
Case No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

TYRONE D. MORANT,

Petitioner,

vs.

JASON LEWIS, SUPERINTENDENT
SOUTHEAST CORRECTIONAL CENTER,

Respondent.

On Petition For A Writ Of Certiorari
From The Supreme Court of Missouri

VOLUME II

APPENDIX IN SUPPORT OF PETITION
FOR A WRIT OF CERTIORARI

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COUNSEL FOR PETITIONER

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PETITION FOR A WRIT OF CERTIORARI**

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Section 3

Certificates of Achievement
Restorative Justice and Reparative Activities

MISSOURI STATE PENITENTIARY
GENERAL POPULATION
SUBSTANCE ABUSE EDUCATION PROGRAM

AUGUST 5, 2003

TO: James Hardy

FROM: Lisa J. Hayes, SAC III

RE: SOBER SUMMER GAMES

I just wanted to take this time to let you know how much the Substance Abuse Advisory Council appreciated the time you gave to helping us have another successfull Sober Summer Games Tournament. You volunteered your time to help officiate the games that provided fun and comradery to hundreds of offenders and for that, we are truly grateful.

Your continued support to our Organization and dedication to Recovery and it's goals do not go unnoticed. We just wanted to let you know that we are thankful for your help. I hope we can look for your continued support in October when we have our Red Ribbon Week Games.

cc:
Class. file

Thank you so much
for all your hard work
during the games - you helped
make it a success -
LJH



Intensive Therapeutic Community

Jefferson City Correctional Center, P.O. Box 900
Jefferson City, MO 65102

August 27, 2002

Successful Discharge

To Whom It May Concern:

This letter is to confirm that Inmate Hardy, James #164676 completed the Jefferson City Correctional Center one (1) year *Intensive Therapeutic Community* drug intervention program on May 24, 2002.

During the first six (6) months of this treatment Mr. Hardy criminality and addiction were intensely addressed with a series of classes, groups, one-on-one counseling sessions and peer confrontation. The second six (6) months were in the *ITC Winner's Circle Aftercare Unit*, where a continuum of classes based on relapse prevention were provided along with groups, one-on-one counseling and peer confrontation were conducted to further strengthen client's ability to maintain abstinence, cultivate coping skills, and re-frain from criminal thinking behaviors.

In addition, Mr. Hardy participated in Self-Esteem, Anger Management and Advanced Criminality and significant progress has been made in addressing these issues. Mr. Hardy was more than willing to serve the community in whatever capacity was asked of him.

Mr. Hardy responded well to the treatment methods utilized by staff and the I.T.C. Program. Mr. Hardy made the decision to remain living in the *Winner's Circle Aftercare Community* upon his graduation to serve as an "elder" by consistently role modeling proper behavior and recovery principles for the new comers. If Mr. Hardy continues to consistently role model pro-social behavior and recovery principles this will enable him to live a responsible drug free and crime free life style.

If additional information is needed regarding this resident, please feel free to contact me at 573-751-3224 ext. 162

Sincerely,

James Kimbro, CSACII

BOB HOLDEN
Governor

GARY B. KEMPKER
Director



2729 Plaza Drive
P.O. Box 236
Jefferson City, Missouri 65102
Telephone: 573-751-2389
Fax: 573-751-4099
TDD Available

State of Missouri
DEPARTMENT OF CORRECTIONS

Ad Excelleum Conamur - "We Strive Towards Excellence"

January 29, 2002

Mr. James Hardy #164676
16-ITC-DO1P3-002
Jefferson City Correctional Center
P.O. Box 597
Jefferson City, Mo. 65102

Dear Mr. Hardy:

On January 24, 2002, I sent the Mother of your victim a letter informing her of your letter of apology. On January 28, 2002, I received a request from Mrs. Horn to forward your letter to her.

Your letter of apology has been sent to Mrs. Horn and a copy placed in the Probation and Parole file.

If I may be of further assistance to you kindly contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Kay", is positioned above the printed name.

Kay Crockett
Victim Service Coordinator

Cc: File

An Equal Opportunity Employer

A-80

August 14, 2001

Dear Uncle Gary:

Sorry it has taken me so long to respond to your letter. I wanted to ask some members of POMC about first time offenders getting the flat 20 years. Unfortunately, I'm not alone in my opinion that anyone who commits murder whether it's the first time or the tenth time, they should get life without. The reasoning and justification behind this is that that this offender took someone's life and they are gone **forever**. It's so final. Once their life has been taken, you should have to give up yours for taking theirs. At least their families can visit them in jail. We have to go the cemetery to visit Denny and she doesn't even have a head stone.

I'm adamant about the way I feel on the subject. But, when I meet some of these guys at the prisons that I know are truly and sincerely remorseful, I feel so sad for them because I know if they could do it over again, the outcome would be very different. Some of them would readily give their life to bring back their victim. Unfortunately, that is not possible. One of the guys that I truly believe is remorseful from Potosi is James Hardy. Do you know him?

I am devastated by Denny's death and miss her terribly. I cannot imagine how I would feel if this happened to my child. I can only imagine that I would want the person dead and to die a brutal and painful death, which is what I wish for Larry.

I see what this has done to my mom and dad. I've never seen my dad or mom cry until this happened. When I look into their eyes, I see and feel PAIN. I never knew the pain of a heart ache was the worst pain in the world. Many people want to know why we're not all right. It's already been 4 years. Aren't we over it yet? Just because we don't wear a bandage over our heart, we're suppose to be o.k. But no one can truly see the pain of a broken heart. But we feel it every day.

I am sorry I didn't give you any good news. I wish I were able to feel differently, but I'm not. I feel like a hypocrite sometimes because I feel that you don't belong in prison for the rest of your life. I know what you're in there for but I also know that you're a good person.

Well, we're going on vacation to the Tennessee Smoky Mountains on August 18th. I have so many things to do to get ready so I better let you go for now.

Please keep in touch. I'm sending a picture of my girls. The big one is Zoe' and the little one is Paige. They are the apple of my eye.

Love,

Sue

Sue

Department of Corrections
Potosi Correctional Center

* * STAFF-TO-OFFENDER CORRESPONDENCE * *

DATE: May 31, 2001

TO:	James Hardy #164676	HU: 5-A-38
	Darry Taylor #508227	HU: JCCC 5-A-333
	Tracy Jones #512932	HU: 5-B-28
	Patrick Ford #508975	HU: 6-A-04
	Randall Knese #990139	HU: 5-A-26
	David Ware #165270	HU: 5-B-20
	Ronald Clements #179852	HU: 5-B-12

FROM: *C. Carl*
for Pat Smith, Supt. I

SUBJECT: LETTER FROM VICTIM PANEL MEMBER

Mata, from Parents of Murdered Children, asked that the enclosed letter be shared with you.

PS/cmc

c: File

Enclosure

Dear Friends,

Isn't it strange I feel in my heart I can call all of you my friends. My heart is overwhelmed with so many different emotions. Saturday night I could not sleep, all of your faces bombarded me over and over. I can't begin to explain what took place, but I am glad it happened. As I stood in that room and looked into all of your faces, I saw the pain and sorrow that has brought us together. You all have touched my heart, and the sorrow I feel is for the instant you made that terrible decision that brought you to where you are today. I cannot forgive you, ^{But} I know in my heart you are sorry for what you have done. I also want to tell you how courageous you all were to wear our "Victims Rights" ribbons. We are supposed to be on opposite sides, but it hasn't turned out that way. You all will remain in my heart forever and in my prayers also. The program must be working, or we all wouldn't feel the way we do.

Mata
Parents of Murdered Children

APRIL 22-28 2001

NATIONAL
CRIME
VICTIMS'
RIGHTS
WEEK

REACH FOR THE STARS

POTOSI CORRECTIONAL CENTER
STAFF TO OFFENDER CORRESPONDENCE

DATE: April 18, 2001

TO: THOSE INDICATED

FROM: *Brenda K. Ross*
BRENDA K. ROSS, LITIGATIONS COORDINATOR

SUBJECT: VICTIMS' RIGHTS WEEK RIBBONS

Ms. Mata Weber, President of the St. Louis Chapter of Parents of Murdered Children, has arranged for a small number of Victims' Rights Ribbons to be sent to PCC. I would like to offer them to you on a first come, first served basis. Those who attended the follow-up session on March 24, 2001, will receive first consideration:

Mark Still, 515072	Tracy Jones, #512932
Christopher Santillan, #535405	Michael Lester, #1005060
Patrick Ford, #508975	Jerry Tracy, #511819
Ronald Clements, #179852	Allen Price, #29222
James Hardy, #164676	Ricky Kidd, #528343
Michael Silas, #186769	

Please let me know ASAP if you want one to wear during the week of April 22-28.

Anyone else who has completed the ICVC program and would like a ribbon acknowledging Victims' Rights Week, please contact me, and I'll send them out until we run out.

Mark Ball, #167655	Jason Carr, #48871	Larry Emerson, #40466
Donald Jones, #990110	Randall Knese, #990139	Keith Linhardt, #260672
Julius Nickerson, #171713	Clifton Powell, #163798	Richard Roe, #177524
McKinley Robinson, #34076	Christopher Simmons, #990111	
Darry Taylor, #508227	Ronnie Walker, #45051	David Ware, #165270
Danny Wolfe, #32078	Anthony Wooten, #516568	

Pat Smith, FYI

A-84

POTOSI CORRECTIONAL CENTER
STAFF TO OFFENDER CORRESPONDENCE

DATE: April 13, 2001

TO: THOSE INDICATED

Brenda K. Ross

FROM: BRENDA K. (GIBSON) ROSS, LITIGATIONS COORDINATOR

SUBJECT: ICVC FOLLOW UP SESSION

I've been out of the office for awhile, but I wanted to follow up with everyone involved in the session on March 24, 2001. I got some information from each of you prior to the session, but I'd like to find out what your reactions were after the fact. On a personal note, I'd like to offer my congratulations to each of you on how well you handled yourselves.

So, if you would, please take a couple of moments to complete the attached evaluation. And please feel free to be open and honest; if there's something we need to know about the program, please tell us.

