

To: APWA

From: Daniel Pirkel

Re: Bill Schuette & Juvenile Lifers- Justice Delayed, Justice Denied

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One of the most controversial and important issues being debated in the courts today involves juvenile lifers, defined as youth who were sentenced to life imprisonment without the possibility of parole for committing a homicide before the age of 18. Under the previous law, Michigan courts were unable to consider a defendant's age as a mitigating factor in sentencing proceedings. This was the case even when the juvenile did not personally kill someone, as in the case of felony murder.

This changed in 2012 when the Supreme Court of the United States of America (SCOTUS) ruled that sentencing juveniles amounted to life sentences without considering the mitigating factors of youth amounted to cruel and unusual punishment, and mandated that each case be considered on an individual basis.<sup>1</sup> One of the major contributors to this decision was Magnetic Resonance Imaging (MRI) evidence that the male brain is not fully matured until the age of 26. However, many state attorney generals, like Michigan's Bill Schuette, rejected this ruling and refused to resentence more than 370 former juvenile offenders because, in his professional opinion, the ruling did not apply retroactively. This seems to be a standard maneuver in Michigan when it comes to major SCOTUS rulings that benefit criminal defendants,

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<sup>1</sup> Miller v. Alabama, 132 S. Ct. 2455 (2012).

something that typically log jams the system with frivolous appeals and prevents appellants from obtaining relief for decades.

In the case of juvenile lifers, SCOTUS affirmatively resolved the "question" of retroactivity in 2016.<sup>2</sup> However, more than 250 of Michigan's former juvenile offenders still await resentencing hearings as of the date of this article. For example, Jerry Lashuay has been incarcerated 35 years for a crime he committed when he was 15 years old. Jerry has been a model prisoner, one who is currently working on his third college degree. Even if he were given the maximum possible sentence under the new law (which would amount to forty to sixty years), his good time credits would equate his time served to be a figure beyond his maximum sentence, rendering him immediately eligible for release. However, Michigan Attorney General Bill Schuette seems to have taken a special interest in Jerry, perhaps because Jerry would have to be resentenced in Schuette's home county.

While Brian Calley may not have proven that Schuette uses his office for political gain, the evidence seems to be piling up. Regardless, a candidate that runs on a law and justice platform should respect SCOTUS rulings, even when it runs contrary to his or her personal beliefs. Otherwise, how do we know they will not violate other laws? In the case of juvenile lifers, the law is clear; people must be resentenced. Unnecessary delays and stalling only waste government funds and people's lives. This is no less unjust than cheating someone at poker or stealing from the church offering. As it has been said, "justice delayed is justice denied."

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<sup>2</sup> Montgomery v. Louisiana, 136 S. Ct. 718 (2016).

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Sincerely,  
Daniel Pirtel