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## Juvenile Life Without Parole Initiative

August 24, 2012

Dear Friend,

The goal of this letter is to provide an update on our current efforts, and to answer some of the most common questions and concerns following the U.S. Supreme Court's decisions in *Miller v. Alabama* and *Jackson v. Hobbs*. As you are aware, we have taken a multi-faceted approach to eliminating the life without parole sentence for juveniles, including legal training, legislation, litigation, and advocacy.

Following the *Miller* decision, in collaboration with University of Michigan Law School, Criminal Defense Resource Center of the State Appellate Defender Office (SADO), and Michigan Council on Crime and Delinquency, we held a training for attorneys interested in handling pro bono, mitigating hearings and resentencing. The training included presentations on the neuroscience of adolescent development, preparing and presenting mitigating evidence, and post-conviction sentencing strategies. Over one hundred attorneys attended the training, and we were able to match the first wave of cases with attorneys. We continue to identify and match cases with attorneys who can provide quality pro bono representation for mitigation hearings and resentencing on a daily basis, and will advise people, by letter, when their case has been matched.

We recognize that it is difficult to be patient under these circumstances, however please review the following answers to the most common questions we have been receiving:

- 1. Is the decision in *Miller* retroactive?** The attorney general and some prosecutors are arguing against the *Miller* decision applying retroactively to those currently serving this sentence. We strongly believe that Michigan's sentencing schemes have been ruled unconstitutional in *Miller*, and that those currently serving this sentence are entitled to individualized mitigation hearings for resentencing. A federal court, in *Hill v. Snyder, et al.*, will hear arguments addressing many post-*Miller* legal issues on September 20, 2012. The state Court of Appeals has ordered briefing on the same legal issues to be filed by October 9, 2012. We believe that retroactivity, as well as the issue of what sentence the judges have the authority to issue will be resolved over the next few months in one of these cases.
- 2. Should we file now and what should we file?** This is your one opportunity to be resentenced. Mitigation hearings and resentencing should be carefully prepared, with expert testimony, witnesses and detailed evidence presented. We urge everyone not to file without the assistance of skilled attorneys. If there is a time limit on filing (this is debatable) it will be, at worst, one year from June 25, 2012. If you have not agreed to accept assigned counsel by either our office or the courts, we will provide model pleadings to ensure that you preserve your rights, prior to this date.
- 3. How do you decide which cases get matched with attorneys first?** Pairing attorneys with cases involves review of many issues and criteria including geographics, institutional record, co-defendant

*(continued on reverse)*

sentencing, plea offers, identity of the judge, victim support, length of time served, and an array of other factors. Please know that we are committed to finding quality pro bono representation for all those who have not retained counsel or are not represented by SADO. We ask that you continue to be patient as we work through this process, and resist filing without the assistance of counsel.

4. **When will I know who my attorney is?** Once an attorney has offered to take your case, you will receive a letter of notice from our office that provides contact information for the attorney. If SADO handled your case on appeal and you have recently received correspondence from their office regarding representation in light of *Miller*, please follow the instructions given to you by them.
5. **Can I retain my own counsel or file my own challenge in light of *Miller*?** Our office is working diligently to ensure quality representation for all individuals in need of pro bono assistance, and we strongly urge you not to file without the assistance of counsel. If you decide to hire your own attorney, please have them contact our office so we can provide them with access to our legal resources and training materials, and connect them with other attorneys who are sharing resources and strategies.
6. **Will the hearing and resentencing affect additional charges along with the first degree homicide charge and life without parole sentence?** This is one of the outstanding legal issues; however, we will argue that the court has the authority to resentence on all charges received at the time of the life without parole sentence.
7. **Does the *Miller* decision apply to individuals convicted of 2<sup>nd</sup> degree murder, serving parolable life sentences?** This is another unresolved legal issue. Once the legal issues (retroactivity, sentencing options) are resolved for those facing LWOP, it should provide guidance on how to address the class of individuals serving long, indeterminate sentences who are statutorily eligible for parole.
8. **What can we do while waiting?**
  - **Continue gathering relevant documentation.** This includes items such as your juvenile records, school records, pre-sentencing investigation reports, sentencing and trial transcripts, counselor and institutional records, COMPAS and PER evaluations, and support letters from family and friends both inside and out. Please do not send these to our office or your attorney until requested.
  - **Maintain a misconduct-free prison record from this time forward.** While tickets earned as a young person forced to grow up in an adult facility may be attributable to a lack of hope in ever being released, future misconduct reports will harm your case for early release.
  - **Request admission to all rehabilitative programming available at your facility.**

Thank you for your continued time, patience and efforts and we hope this letter finds you well.

Sincerely,



Deborah LaBelle