Department of Corrections
Potosi Correctional Center

* * STAFF-TO-OFFENDER CORRESPONDENCE * *

DATE: March 7, 2001

TO: James Hardy #164676 HU: 5A-35
Darry Taylor #508227 HU: 6A-42


FROM: Pat Smith, Asst. Supt. I

SUBJECT: ICVC Visitors

I would like to thank you for your willingness to meet with the staff from Marion, Illinois, on 3/3/01 to discuss the ICVC program and the Impact Panel. Your attitudes and honesty were appreciated and they reflected positively on the program and PCC.

PS/cmc

c: Brenda K. Gibson, ICVC Coordinator (for file)
File

Department of Corrections
Potosi Correctional Center

* * STAFF-TO-OFFENDER CORRESPONDENCE * *

DATE: March 1, 2001

TO: James Hardy #164676 HU: 5-A-38
Darry Taylor ##508227 HU: 6-A-42

FROM: *For Charles R. Dwyer*
Pat Smith, Asst. Supt. I

SUBJECT: Meeting on Saturday 3/3/01

Please be advised that you are requested to report to the Education Building on Saturday, March 3, 2001, at 12:00 noon to meet with visitors from an Illinois Federal Prison prior to the ICVC Victim's Panel.

/cmc

c: Brenda K. Gibson, ICVC Coordinator
Brenda D. Gibson, ICVC Facilitator
Jim Reed, ICVC Facilitator
Ian Wallace, ICVC Facilitator
Housing Unit 5 Control Bubble Staff - 2nd shift
Housing Unit 6 Control Bubble Staff - 2nd shift
Education Officer's Desk
Shift Commander
File

Department of Corrections
Potosi Correctional Center

* M E M O R A N D U M *

DATE: August 14, 2000

TO: JAMES HARDY, #164676 5A-38
DARRY TAYLOR, #508227 6A-07
DAVID WARE, #165270 5B-20
DANNY WOLFE, #32078 5B-08

Brenda K. Gibson

FROM: BRENDA K. GIBSON, LITIGATIONS COORDINATOR

SUBJECT: LETTER OF APPRECIATION

I just wanted to take a minute to say thank you for your assistance on Saturday. The two ladies who toured the institution and spoke with the four of you have indicated that they do want to participate in the Impact of Crime on Victim Classes. I believe that their decisions were, in a large part, directly due to their conversations with you.

I would also like to share with you a statement that Mr. Phillips made on his way out. He told me that he believed that the opportunity to meet with offenders prior to becoming involved with the program was of the utmost importance. He went on to say that he had come into the institution with some preconceived and negative ideas of what the offenders would be like. After speaking with the staff, he was able to change his mind and was now a supporter of the program.

So, again, thank you. I think that we are steadily moving towards what we all want the program to be, with a good base of guest speakers and facilitators, and a great deal of interest from the offenders. Your contributions have been invaluable in getting the program off the ground, both in recruiting offenders, and guest speakers.

cc: Offender Files
Pat Smith

KU032A-OPN
Time - 14:01:59

Missouri Department of Corrections
BOARD OF PROBATION AND PAROLE

Page - 1
Date - 1/27/17

OC ID: 191078 Cycle: 19930305
OC Name: COLLIER, JOHNATHAN L 40-259

Institution/Housing Unit SCCC/004

Minimum Mandatory Release Date N/A

RECEIVED

JAN 30 2017

SCCC Parole Office

RELATING TO RELEASE CONSIDERATION

- ☐ 1. You have been scheduled for a parole hearing .
- ☐ 2. At your request, your case has been closed to further parole consideration.
- ☒ 3. You have been given parole consideration in a parole hearing 12/19/2016. You will be scheduled for a reconsideration hearing 12/00/2021.
- ☐ 4. You have been scheduled for release from confinement on .

Actual release depends upon continued record of good conduct and an acceptable release plan. The release decision is:

☐ Guideline ☐ Below Guideline ☐ Above Guideline

Special Conditions of release are:

Strategy Stipulation Date:

- ☐ 5. Your previously set release date has been cancelled.
- ☐ 6. Your conditional release date has been extended to .
- ☐ 7. The Board has reviewed your appeal. It is the decision of the Board to your appeal.
- ☐ 8. You have been scheduled for a Conditional Release Extension hearing on .

e reasons for the action taken are:

THIS DECISION IS NOT SUBJECT TO APPEAL.

lease at this time would depreciate the seriousness of the present offense
sed on:

- A)Circumstances surrounding the present offense.
B)Community opposition.

ere does not appear to be a reasonable probability at this time that the
fender would live and remain at liberty without again violating the law
sed on:

- A)Poor institutional adjustment.

EXHIBIT

4

Page - 2
Date - 1/27/17

DC ID: 191078 Cycle: 19930305
DC Name: COLLIER, JOHNATHAN L

If you have any questions regarding this decision, please contact your Institutional Parole Officer.

 /RMP (Date Created: 01/24/17)

AR00528-028
Time - 15:04:41

Missouri Department of Corrections
BOARD OF PROBATION AND PAROLE

Page 1
Date - 2/09/17

DOC ID: 191128 Cycle: 19930308
DOC Name: MINKS, JASON E

08/01/2017 00:00

Institution/Housing Unit ERDCC/001

Minimum Mandatory Release Date N/A

RELATING TO RELEASE CONSIDERATION

- ☐ 1. You have been scheduled for a parole hearing .
- ☐ 2. At your request, your case has been closed to further parole consideration.
- ☒ 3. You have been given parole consideration in a parole hearing 01/24/2017. You will be scheduled for a reconsideration hearing 01/00/2022.
- ☐ 4. You have been scheduled for release from confinement on .

Actual release depends upon continued record of good conduct and an acceptable release plan. The release decision is:

☐ Guideline ☐ Below Guideline ☐ Above Guideline

Special Conditions of release are:

Strategy Stipulation Date:

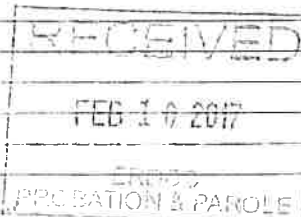
- ☐ 5. Your previously set release date has been cancelled.
- ☐ 6. Your conditional release date has been extended to .
- ☐ 7. The Board has reviewed your appeal. It is the decision of the Board to your appeal.
- ☐ 8. You have been scheduled for a Conditional Release Extension hearing on .

The reasons for the action taken are:

*THIS DECISION IS NOT SUBJECT TO APPEAL.

Release at this time would depreciate the seriousness of the present offense based on:

- A. Circumstances surrounding the present offense.
- B. Use of a weapon.



A-91

AKU032A--OPN
Time - 12:44:23

Missouri Department of Corrections
BOARD OF PROBATION AND PAROLE

Page - 1
Date - 2/28/17

DOC ID: 177760 Cycle: 19910116
DOC Name: WEDLOW, TINO R

Institution/Housing Unit CRCC/004

Minimum Mandatory Release Date N/A

INMATE COPY

RELATING TO RELEASE CONSIDERATION

- ☐ 1. You have been scheduled for a parole hearing .
- ☐ 2. At your request, your case has been closed to further parole consideration.
- ☒ 3. You have been given parole consideration in a parole hearing 02/07/2017. You will be scheduled for a reconsideration hearing 02/00/2022.
- ☐ 4. You have been scheduled for release from confinement on .

Actual release depends upon continued record of good conduct and an acceptable release plan. The release decision is:

☐ Guideline ☐ Below Guideline ☐ Above Guideline

Special Conditions of release are:

Strategy Stipulation Date:

- ☐ 5. Your previously set release date has been cancelled.
- ☐ 6. Your conditional release date has been extended to .
- ☐ 7. The Board has reviewed your appeal. It is the decision of the Board to your appeal.
- ☐ 8. You have been scheduled for a Conditional Release Extension hearing on .

The reasons for the action taken are:

**THIS DECISION IS NOT SUBJECT TO APPEAL.

Release at this time would depreciate the seriousness of the present offense based on:

A. Circumstances surrounding the present offense.

There does not appear to be a reasonable probability at this time that the offender would live and remain at liberty without again violating the law based on:

A. Poor institutional adjustment.

AKU032A-OPN
Time - 8:38:48

Missouri Department of Corrections
BOARD OF PROBATION AND PAROLE

Page - 1
Date - 1/23/17

DOC ID: 169637 Cycle: 15890626
DOC Name: MCELROY, RALPH

Institution/Housing Unit ERDCC/003 C 201

Minimum Mandatory Release Date N/A

RELATING TO RELEASE CONSIDERATION

- ☐ 1. You have been scheduled for a parole hearing .
- ☐ 2. At your request, your case has been closed to further parole consideration.
- ☒ 3. You have been given parole consideration in a parole hearing 12/13/2016. You will be scheduled for a reconsideration hearing 12/00/2021.
- ☐ 4. You have been scheduled for release from confinement on .

Actual release depends upon continued record of good conduct and an acceptable release plan. The release decision is:

☐ Guideline ☐ Below Guideline ☐ Above Guideline

Special Conditions of release are:

Strategy Stipulation Date:

- ☐ 5. Your previously set release date has been cancelled.
- ☐ 6. Your conditional release date has been extended to .
- ☐ 7. The Board has reviewed your appeal. It is the decision of the Board to your appeal.
- ☐ 8. You have been scheduled for a Conditional Release Extension hearing on .

The reasons for the action taken are:

*THIS DECISION IS NOT SUBJECT TO APPEAL.

Release at this time would depreciate the seriousness of the present offense based on:

A. Circumstances surrounding the present offense.

There does not appear to be a reasonable probability at this time that you would live and remain at liberty without again violating the law based on:

A. Poor institutional adjustment.

RECEIVED

JAN 24 2017

A-93

Time - 8:38:48

BOARD OF PROBATION AND PAROLE

Date - 1/23/17

DOC ID: 169637 Cycle: 19890626
DOC Name: MCELROY, RALPH

Institution/Housing Unit ERDCC/003 C 201

Minimum Mandatory Release Date N/A

RELATING TO RELEASE CONSIDERATION

- ☐ 1. You have been scheduled for a parole hearing .
- ☐ 2. At your request, your case has been closed to further parole consideration.
- ☒ 3. You have been given parole consideration in a parole hearing 12/13/2016. You will be scheduled for a reconsideration hearing 12/00/2021.
- ☐ 4. You have been scheduled for release from confinement on .

