

Since the *Stovall* decision, counsel has been appointed for those individuals and resentencings have been ongoing. SADO has successfully represented six people in their *Stovall* proceedings, with two more awaiting resentencing. Three of the resentenced individuals have discharged from prison. SADO expects additional *Stovall* appointments. These cases presented unique and time-sensitive challenges, as the individuals had been incarcerated for decades, and so the resentencing investigation had to be expedited as much as possible.

As to the 274 individuals who were 18 at the time of their offenses, there are many cases where prosecutors will again request severe sentences and courts will hold multi-day hearings with significant mitigation evidence and multiple experts. SADO awaits the Court of Appeals decision in [People v. Poole](#), which will determine whether the holding for eighteen-year-olds applies to all 274 people. Should the Court of Appeals find the *Parks* decision not retroactive, SADO expects to appeal to the Michigan Supreme Court, and to take on other types of youth sentencing appeals.

SADO's Juvenile Lifer Unit currently represents four of the *Parks/Poole* individuals. Two other individuals represented by SADO have already been successfully resentenced pursuant to these cases. In preparation for appointment of over 200 additional cases when retroactivity is established, SADO has sent correspondence to the members of the group, obtained releases so that record collection can be initiated, and has been in the process of gathering MDOC records for all those impacted. Further, additional questionnaires and information have been obtained for most of these individuals, and the Juvenile Lifer Unit has started the process of record review and prioritizing the group by age and length of incarceration, among other factors. SADO intends to be ready to initiate negotiations at the earliest opportunity.

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	269	\$79.18	\$21,299.42
Mitigation / Investigation	288	\$55.05	\$15,854.40
Research/Document Review	19	\$44.63	\$847.97
Clerical	66	\$53.76	\$3,548.16
Average Total Per Case	642		\$41,549.95

Estimated Cost for the 177 resentencing hearings.	\$7,354,341.15
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1. The cost per case for SADO averages \$41,549.95. This amount totals \$7,354,341.15 for the 177 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 December 1, 2023.
3. Significant additional in-kind contributions have been made by SADO, including staffing hours, equipment, and administrative costs.
4. SADO has successfully advocated for 2235.75 years in reduced prison terms for juvenile lifer clients. The return on investment in SADO's Juvenile Lifer Unit to date is 12:1 (1203%) from \$83,481,589.30 in savings to the Michigan Department of Corrections.

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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.