Actual release depends upon continued record of good conduct and an acceptable release plan. The release decision is:

☐ Guideline ☐ Below Guideline ☐ Above Guideline

Special Conditions of release are:

Strategy Stipulation Date:

- ☐ 5. Your previously set release date has been cancelled.
- ☐ 6. Your conditional release date has been extended to .
- ☐ 7. The Board has reviewed your appeal. It is the decision of the Board to your appeal.
- ☐ 8. You have been scheduled for a Conditional Release Extension hearing on .

he reasons for the action taken are:

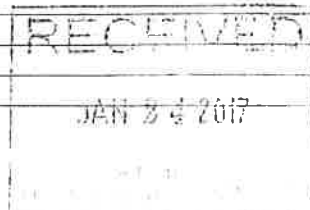
*THIS DECISION IS NOT SUBJECT TO APPEAL.

Release at this time would depreciate the seriousness of the present offense based on:

A. Circumstances surrounding the present offense.

There does not appear to be a reasonable probability at this time that you would live and remain at liberty without again violating the law based on:

A. Poor institutional adjustment.



A-94

AKU032A-OPN
Time - 7:56:54

Missouri Department of Corrections
BOARD OF PROBATION AND PAROLE

Page - 1
Date - 4/11/17

DOC ID: 171590 Cycle: 19891121
DOC Name: ROBERTS, SIDNEY JR

4D-208

Institution/Housing Unit JCCC/004

Minimum Mandatory Release Date N/A

RELATING TO RELEASE CONSIDERATION

- ☐ 1. You have been scheduled for a parole hearing .
- ☐ 2. At your request, your case has been closed to further parole consideration.
- ☒ 3. You have been given parole consideration in a parole hearing 03/09/2017. You will be scheduled for a reconsideration hearing 03/00/2021.
- ☐ 4. You have been scheduled for release from confinement on .

Actual release depends upon continued record of good conduct and an acceptable release plan. The release decision is:

☐ Guideline ☐ Below Guideline ☐ Above Guideline

Special Conditions of release are:

Strategy Stipulation Date:

- ☐ 5. Your previously set release date has been cancelled.
- ☐ 6. Your conditional release date has been extended to .
- ☐ 7. The Board has reviewed your appeal. It is the decision of the Board to your appeal.
- ☐ 8. You have been scheduled for a Conditional Release Extension hearing on .

The reasons for the action taken are:

**THIS DECISION IS NOT SUBJECT TO APPEAL.

*Release at this time would depreciate the seriousness of the present offense based on:

A. Circumstances surrounding the present offense.

AKU032A-OPN
Time - 13:08:48

Missouri Department of Corrections
BOARD OF PROBATION AND PAROLE

Page - 1
Date - 03/30/17

DOC ID: 165253 Cycle: 19880712
DOC Name: ROLAND, THERON R II

Institution/Housing Unit CRCC/003B 234B

Minimum Mandatory Release Date N/A

RELATING TO RELEASE CONSIDERATION

- ☐ 1. You have been scheduled for a parole hearing .
- ☐ 2. At your request, your case has been closed to further parole consideration.
- ☒ 3. You have been given parole consideration in a parole hearing 01/03/2017. You will be scheduled for a reconsideration hearing 01/00/2022.
- ☐ 4. You have been scheduled for release from confinement on .

Actual release depends upon continued record of good conduct and an acceptable release plan. The release decision is:

☐ Guideline ☐ Below Guideline ☐ Above Guideline

Special Conditions of release are:

Strategy Stipulation Date:

- ☐ 5. Your previously set release date has been cancelled.
- ☐ 6. Your conditional release date has been extended to .
- ☐ 7. The Board has reviewed your appeal. It is the decision of the Board to your appeal.
- ☐ 8. You have been scheduled for a Conditional Release Extension hearing on .

The reasons for the action taken are:

**THIS DECISION IS NOT SUBJECT TO APPEAL.

Release at this time would depreciate the seriousness of the present offense based upon:

A. Circumstances Surrounding the Present Offense

Time - 13:46:44

BOARD OF PROBATION AND PAROLE

Date - 3/27/17

DOC ID: 164545 Cycle: 19880517
DOC Name: BRADSHAW, KEVIN C

Hu 6A-47
Porter-MEDICAL

Institution/Housing Unit PCC/006

Minimum Mandatory Release Date N/A

RELATING TO RELEASE CONSIDERATION

- ☐ 1. You have been scheduled for a parole hearing .
- ☐ 2. At your request, your case has been closed to further parole consideration.
- ☒ 3. You have been given parole consideration in a parole hearing 03/01/2017. You will be scheduled for a reconsideration hearing 03/00/2021.
- ☐ 4. You have been scheduled for release from confinement on .

Actual release depends upon continued record of good conduct and an acceptable release plan. The release decision is:

☐ Guideline ☐ Below Guideline ☐ Above Guideline

Special Conditions of release are:

Strategy Stipulation Date:

- ☐ 5. Your previously set release date has been cancelled.
- ☐ 6. Your conditional release date has been extended to .
- ☐ 7. The Board has reviewed your appeal. It is the decision of the Board to your appeal.
- ☐ 8. You have been scheduled for a Conditional Release Extension hearing on .

The reasons for the action taken are:

****THIS DECISION IS NOT SUBJECT TO APPEAL.**

Release at this time would depreciate the seriousness of the present offense based on:

A) Circumstances surrounding the present offense.

AKU032A-OPN
Time - 9:04:22

Missouri Department of Corrections
BOARD OF PROBATION AND PAROLE

Page - 1
Date - 2/10/17

DOC ID: 181041 Cycle: 19900214
DOC Name: EDEN, WALTER

Institution/Housing Unit CRCC/003 [1295]

Minimum Mandatory Release Date N/A

RELATING TO RELEASE CONSIDERATION

- ☐ 1. You have been scheduled for a parole hearing .
- ☐ 2. At your request, your case has been closed to further parole consideration.
- ☒ 3. You have been given parole consideration in a parole hearing 01/03/2017. You will be scheduled for a reconsideration hearing 01/00/2022.
- ☐ 4. You have been scheduled for release from confinement on .

Actual release depends upon continued record of good conduct and an acceptable release plan. The release decision is:

☐ Guideline ☐ Below Guideline ☐ Above Guideline

Special Conditions of release are:

Strategy Stipulation Date:

- ☐ 5. Your previously set release date has been cancelled.
- ☐ 6. Your conditional release date has been extended to .
- ☐ 7. The Board has reviewed your appeal. It is the decision of the Board to your appeal.
- ☐ 8. You have been scheduled for a Conditional Release Extension hearing on .

The reasons for the action taken are:

**THIS DECISION IS NOT SUBJECT TO APPEAL.

Release at this time would depreciate the seriousness of the present offense based on:

A: Circumstances surrounding the present offense.

There does not appear to be a reasonable probability at this time that you would live and remain at liberty without again violating the law based upon:

A: Poor institutional adjustment.

AKU032A-OPN
Time - 14:03:34

Missouri Department of Corrections
BOARD OF PROBATION AND PAROLE

Page - 1
Date - 4/26/17

DOC ID: 164041 Cycle: 19880331
DOC Name: WILSON, LIDDELL

Institution/Housing Unit ERDCC/003 C 114

APR 27 2017

Minimum Mandatory Release Date 06/01/2018

RELATING TO RELEASE CONSIDERATION

- ☐ 1. You have been scheduled for a parole hearing .
- ☐ 2. At your request, your case has been closed to further parole consideration.
- ☒ 3. You have been given parole consideration in a parole hearing 04/12/2017. You will be scheduled for a reconsideration hearing 04/00/2022.
- ☐ 4. You have been scheduled for release from confinement on .

Actual release depends upon continued record of good conduct and an acceptable release plan. The release decision is:

☐ Guideline ☐ Below Guideline ☐ Above Guideline

Special Conditions of release are:

Strategy Stipulation Date:

- ☐ 5. Your previously set release date has been cancelled.
- ☐ 6. Your conditional release date has been extended to .
- ☐ 7. The Board has reviewed your appeal. It is the decision of the Board to your appeal.
- ☐ 8. You have been scheduled for a Conditional Release Extension hearing on .

The reasons for the action taken are:

****THIS DECISION IS NOT SUBJECT TO APPEAL.**

Release at this time would depreciate the seriousness of the present offense based on:

- A. Circumstances surrounding the present offense.
- B. Use of a weapon.
- C. Community opposition.

AKU032A-OPN
Time - 12:38:18

Missouri Department of Correction
BOARD OF PROBATION AND PAROLE

Page - 1
Date - 2/23/17

DOC ID: 182817 Cycle: 19911120
DOC Name: RAMSEY, EDWARD L

Institution/Housing Unit CRCC/005
Minimum Mandatory Release Date N/A

RELATING TO RELEASE CONSIDERATION

- ☐ 1. You have been scheduled for a parole hearing .
- ☐ 2. At your request, your case has been closed to further parole consideration.
- ☐ 3. You have been given parole consideration in a parole hearing . You will be scheduled for a reconsideration hearing .
- ☒ 4. You have been scheduled for release from confinement on 12/06/2021.

Actual release depends upon continued record of good conduct and an acceptable release plan. The release decision is:

☐ Guideline ☐ Below Guideline ☐ Above Guideline

Special Conditions of release are:
Anger Management, No Contact With Victims Family,
No Drinking, Substance Abuse Program

Strategy Stipulation Date:

- ☐ 5. Your previously set release date has been cancelled.
- ☐ 6. Your conditional release date has been extended to .
- ☐ 7. The Board has reviewed your appeal. It is the decision of the Board to your appeal.
- ☐ 8. You have been scheduled for a Conditional Release Extension hearing on .

The reasons for the action taken are:

**THIS DECISION IS NOT SUBJECT TO APPEAL.

Release at this time would depreciate the seriousness of the present offense based upon:

- A. Circumstances surrounding the present offense
B. Community opposition

A-100



SECOND REGULAR SESSION
 [TRULY AGREED TO AND FINALLY PASSED]
 HOUSE COMMITTEE SUBSTITUTE FOR
 SENATE SUBSTITUTE NO. 2 FOR
 SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 590

98TH GENERAL ASSEMBLY

2016

4323H.06T

AN ACT

To repeal sections 565.020, 565.030, 565.032, and 565.040, RSMo, and to enact in lieu thereof seven new sections relating to crime, with penalty provisions, an emergency clause for certain sections, and an effective date for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 565.020, 565.030, 565.032, and 565.040, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 558.047, 565.020, 565.030, 565.032, 565.033, 565.034, and 565.040, to read as follows:

558.047. 1. (1) Any person sentenced to a term of imprisonment for life without eligibility for parole before August 28, 2016, who was under eighteen years of age at the time of the commission of the offense or offenses, may submit to the parole board a petition for a review of his or her sentence, regardless of whether the case is final for purposes of appeal, after serving twenty-five years of incarceration on the sentence of life without parole.

(2) Any person found guilty of murder in the first degree who was sentenced on or after August 28, 2016, to a term of life imprisonment with eligibility for parole or a term of imprisonment of not less than thirty years and not to exceed forty years, who was under eighteen years of age at the time of the commission of the offense or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Case 2:17-cv-04082-NKL Document 1-2 Filed 05/18/17 Page 1 of 11

EXHIBIT

6

A-101

13 offenses may submit to the parole board a petition for a review of his
14 or her sentence, regardless of whether the case is final for purposes of
15 appeal, after serving twenty-five years of incarceration, and a
16 subsequent petition after serving thirty-five years of incarceration.

17 2. A copy of the petition shall be served on the office of the
18 prosecutor in the judicial circuit of original jurisdiction. The petition
19 shall include the person's statement that he or she was under eighteen
20 years of age at the time of the offense, is eligible to petition under this
21 section, and requests that his or her sentence be reviewed.

22 3. If any of the information required in subsection 2 of
23 this section is missing from the petition, or if proof of service on
24 the prosecuting or circuit attorney is not provided, the parole board
25 shall return the petition to the person and advise him or her that the
26 matter cannot be considered without the missing information.

27 4. The parole board shall hold a hearing and determine if the
28 defendant shall be granted parole. At such a hearing, the victim or
29 victim's family members shall retain their rights under section 595.209.

30 5. In a parole review hearing under this section, the board shall
31 consider, in addition to the factors listed in section 565.033:

32 (1) Efforts made toward rehabilitation since the offense or
33 offenses occurred, including participation in educational, vocational,
34 or other programs during incarceration, when available;

35 (2) The subsequent growth and increased maturity of the person
36 since the offense or offenses occurred;

37 (3) Evidence that the person has accepted accountability for the
38 offense or offenses, except in cases where the person has maintained
39 his or her innocence;

40 (4) The person's institutional record during incarceration; and

41 (5) Whether the person remains the same risk to society as he or
42 she did at the time of the initial sentencing.

565.020. 1. A person commits the [crime] offense of murder in the first
2 degree if he or she knowingly causes the death of another person after
3 deliberation upon the matter.

4 2. The offense of murder in the first degree is a class A felony, and, if
5 a person is eighteen years of age or older at the time of the offense, the
6 punishment shall be either death or imprisonment for life without eligibility for
7 probation or parole, or release except by act of the governor[; except that,]. If a
Case 2:17-cv-04082-NKL Document 1-2 Filed 05/18/17 Page 2 of 11

8 person has not reached his [sixteenth] or **her eighteenth** birthday at the time
9 of the commission of the [crime] **offense**, the punishment shall be [imprisonment
10 for life without eligibility for probation or parole, or release except by act of the
11 governor] **as provided under section 565.033.**

565.030. 1. Where murder in the first degree is charged but not
2 submitted or where the state waives the death penalty, the submission to the
3 trier and all subsequent proceedings in the case shall proceed as in all other
4 criminal cases [with a single stage trial in which guilt and punishment are
5 submitted together].

6 2. Where murder in the first degree is submitted to the trier without a
7 waiver of the death penalty, the trial shall proceed in two stages before the same
8 trier. At the first stage the trier shall decide only whether the defendant is guilty
9 or not guilty of any submitted offense. The issue of punishment shall not be
10 submitted to the trier at the first stage. If an offense is charged other than
11 murder in the first degree in a count together with a count of murder in the first
12 degree, the trial judge shall assess punishment on any such offense according to
13 law, after the defendant is found guilty of such offense and after he finds the
14 defendant to be a prior offender pursuant to chapter 558.

15 3. If murder in the first degree is submitted and the death penalty was
16 not waived but the trier finds the defendant guilty of a lesser homicide, a second
17 stage of the trial shall proceed [at which the only issue shall be the punishment
18 to be assessed and declared. No further evidence shall be received. If the trier
19 is a jury it shall be instructed on the law] **as in all other criminal cases.** The
20 attorneys may then argue as in other criminal cases the issue of punishment,
21 after which the trier shall assess and declare the punishment as in all other
22 criminal cases.

23 4. If the trier at the first stage of a trial where the death penalty was not
24 waived finds the defendant guilty of murder in the first degree, a second stage of
25 the trial shall proceed at which the only issue shall be the punishment to be
26 assessed and declared. Evidence in aggravation and mitigation of punishment,
27 including but not limited to evidence supporting any of the aggravating or
28 mitigating circumstances listed in subsection 2 or 3 of section 565.032, may be
29 presented subject to the rules of evidence at criminal trials. Such evidence may
30 include, within the discretion of the court, evidence concerning the murder victim
31 and the impact of the [crime] **offense** upon the family of the victim and
32 others. Rebuttal and surrebuttal evidence may be presented. The state shall be

33 the first to proceed. If the trier is a jury it shall be instructed on the law. The
34 attorneys may then argue the issue of punishment to the jury, and the state shall
35 have the right to open and close the argument. The trier shall assess and declare
36 the punishment at life imprisonment without eligibility for probation, parole, or
37 release except by act of the governor:

38 (1) If the trier finds by a preponderance of the evidence that the
39 defendant is intellectually disabled; or

40 (2) If the trier does not find beyond a reasonable doubt at least one of the
41 statutory aggravating circumstances set out in subsection 2 of section 565.032;
42 or

43 (3) If the trier concludes that there is evidence in mitigation of
44 punishment, including but not limited to evidence supporting the statutory
45 mitigating circumstances listed in subsection 3 of section 565.032, which is
46 sufficient to outweigh the evidence in aggravation of punishment found by the
47 trier; or

48 (4) If the trier decides under all of the circumstances not to assess and
49 declare the punishment at death. If the trier is a jury it shall be so instructed.
50 If the trier assesses and declares the punishment at death it shall, in its findings
51 or verdict, set out in writing the aggravating circumstance or circumstances listed
52 in subsection 2 of section 565.032 which it found beyond a reasonable doubt.
53 If the trier is a jury it shall be instructed before the case is submitted that if it
54 is unable to decide or agree upon the punishment the court shall assess and
55 declare the punishment at life imprisonment without eligibility for probation,
56 parole, or release except by act of the governor or death. The court shall follow
57 the same procedure as set out in this section whenever it is required to determine
58 punishment for murder in the first degree.

59 5. Upon written agreement of the parties and with leave of the court, the
60 issue of the defendant's intellectual disability may be taken up by the court and
61 decided prior to trial without prejudicing the defendant's right to have the issue
62 submitted to the trier of fact as provided in subsection 4 of this section.

63 6. As used in this section, the terms "intellectual disability" or
64 "intellectually disabled" refer to a condition involving substantial limitations in
65 general functioning characterized by significantly subaverage intellectual
66 functioning with continual extensive related deficits and limitations in two or
67 more adaptive behaviors such as communication, self-care, home living, social
68 skills, community use, self-direction, health and safety, functional academics,

69 leisure and work, which conditions are manifested and documented before
70 eighteen years of age.

71 7. The provisions of this section shall only govern offenses committed on
72 or after August 28, 2001.

565.032. 1. In all cases of murder in the first degree for which the death
2 penalty is authorized, the judge in a jury-waived trial shall consider, or [he] shall
3 include in his or her instructions to the jury for it to consider:

4 (1) Whether a statutory aggravating circumstance or circumstances
5 enumerated in subsection 2 of this section is established by the evidence beyond
6 a reasonable doubt; and

7 (2) If a statutory aggravating circumstance or circumstances is proven
8 beyond a reasonable doubt, whether the evidence as a whole justifies a sentence
9 of death or a sentence of life imprisonment without eligibility for probation,
10 parole, or release except by act of the governor. In determining the issues
11 enumerated in subdivisions (1) and (2) of this subsection, the trier shall consider
12 all evidence which it finds to be in aggravation or mitigation of punishment,
13 including evidence received during the first stage of the trial and evidence
14 supporting any of the statutory aggravating or mitigating circumstances set out
15 in subsections 2 and 3 of this section. If the trier is a jury, it shall not be
16 instructed upon any specific evidence which may be in aggravation or mitigation
17 of punishment, but shall be instructed that each juror shall consider any evidence
18 which he or she considers to be aggravating or mitigating.

19 2. Statutory aggravating circumstances for a murder in the first degree
20 offense shall be limited to the following:

21 (1) The offense was committed by a person with a prior record of
22 conviction for murder in the first degree, or the offense was committed by a
23 person who has one or more serious assaultive criminal convictions;

24 (2) The murder in the first degree offense was committed while the
25 offender was engaged in the commission or attempted commission of another
26 unlawful homicide;

27 (3) The offender by his or her act of murder in the first degree knowingly
28 created a great risk of death to more than one person by means of a weapon or
29 device which would normally be hazardous to the lives of more than one person;

30 (4) The offender committed the offense of murder in the first degree for
31 himself or herself or another, for the purpose of receiving money or any other
32 thing of monetary value from the victim of the murder or another;

- 33 (5) The murder in the first degree was committed against a judicial
34 officer, former judicial officer, prosecuting attorney or former prosecuting
35 attorney, circuit attorney or former circuit attorney, assistant prosecuting
36 attorney or former assistant prosecuting attorney, assistant circuit attorney or
37 former assistant circuit attorney, peace officer or former peace officer, elected
38 official or former elected official during or because of the exercise of his official
39 duty;
- 40 (6) The offender caused or directed another to commit murder in the first
41 degree or committed murder in the first degree as an agent or employee of
42 another person;
- 43 (7) The murder in the first degree was outrageously or wantonly vile,
44 horrible or inhuman in that it involved torture, or depravity of mind;
- 45 (8) The murder in the first degree was committed against any peace
46 officer, or fireman while engaged in the performance of his **or her** official duty;
- 47 (9) The murder in the first degree was committed by a person in, or who
48 has escaped from, the lawful custody of a peace officer or place of lawful
49 confinement;
- 50 (10) The murder in the first degree was committed for the purpose of
51 avoiding, interfering with, or preventing a lawful arrest or custody in a place of
52 lawful confinement, of himself **or herself** or another;
- 53 (11) The murder in the first degree was committed while the defendant
54 was engaged in the perpetration or was aiding or encouraging another person to
55 perpetrate or attempt to perpetrate a felony of any degree of rape, sodomy,
56 burglary, robbery, kidnapping, or any felony offense in chapter 195 **or 579**;
- 57 (12) The murdered individual was a witness or potential witness in any
58 past or pending investigation or past or pending prosecution, and was killed as
59 a result of his **or her** status as a witness or potential witness;
- 60 (13) The murdered individual was an employee of an institution or facility
61 of the department of corrections of this state or local correction agency and was
62 killed in the course of performing his **or her** official duties, or the murdered
63 individual was an inmate of such institution or facility;
- 64 (14) The murdered individual was killed as a result of the hijacking of an
65 airplane, train, ship, bus or other public conveyance;
- 66 (15) The murder was committed for the purpose of concealing or
67 attempting to conceal any felony offense defined in chapter 195 **or 579**;
- 68 (16) The murder was committed for the purpose of causing or attempting

69 to cause a person to refrain from initiating or aiding in the prosecution of a felony
70 offense defined in chapter 195 or 579;

71 (17) The murder was committed during the commission of [a crime] an
72 offense which is part of a pattern of criminal street gang activity as defined in
73 section 578.421.

74 3. Statutory mitigating circumstances shall include the following:

75 (1) The defendant has no significant history of prior criminal activity;

76 (2) The murder in the first degree was committed while the defendant was
77 under the influence of extreme mental or emotional disturbance;

78 (3) The victim was a participant in the defendant's conduct or consented
79 to the act;

80 (4) The defendant was an accomplice in the murder in the first degree
81 committed by another person and his or her participation was relatively minor;

82 (5) The defendant acted under extreme duress or under the substantial
83 domination of another person;

84 (6) The capacity of the defendant to appreciate the criminality of his or
85 her conduct or to conform his or her conduct to the requirements of law was
86 substantially impaired;

87 (7) The age of the defendant at the time of the [crime] offense.

565.033. 1. A person found guilty of murder in the first degree
2 who was under the age of eighteen at the time of the commission of the
3 offense shall be sentenced to a term of life without eligibility for
4 probation or parole as provided in section 565.034, life imprisonment
5 with eligibility for parole, or not less than thirty years and not to
6 exceed forty years imprisonment.

7 2. When assessing punishment in all first degree murder cases in
8 which the defendant was under the age of eighteen at the time of the
9 commission of the offense or offenses, the judge in a jury-waived trial
10 shall consider, or the judge shall include in instructions to the jury for
11 it to consider, the following factors:

12 (1) The nature and circumstances of the offense committed by
13 the defendant;

14 (2) The degree of the defendant's culpability in light of his or her
15 age and role in the offense;

16 (3) The defendant's age, maturity, intellectual capacity, and
17 mental and emotional health and development at the time of the

18 offense;

19 (4) The defendant's background, including his or her family,
20 home, and community environment;

21 (5) The likelihood for rehabilitation of the defendant;

22 (6) The extent of the defendant's participation in the offense;

23 (7) The effect of familial pressure or peer pressure on the
24 defendant's actions;

25 (8) The nature and extent of the defendant's prior criminal
26 history, including whether the offense was committed by a person with
27 a prior record of conviction for murder in the first degree, or one or
28 more serious assaultive criminal convictions;

29 (9) The effect of characteristics attributable to the defendant's
30 youth on the defendant's judgment; and

31 (10) A statement by the victim or the victim's family member as
32 provided by section 557.041 until December 31, 2016, and beginning
33 January 1, 2017, section 595.229.

565.034. 1. If the state intends to seek a sentence of life without
2 eligibility for probation or parole for a person charged with murder in
3 the first degree who was under the age of eighteen at the time of the
4 commission of the offense, the state must file with the court and serve
5 upon the person a written notice of intent to seek life without
6 eligibility for probation or parole. This notice shall be provided within
7 one hundred twenty days of the person's arraignment upon an
8 indictment or information charging the person with murder in the first
9 degree. For good cause shown, the court may extend the period for
10 service and filing of the notice. Any notice of intent to seek life
11 without eligibility for probation or parole shall include a listing of the
12 statutory aggravating circumstances, as provided by subsection 6 of
13 this section, upon which the state will rely in seeking that sentence.

14 2. Notwithstanding any other provisions of law, where the state
15 files a notice of intent to seek life without eligibility for probation or
16 parole pursuant to this section, the defendant shall be entitled to an
17 additional sixty days for the purpose of filing new motions or
18 supplementing pending motions.

19 3. A notice of intent to seek life without eligibility for probation
20 or parole pursuant to this section may be withdrawn at any time by a
21 written notice of withdrawal filed with the court and served upon the

22 defendant. Once withdrawn, the notice of intent to seek life without
23 eligibility for probation or parole shall not be refiled.

24 4. After the state has filed a proper notice of intent to seek life
25 without eligibility for probation or parole pursuant to this section, the
26 trial shall proceed in two stages before the same trier. At the first
27 stage the trier shall decide only whether the person is guilty or not
28 guilty of any submitted offense. The issue of punishment shall not be
29 submitted to the trier at the first stage.

30 5. If the trier at the first stage of the trial finds the person guilty
31 of murder in the first degree, a second stage of the trial shall proceed
32 at which the only issue shall be the punishment to be assessed and
33 declared.

34 6. A person found guilty of murder in the first degree who was
35 under the age of eighteen at the time of the commission of the offense
36 is eligible for a sentence of life without eligibility for probation or
37 parole only if a unanimous jury, or a judge in a jury-waived sentencing,
38 finds beyond a reasonable doubt that:

39 (1) The victim received physical injuries personally inflicted by
40 the defendant and the physical injuries inflicted by the defendant
41 caused the death of the victim; and

42 (2) The defendant was found guilty of first degree murder and
43 one of the following aggravating factors was present:

44 (a) The defendant has a previous conviction for first degree
45 murder, assault in the first degree, rape in the first degree, or sodomy
46 in the first degree;

47 (b) The murder was committed during the perpetration of any
48 other first degree murder, assault in the first degree, rape in the first
49 degree, or sodomy in the first degree;

50 (c) The murder was committed as part of an agreement with a
51 third party that the defendant was to receive money or any other thing
52 of monetary value in exchange for the commission of the offense;

53 (d) The defendant inflicted severe pain on the victim for the
54 pleasure of the defendant or for the purpose of inflicting torture;

55 (e) The defendant killed the victim after he or she was bound or
56 otherwise rendered helpless by the defendant or another person;

57 (f) The defendant, while killing the victim or immediately
58 thereafter, purposely mutilated or grossly disfigured the body of the

59 victim by an act or acts beyond that necessary to cause his or her
60 death;

61 (g) The defendant, while killing the victim or immediately
62 thereafter, had sexual intercourse with the victim or sexually violated
63 him or her;

64 (h) The defendant killed the victim for the purposes of causing
65 suffering to a third person; or

66 (i) The first degree murder was committed against a current or
67 former: judicial officer, prosecuting attorney or assistant prosecuting
68 attorney, law enforcement officer, firefighter, state or local corrections
69 officer; or against a witness or potential witness to a past or pending
70 investigation or prosecution, during or because of the exercise of their
71 official duty or status as a witness.

565.040. 1. In the event that the death penalty provided in this chapter
2 is held to be unconstitutional, any person convicted of murder in the first degree
3 shall be sentenced by the court to life imprisonment without eligibility for
4 probation, parole, or release except by act of the governor, with the exception that
5 when a specific aggravating circumstance found in a case is held to be
6 unconstitutional or invalid for another reason, the supreme court of Missouri is
7 further authorized to remand the case for resentencing or retrial of the
8 punishment pursuant to subsection 5 of section [565.036] 565.035.

9 2. In the event that any death sentence imposed pursuant to this chapter
10 is held to be unconstitutional, the trial court which previously sentenced the
11 defendant to death shall cause the defendant to be brought before the court and
12 shall sentence the defendant to life imprisonment without eligibility for
13 probation, parole, or release except by act of the governor, with the exception that
14 when a specific aggravating circumstance found in a case is held to be
15 inapplicable, unconstitutional or invalid for another reason, the supreme court
16 of Missouri is further authorized to remand the case for retrial of the punishment
17 pursuant to subsection 5 of section 565.035.

Section B. The repeal and reenactment of section 565.032 of this act shall
2 become effective on January 1, 2017.

Section C. Because of the need to adopt a punishment scheme for first
2 degree murderers of a certain age after the United States Supreme Court
3 declared as unconstitutional the only punishment available under Missouri law
4 for such offenders, the repeal and reenactment of section 565.020, and the

5 enactment of sections 558.047, 565.033, and 565.034 of this act is deemed
6 necessary for the immediate preservation of the public health, welfare, peace and
7 safety, and is hereby declared to be an emergency act within the meaning of the
8 constitution, and the repeal and reenactment of section 565.020, and the
9 enactment of sections 558.047, 565.033, and 565.034 of this act shall be in full
10 force and effect upon its passage and approval.

✓

FILED

FORM B

STATE OF MISSOURI

CITY OF ST. LOUIS

SS

JAN 10, 1997

MAVIS T. THOMPSON
CLERK, CIRCUIT COURT
BY MAVIS T. THOMPSON DEPUTY

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

STATE OF MISSOURI

Plaintiff,

vs.

TYRONE DESANTE MORANT,

Defendant.

Cause No. 951-4326 B

Division No. 11

SENTENCE AND JUDGMENT

Now on this 10th day of JANUARY, 19 97, comes Mr. Mark Hagemaster, Attorney for the State of Missouri, and Defendant in person and by Ms. Sandra Moore-Dyson, Attorney for Defendant, in open court.

COUNT I

Whereupon, said Defendant is informed by this Court that he/she has heretofore on the 22nd day of November, 19 96,

☒ [X]
[]

Been found guilty by the (Court/Jury)
Pleaded guilty

Offense date: 9/17/95

to the offense of (charge and degree) Murder First degree, a Class A felony,
and being now asked by the Court if he/she has any legal cause to show why Sentence and Judgment should not be pronounced against him/her according to the law, and still failing to show such cause, it is therefore the Sentence, Order and Judgment of this Court that Defendant, Tyrone Desante Morant

, (having been found guilty/having pleaded guilty), as aforesaid,
(and in accordance with the punishment heretofore assessed by the jury), be and is hereby ordered committed to the Missouri Department of Corrections for a period of life years, said sentence to be served concurrently/consecutively to the sentence imposed in (offense, cause number, court and date of conviction)

without eligibility for probation or parole.

STATE OF MISSOURI, }
City of St. Louis } ss.

I, Freeman R. Bosley, Jr., Clerk of the Circuit Court of the City of St. Louis, certify that the foregoing is a full, true and complete copy of the Sentence and Judgment in Cause Number 95A-4326B

the State of Missouri. Plaintiff. vs. Gyrene Desante Morant
defendant, as fully the same appears of record and on file in my office.

WITNESS my hand and the seal of said Court hereto affixed, at office, in the
City of St. Louis, this 10th day of January 1996

(SEAL)



Marvin D. Thompson
~~Marvin D. Thompson~~
Clerk of the Circuit Court

By

N. Welch
Deputy Clerk

SUPPLEMENTAL SENTENCE AND JUDGMENT FORM

Cause No. 951-4326 B

Division No. 11

Offense date: 9/17/95

COUNT II

Whereupon, said Defendant is informed by this Court that he/she has heretofore on the 22nd day of November, 19 96,

☒ Been found guilty by the (Court/Jury)
☐ Plead guilty

on Count II to the offense (offense and degree) Armed criminal action, a Class A felony and being now asked by the Court if he/she has any legal cause to show why Sentence and Judgment should not be pronounced against him/her according to the law, and still failing to show such cause, it is therefore the Sentence, Order, and Judgment of this Court that Defendant, Tyrone Desante Morant (having been found guilty/~~having pleaded guilty~~) as aforesaid, (and in accordance with the punishment heretofore assessed by the Jury) be and is hereby ordered committed to the Missouri Department of Corrections for a period of 30 years, said sentence to be served (~~concurrently~~/consecutively) to the sentence imposed in (offense, cause number, court and date of conviction):

Count I.

Page 2 of

STATE OF MISSOURI, } ss.
City of St. Louis

I, Freeman R. Bosley, Jr., Clerk of the Circuit Court of the City of St. Louis, certify that the foregoing is a full, true and complete copy of the Sentence and Judgment in Cause Number. 951-4326 B

the State of Missouri. Plaintiff. vs. Upon Legante Marant
defendant, as fully the same appears of record and on file in my office.

WITNESS my hand and the seal of said Court hereto affixed, at office, in the
City of St. Louis, this 18th day of January 1997

(SEAL)



Morris D. Thompson
~~_____~~
Clerk of the Circuit Court

By M. Welch
Deputy Clerk

SUPPLEMENTAL SENTENCE AND JUDGMENT FORM

Cause No. 951-4326 B

Division No. 11

Offense date: 9/17/95

COUNT III

Whereupon, said Defendant is informed by this Court that he/~~she~~ has heretofore on the 22nd day of November, 19 96,

☒ Been found guilty by the (Court/Jury)
☐ Plead guilty

on Count III to the offense (offense and degree) Assault First degree,
a Class B felony and being now asked by the Court if he/~~she~~ has any
legal cause to show why Sentence and Judgment should not be pronounced against him/her
according to the law, and still failing to show such cause, it is therefore the Sentence, Order,
and Judgment of this Court that Defendant, Tyrone Desante Moran +

(having been found guilty/~~having pleaded guilty~~) as aforesaid,
(and in accordance with the punishment heretofore assessed by the Jury) be and is hereby
ordered committed to the Missouri Department of Corrections for a period of 15 years,
said sentence to be served (~~concurrently~~/consecutively) to the sentence imposed in (offense,
cause number, court and date of conviction): _____

Count II.

Page 3 of

STATE OF MISSOURI, }
City of St. Louis } ss.

I, Freeman R. Bosley, Jr., Clerk of the Circuit Court of the City of St. Louis, certify that the foregoing is a full, true and complete copy of the Sentence and Judgment in Cause Number, 951-4326B

the State of Missouri, Plaintiff, vs. Byron Wessante Morant
defendant, as fully the same appears of record and on file in my office.

WITNESS my hand and the seal of said Court hereto affixed, at office, in the
City of St. Louis, this 10th day of January 1997

(SEAL)



Marion D. Thompson
~~_____~~
Clerk of the Circuit Court

By

N. Welch
Deputy Clerk

SUPPLEMENTAL SENTENCE AND JUDGMENT FORM

Cause No. 951-4326 B

Division No. 11

Offense date: 9/17/95

COUNT IV

Whereupon, said Defendant is informed by this Court that he/~~she~~ has heretofore on the 22nd day of November, 1996.

☒ Been found guilty by the (Court/Jury)
☐ Plead guilty

on Count IV to the offense (offense and degree) Armed criminal action,
a Class A Felony and being now asked by the Court if he/~~she~~ has any
 legal cause to show why Sentence and Judgment should not be pronounced against him/her
 according to the law, and still failing to show such cause, it is therefore the Sentence, Order,
 and Judgment of this Court that Defendant, Tyrone Desante Morant

(having been found guilty/~~having pleaded guilty~~) as aforesaid,
 (and in accordance with the punishment heretofore assessed by the Jury) be and is hereby
 ordered committed to the Missouri Department of Corrections for a period of 30 years,
 said sentence to be served (~~concurrently~~/consecutively) to the sentence imposed in (offense,
 cause number, court and date of conviction):

Count III.

Page 4 of

STATE OF MISSOURI. }
City of St. Louis } ss.

I, Freeman R. Bosley, Jr., Clerk of the Circuit Court of the City of St. Louis, certify that the foregoing is a full, true and complete copy of the Sentence and Judgment in Cause Number. 951-04326B

the State of Missouri, Plaintiff, vs. Ripon Desante Morant
defendant, as fully the same appears of record and on file in my office.

WITNESS my hand and the seal of said Court hereto affixed, at office, in the
City of St. Louis, this 10th day of January 1997

(SEAL)



Morris F. Thompson
~~Freeman R. Bosley, Jr.~~
Clerk of the Circuit Court

By N. Welch
Deputy Clerk

SUPPLEMENTAL SENTENCE AND JUDGMENT FORM

Cause No. 951-4326 B

Division No. 11

Offense date: 9/17/95

COUNT V

Whereupon, said Defendant is informed by this Court that he/she ~~has~~ heretofore on the 22nd day of November, 19 96,

☒ Been found guilty by the (Court/Jury)
☐ Plead guilty

on Count V to the offense (offense and degree) Assault first degree,
a Class B Felony and being now asked by the Court if he/she has any

legal cause to show why Sentence and Judgment should not be pronounced against him/her according to the law, and still failing to show such cause, it is therefore the Sentence, Order and Judgment of this Court that Defendant, Tyrone Desanta Morant

(having been found guilty/~~having pleaded guilty~~) as aforesaid, (and in accordance with the punishment heretofore assessed by the Jury) be and is hereby ordered committed to the Missouri Department of Corrections for a period of 15 years, said sentence to be served (~~concurrently~~/consecutively) to the sentence imposed in (offense, cause number, court and date of conviction):

Count IV,

Page 5 of 5

STATE OF MISSOURI. }
City of St. Louis } ss.

I, Freeman R. Bosley, Jr., Clerk of the Circuit Court of the City of St. Louis, certify that the foregoing is a full, true and complete copy of the Sentence and Judgment in Cause Number. 951-4324B

the State of Missouri, Plaintiff, vs. Gyrene Desante Moret
defendant, as fully the same appears of record and on file in my office.

WITNESS my hand and the seal of said Court hereto affixed, at office, in the
City of St. Louis, this 10th day of January, 1997

(SEAL)



Maria B. Thompson
[Signature]
Clerk of the Circuit Court

By [Signature]
Deputy Clerk

SUPPLEMENTAL SENTENCE AND JUDGMENT FORM

Cause No. 951-4326 B

Division No. 11

Offense date: 9/17/95

COUNT VI

Whereupon, said Defendant is informed by this Court that he/~~she~~ has heretofore on the 22nd day of November, 19 96.

☒ Been found guilty by the (Court/Jury)
☐ Plead guilty

on Count VI to the offense (offense and degree) Armed criminal action,
a Class A felony, and being now asked by the Court if he/~~she~~ has any
legal cause to show why Sentence and Judgment should not be pronounced against him/her
according to the law, and still failing to show such cause, it is therefore the Sentence, Order,
and Judgment of this Court that Defendant, Tyrone Desante Morant
(having been found guilty/~~having pleaded guilty~~) as aforesaid,
(and in accordance with the punishment heretofore assessed by the Jury) be and is hereby
ordered committed to the Missouri Department of Corrections for a period of 30 years,
said sentence to be served (~~concurrently~~/consecutively) to the sentence imposed in (offense,
cause number, court and date of conviction): _____

Count V.

Page 6 of _____

STATE OF MISSOURI. }
City of St. Louis } ss.

I, Freeman R. Bosley, Jr., Clerk of the Circuit Court of the City of St. Louis, certify that the foregoing is a full, true and complete copy of the Sentence and Judgment in Cause Number. 951-4324B

the State of Missouri, Plaintiff, vs. Dyane Desante Mont
defendant, as fully the same appears of record and on file in my office.

WITNESS my hand and the seal of said Court hereto affixed, at office, in the
City of St. Louis, this 10th day of January 1997

(SEAL)



MAVIS T. THOMPSON
CLERK OF THE CIRCUIT COURT
CIVIL COURTS BUILDING
ST. LOUIS, MO 63101

By

W. Welch
Deputy Clerk

Defendant has been advised of his/~~her~~ rights under Rule 24.035/29.15 and the Court has found (~~probable cause~~/no probable cause) to believe that Defendant has received ineffective assistance of counsel.

Defendant shall receive credit for jail time prior to transfer to the Department of Corrections.

It is further ordered and adjudged by this Court that the \$5.00 Crime Victim Compensation Fee be assessed against the Defendant, payable to the Circuit Clerk, and that execution issue thereon.

☒ It is further ordered and adjudged by this Court that court costs be taxed against Defendant and execution issue thereon.

☒ It is further ordered and adjudged by this Court that the State of Missouri have and recover of the Defendant the sum of \$ 408.00 for Crime Victim Compensation.

Defendant remanded to the custody of
the Sheriff to be transported and
delivered to the MDC, forthwith.

SO ORDERED:



Winston Smith
Circuit Judge

Date: January 10, 1997

☒ See attached Supplemental Sentence and Judgment Form(s) which is/are made a part hereto.

STATE OF MISSOURI, }
City of St. Louis } ss.

I, Freeman R. Bosley, Jr., Clerk of the Circuit Court of the City of St. Louis, certify that the foregoing is a full, true and complete copy of the Sentence and Judgment in Cause Number, 951-432 CB

the State of Missouri, Plaintiff, vs. Theresa Desate Mount
defendant, as fully the same appears of record and on file in my office.

(SEAL)



WITNESS my hand and the seal of said Court hereto affixed, at office, in the
City of St. Louis, this 10 day of January 1997

Morris D. Thompson

~~_____~~
Clerk of the Circuit Court

By N. Welch

Deputy Clerk

MISSOURI CIRCUIT COURT - TWENTY-SECOND JUDICIAL CIRCUIT
(ST. LOUIS CITY)

STATE OF MISSOURI
VS
MORANT, TYRONE DESANTE

DIV #:
DESTINATION: GRJURY

CA#: F71667b

CAUSE#:

951-4326B

DEFENDANT INFORMATION

ADDRESS: 4258 W COTE BRILLIANTE
ST LOUIS, MO

PEDIGREE: RACE: B
SEX: M

DOB: 07/25/1978
AGE: 17

HGT: 508
WGT: 210

ID #S: COMPLAINT#: 95-137954
ARREST#: 95/011035 Dist: 4

LID: 263397
OCN: 93005909

ALIASES:

SSNS: *****

CHARGES(S):

01. CNT: 01 MURDER 1ST DEGREE (Class A Felony)
2. CNT: 02 ARMED CRIMINAL ACTION (Class A Felony)
3. CNT: 03 ASSAULT 1ST DEG (Class B Felony)
4. CNT: 04 ARMED CRIMINAL ACTION (Class A Felony)
5. CNT: 05 ASSAULT 1ST DEG (Class B Felony)
6. CNT: 06 ARMED CRIMINAL ACTION (Class A Felony)

WITNESSES:

ALLEN, JOHN
HORNAN, KENNETH 1797

BELL, JOHNNY
PAPPAS, CHRIS 0855

HICKMAN, ANGELA

STATE OF MISSOURI) ss
CITY OF ST. LOUIS)

INDICTMENT

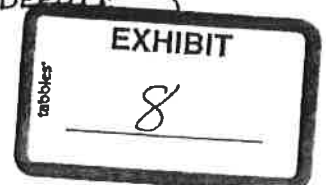
COUNT I

The Grand Jurors of the City of St. Louis, State of Missouri, charge that the defendants CARLOS WADE AND TYRONE MORANT, in violation of Section 565.020.1, RSMo, committed the class A felony of murder in the first degree, punishable upon conviction under Section 565.020.2, RSMo, in that on the 17th day of September, 1995, in the City of St. Louis, State of Missouri, the defendants Tyrone Morant and Carlos Wade, after deliberation, knowingly killed John Allen by shooting him.

PAGE 1 OF 3
L:RW

FILED
DEC 21 1995

MAVIS T. THOMPSON
CLERK, CIRCUIT COURT
BY _____ DEPUTY



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COUNT II

The Grand Jurors of the City of St. Louis, State of Missouri, charge that the defendants Tyrone Morant and Carlos Wade, in violation of Section 571.013, RSMo, committed the class A felony of armed criminal action, punishable upon conviction under Section 571.015.1, RSMo, in that on the 17th day of September, 1995, in the City of St. Louis, State of Missouri, the defendants Tyrone Morant and Carlos Wade committed the felony of Murder First charged in Count I, all allegations of which are incorporated herein by reference, and the defendants Tyrone Morant and Carlos Wade committed the foregoing felony of murder first by, with and through the use, assistance and aid of a deadly weapon.

COUNT III

The Grand Jurors of the City of St. Louis, State of Missouri, charge that the defendants Tyrone Morant and Carlos Wade, in violation of Section 558.050, RSMo, committed the class B felony of assault in the first degree, punishable upon conviction under Section 558.011.1(2) RSMo, in that on the 17th day of September, 1995, in the City of St. Louis, State of Missouri, the defendants Tyrone Morant and Carlos Wade attempted to kill or cause serious physical injury to Johnny Bell by shooting at him.

COUNT IV

The Grand Jurors of the City of St. Louis, State of Missouri, charge that the defendants Tyrone Morant and Carlos Wade, in violation of Section 571.013, RSMo, committed the class A felony of armed criminal action, punishable upon conviction under Section 571.015.1, RSMo, in that on the 17th day of September, 1995, in the City of St. Louis, State of Missouri, the defendants Tyrone Morant and Carlos Wade committed the felony of Assault First degree charged in Count III, all allegations of which are incorporated herein by reference, and the defendants Tyrone Morant and Carlos Wade committed the foregoing felony of assault first degree by, with and through the use, assistance and aid of a deadly weapon.

COUNT V

The Grand Jurors of the City of St. Louis, State of Missouri, charge that the defendants Tyrone Morant and Carlos Wade, in violation of Section 558.050, RSMo, committed the class B felony of assault in the first degree, punishable upon conviction under Section 558.011.1(2) RSMo, in that on the 17th day of September, 1995, in the City of St. Louis, State of Missouri, the defendants Tyrone Morant and Carlos Wade attempted to kill or cause serious physical injury to Angela Hickman by shooting her.

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L:RW
F70725
TYRONE MORANT

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DEC 21 1995

MAVIS T. THOMPSON
CLERK, CIRCUIT COURT
BY DEPUTY

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A-127

COUNT VI

The Grand Jurors of the City of St. Louis, State of Missouri, charge that the defendants Tyrone Morant and Carlos Wade, in violation of Section 571.015, RSMo, committed the class A felony of armed criminal action, punishable upon conviction under Section 571.015.1, RSMo, in that on the 17th day of September, 1995, in the City of St. Louis, State of Missouri, the defendants Tyrone Morant and Carlos Wade committed the felony of Assault First degree charged in Count V, all allegations of which are incorporated herein by reference, and the defendants Tyrone Morant and Carlos Wade committed the foregoing felony of assault first degree by, with and through the use, assistance and aid of a deadly weapon.

Judith K. Ows
 DEED JOYCE HAYES
 Attorney
 of the City of
 St. Louis, Missouri

DEED JOYCE HAYES
 Attorney
 of the City of
 St. Louis, Missouri
Deed Joyce Hayes
 Attorney
 of the City of
 St. Louis, Missouri
 Two Bands.

Received and filed December 21, 1995 and bail Two Bands.
Marvin B. Sullivan
 Circuit Judge

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 TYRONE MORANT
 F70700
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MAVIS T. THOMPSON
 CLERK, CIRCUIT COURT
 BY 4 DEPUTY.

IN THE CIRCUIT COURT OF MISSISSIPPI COUNTY

TYRONE MORANT,

Petitioner,

v.

No. 17MI-CV00461

JASON LEWIS,

Respondent.

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CIRCUIT COURT
MISSISSIPPI COUNTY, MO

DECISION, JUDGMENT, AND, ORDER

The Circuit Court of the City of St. Louis convicted Tyrone Morant of first-degree murder, two counts of first degree assault, and three counts of armed criminal action for crimes he committed while under age eighteen. The court sentenced Morant on January 10, 1997, petitioner received consecutive sentences of life without parole for the first degree murder charge, thirty years for each of the armed criminal action charges, and fifteen years for each of the assault charges. He serves his sentence in the Southeast Correctional Center in Mississippi County where Jason Lewis is the warden.

Morant filed a habeas corpus petition in the Missouri Supreme Court challenging his sentence to life without parole for a murder he committed while under age eighteen. The ground for relief he raised was that the sentence violated the Eighth

Exhibit
9

and Fourteenth Amendments. The Missouri Supreme Court initially issued an order granting the relief that Morant became eligible for parole consideration after serving twenty-five years on the murder sentence. But the Court withdrew its order and dismissed the petition in light of the legislature's passage of Mo. Rev. Stat. § 558.047, which made Morant and similarly situated offenders parole eligible on their life without parole sentences after serving twenty-five years, and provided particular factors that must be considered by the Board in such cases.

Morant has now filed a petition in this Court alleging that the Missouri Supreme Court order and Mo. Rev. Stat. § 558.047 violate the Sixth, Eighth, and Fourteenth Amendments because he believes he has an entitlement to adversarial resentencing. He alleges that his conviction and sentence are void. He also alleges that § 558.047 is a bill of attainder, and that it violates the Equal Protection Clause because it treats persons to be sentenced in the future differently than persons who already completed direct review of their convictions.

Morant alleges that the Missouri Supreme Court habeas denial and Mo. Rev. Stat. § 558.047 violate the Sixth, Eighth, and Fourteenth Amendments because Morant believes he has an entitlement to adversarial resentencing and that his conviction and sentence are void. He also alleges that his conviction and sentence are void, § 558.047 is a bill of attainder, and that it violates the Equal Protection Clause

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CIRCUIT COURT
MISSISSIPPI COUNTY, MO

because it treats persons to be sentenced in the future differently than persons who already completed direct review of their convictions.

In *Miller v. Alabama*, the Supreme Court determined that a mandatory life without parole sentence violated the offender's Eighth Amendment rights when the offender was under the age of eighteen when he murdered. 132 S.Ct. 2455, 2460 (2012). In *Miller*, each offender had been convicted of one count of murder. *Id.* at 2461-62. The trial courts sentenced each offender to life without parole. *Id.* at 2461, 2462. The Supreme Court determined that the length of the sentences did not violate the Constitution; thus, it did not announce a categorical bar on life-without-parole sentences. *Id.* at 2469. But the Court did hold that the "Eighth Amendment forbids a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders." *Id.* Citing *Graham v. Florida*, 560 U.S. 48, 75 (2010), the Court emphasized that Eighth Amendment did not require a State to guarantee eventual freedom for the offender; instead, the State must provide some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation. *Id.* citing *Graham*, 560 U.S. at 75.

Four years later, in *Montgomery v. Louisiana*, 136 S.Ct. 718 (2016), the Supreme Court determined that the *Miller* decision was a substantive constitutional rule that courts should apply retroactively to cases on collateral review. *Id.* at 726-32. In its discussion, the Court wrote that the decision's impact on the States was

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CIRCUIT COURT
MISSISSIPPI COUNTY, MO

minimal because a State did not have to relitigate the conviction and sentence if the State chose to extend to a juvenile homicide offender a chance for parole consideration.

Giving *Miller* retroactive effect, moreover, does not require States to relitigate sentences, let alone convictions, in every case where a juvenile offender received mandatory life without parole. A State may remedy a *Miller* violation by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them. ... Allowing those offenders to be considered for parole ensures that juveniles whose crimes reflected only transient immaturity—and who have since matured—will not be forced to serve a disproportionate sentence in violation of the Eighth Amendment.

Id. at 736. The Court emphasized that the juvenile offender did not have to be released. “Those prisoners who have shown an inability to reform will continue to serve life sentences. The opportunity for release will be afforded to those who demonstrate the truth of *Miller*’s central intuition—that children who commit even heinous crimes are capable of change.” *Id.*

Justice Scalia’s dissent emphasized the parole-opportunity alternative to resentencing. From Justice Scalia’s perspective, the language of the *Montgomery* majority decision was designed to effectively end life-without-parole sentences for

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CIRCUIT COURT
MISSISSIPPI COUNTY, MO

juvenile killers. And one of the options given to the States was to end the sentencing practice themselves by providing for parole eligibility to affected offenders.

What the majority expects (and intends) to happen is set forth in the following not-so-subtle invitation: "A State may remedy a *Miller* violation by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them."

Id. at 744 (Scalia, J. dissenting).

In *Ramirez v. Griffith*, 16-CV-01058-DW (Resp. Ex. 3) the United States District Court for the Western district of Missouri rejected a challenge similar to this one. The court held that it denied a similar habeas petition for three independent reasons. These were that a challenge to the life without parole sentence originally imposed was moot in light of § 558.047, which adequately complies with constitutional requirements; that the Missouri Supreme Court's denial of habeas relief was not contrary to, nor an unreasonable application of clearly established federal law, nor was it an unreasonable determination of the facts; and that the petitioner's attacks on § 558.047 were unexhausted because the petitioner did not present them in state court. The Court of Appeals denied a certificate of appealability. The United States Supreme Court reached a similar result in a habeas case. In *Virginia v. Leblanc*, 137 S.Ct. 1726 (2017) the Court held Virginia reasonably applied United States Supreme Court precedent by making former juvenile offenders eligible for geriatric release on the same terms as other offenders. The federal court in *Ramirez* is correct that §

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CIRCUIT COURT
JACKSON COUNTY MO

558.047 is an adequate remedy to a *Miller* violation. And that disposes of the core of Morant's claims. He has no right to resentencing, and § 558.047 provides *more* relief than *Miller* and *Montgomery* require.

Morant does not have the right to or demand a mini-trial at his parole hearing. A parole hearing is not part of the prosecution of a defendant, and it is not a "critical stage" of a prosecution. *Couans v. South Dakota Bd. of Pardons and Parole*, 764 N.W.2d 501, 504-5 (S.D. 2009) (collecting cases). 14 CSR 80-2.010 describes the purpose and procedures for parole hearings. 14 CSR 80-2.010(3)(A) contains a nonexclusive list of items that an offender may present or discuss. Subsection 6 authorizes the offender to present and discuss any other matters that are appropriate for consideration. Morant has had ample opportunity to present what he wishes, and § 558.047 provides a framework for consideration of factors relevant to his youth at the time of the crime. There is no due process violation here.

Morant also seems to allege that his murder conviction and sentence are now void because neither death nor mandatory life without parole is now a permissible sentence for first-degree murder committed by a person under eighteen. But he has no real support for that position, and that was a matter the Missouri Supreme Court would have addressed in his habeas action if it thought the conviction and sentence to be void. In *Montgomery* the United States Supreme Court indicated that making offenders' parole eligible after twenty-five years is a proper remedy for offenders sentenced to *mandatory* terms of life imprisonment without parole, and that it is not

necessary to litigate convictions or sentences again. Therefore, the United States Supreme Court does not consider the underlying convictions to be void where the only available punishment was life without parole and that punishment was later found not to be constitutional.

Morant contends that section 558.047 is an unlawful bill of attainder. But it is not. "A bill of attainder is a legislative enactment that inflicts punishment on a specific person or group without trial or judicial action." *Garozzo v. Missouri Dept. of Ins.*, 389 S.W.3d 660, 663 (Mo. banc 2013). It is unnecessary to resolve the specificity element because section 558.047 does not inflict punishment. *See id.* "There are three factors that determine whether a statute inflicts punishment: (1) whether the challenged statute falls within the historical meaning of legislative punishment, (2) whether the statute, viewed in a light of the severity of burdens it imposes, reasonably can be said to advance a non-punitive legislative purpose and (3) whether the legislative record discloses an intent to punish." *Id.*

"The historical meaning of legislative punishment generally includes statutes that bar a specific person or identifiable group from participating in a regulated business or profession." *Id.* Section 558.047 does not regulate commerce or a profession. Further section 558.047 advances a non-punitive legislative purpose. *Id.* at 664-5. Once the Supreme Court decided *Montgomery*, then the legislature could reasonably decide to cure the perceived constitutional defect in the life without parole sentence for juveniles who commit first-degree murder. Remedying a perceived

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CIRCUIT COURT
MISSISSIPPI COUNTY, MO

constitutional violation is a non-punitive legislative purpose. Finally, there is nothing record showing an intent to punish. *Id.* To the contrary, the legislature was following the suggestion provided in *State v. Hart*, 404 S.W.3d 232, 253 (Mo. banc 2013) (Fischer, J., concurring in part), that the legislature had the power and the responsibility to remedy the constitutional violation. *See* Resp. Ex. 2 Docket Entry March 15, 2016 (making a judicial remedy contingent on the lack of a legislative remedy).

Morant alleges an equal protection violation because persons who have not completed direct review of their juvenile life without parole sentences were resentenced rather than becoming parole eligible. But that is a reasonable line to draw. It is reasonable not to resentence multiple dozens of offenders, who long since completed direct review of their cases, when an adequate remedy can be crafted by making them eligible for parole, and the passage of time makes resentencing proceedings more difficult. Those persons are distinguishable from persons whose cases are still on direct review and persons who have not yet been sentenced, because the evidence is fresher in such cases. The Missouri Supreme Court did not violate the Equal Protection Clause by drawing a reasonable line. *See Tyler v. Mitchell*, 853 S.W2d. 338, 341 (Mo. App. W.D. 1993) (the Equal Protection Clause does not prevent line drawing in the creation or application of laws, so long as the classifications created are not based on impermissible criteria or used to arbitrarily burden a group).

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CIRCUIT COURT
MISSISSIPPI COUNTY, MO

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Morant also alleges an equal protection violation because an offender who was sentenced to life without parole for fifty years received resentencing although his case had completed direct review. But equal protection has nothing to do with whether a specific individual was placed on the wrong side of a classification. *Id.* Rather, it deals with the line drawing itself, and procedural due process deals with an individual challenging his allegedly erroneous placement in a classification. *Id.* Morant has no due process or equal protection claim because another inmate with a different sentence allegedly was placed on the wrong side of a classification line and should have received a different remedy.

Wherefore, this Court denies the petition for habeas corpus.



12-1-2017

Date

David A Dolan Circuit Judge

FILED

DEC - 1 2017

CIRCUIT COURT
MISSISSIPPI COUNTY, MO

Missouri Court of Appeals
Southern District

No. SD35280

IN RE: TYRONE D. MORANT,

Petitioner,

vs.

JASON LEWIS, WARDEN,
SOUTHEAST CORRECTIONAL
CENTER,

Respondent.

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FILED

JAN 18 2018

SANDRA L. SKINNER, CLERK
MISSOURI COURT OF APPEALS
SOUTHERN DISTRICT

ORDER

Having considered the parties' pleadings, suggestions, and exhibits, the Court hereby denies petitioner's Petition for a Writ of Habeas Corpus.

cc: Attorneys of Record

A-137

