

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

HENRY HILL, JEMAL TIPTON, DAMION
TODD, BOBBY HINES, KEVIN BOYD,
BOSIE SMITH, JENNIFER PRUITT,
MATTHEW BENTLEY, KEITH MAXEY,
GIOVANNI CASPER, JEAN CARLOS
CINTRON, NICOLE DUPURE and
DONTEZ TILLMAN, individually and on
behalf of all those similarly situated,

Plaintiffs,

vs.

GRETCHEN WHITMER, in her official
capacity as Governor of the State of
Michigan, HEIDI E. WASHINGTON, in her
official and individual capacity as Director of
the Michigan Department of Corrections,
MICHAEL EAGEN, in his official and
individual capacity as Chair of the Michigan
Parole Board, and DANA NESSEL, in her
official capacity as Attorney General of the
State of Michigan,

Defendants.

Case No. 10-cv-14568

Hon. Mark. A Goldsmith

Mag. J. R. Steven Whalen

CLASS ACTION

THIRD AMENDED COMPLAINT

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NOW COME Plaintiffs, by and through their counsel, and for their Third Amended Complaint, state as follows:

INTRODUCTION

1. This action for declaratory and injunctive relief is brought under 42 U.S.C. § 1983 to enforce Plaintiffs' rights under the United States Constitution and customary international law.

2. Plaintiffs are individuals who were charged and tried as adults for crimes committed when they were children under eighteen years of age and punished with a mandatory sentence of life imprisonment. Based on their

convictions, the Michigan parole statute, M.C.L. § 791.234, deprived Plaintiffs of a meaningful opportunity to obtain their release.

3. On November 17, 2010, Plaintiffs filed this action seeking a declaration that M.C.L. § 791.234 was unconstitutional insofar as it excluded children under 18 years of age convicted of first-degree homicide offenses and thereby denied Plaintiffs of a meaningful opportunity to obtain their release.

4. On January 30, 2013, this Court issued a declaratory judgment, ruling that M.C.L. § 791.234 was unconstitutional because it deprived children convicted of first-degree homicide offenses of any meaningful opportunity to obtain their release.

5. On August 12, 2013, this Court clarified the scope of its declaratory judgment, holding that every person convicted of first-degree homicide offense in the State of Michigan when they were under 18 years of age and sentenced to life imprisonment for that offense shall be immediately parole-eligible.

6. Over seven years ago, the U.S. Supreme Court ruled in *Miller v. Alabama*, 567 U.S. 460 (2012), that states cannot punish children who commit homicide offenses when they are under 18 years of age with a mandatory sentence of life imprisonment and instead must provide them with a meaningful opportunity to obtain their release based on demonstrated maturity and rehabilitation. And, over three years ago in *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016), the Court

ruled that that *Miller* applies retroactively, establishing that states must provide those individuals with meaningful opportunities for release – except in the rarest of cases where the state demonstrates that they “exhibit[] such irretrievable depravity that rehabilitation is impossible.” *Id.* at 733.

7. Despite these rulings, Plaintiffs continue to be treated as if they were being punished with non-parolable life sentences, thus depriving them of their constitutional right to a meaningful opportunity for release based on their demonstrated maturity and rehabilitation. In particular, Plaintiffs continue to be imprisoned as if they are serving non-parolable life sentences. They are therefore deprived of rehabilitative in-prison programming necessary to demonstrate their maturation and rehabilitation and thereby to obtain their release.

8. In 2014, in response to *Miller* and *Montgomery*, Michigan enacted M.C.L. § 769.25 and 769.25a, which provide a scheme for the state to resentence individuals who were serving mandatory life sentences for homicide offenses committed when they were under 18 years of age. The legislation provides that the state must resentence these individuals to a term-of-years sentence or to life in prison without the possibility of parole. Because neither punishment affords Plaintiffs a meaningful opportunity to obtain their release based on their demonstrated maturity and rehabilitation, the statute violates Plaintiffs’ constitutional rights.

9. Specifically, M.C.L. § 769.25 and 769.25a:
 - a. Allows the state to impose a life-without-parole sentence;
 - b. Requires that the state impose a minimum punishment of 25 to 40 years in prison without: (i) requiring consideration at sentencing of the mitigating factors of the child's age at the time of their offense, the hallmark features of youth, a child's lesser degree of culpability and their unique capacity for rehabilitation as compared to adults; (ii) providing those individuals with a meaningful opportunity to obtain their release based on their maturation and rehabilitation before this time;
 - c. Otherwise requires that the state punish Plaintiffs and others similarly situated with a sentence of up to 60 years in prison without providing them with a meaningful opportunity to obtain their release based on their demonstrated maturity and rehabilitation before this time.

10. In addition, M.C.L. § 769.25 and 769.25a, (i) retroactively allows the state to deprive individuals resentenced to a term-of-years of the good-time and/or disciplinary credits that they were entitled to accumulate from the time of their offense; and (ii) fails to provide guidelines and timelines for the state to review and

resentence individuals currently serving unconstitutional, non-parolable life sentences and their treatment as non-parolable “lifers” pending that review and resentencing.

11. Plaintiffs seek a declaration that Michigan’s laws, policies and practices, insofar as they mandate that Plaintiffs serve life imprisonment without a meaningful opportunity to obtain their release, violate the Eighth and Fourteenth Amendments of the U.S. Constitution and customary international law.

12. Plaintiffs also seek an order that Defendants provide them with a meaningful opportunity to obtain their release based on their demonstrated maturity and rehabilitation.

13. Plaintiffs do not challenge their judgments of conviction, do not seek to invalidate their life sentences, and do not seek an order from this Court ordering their release.

14. On April 9, 2018, this Court granted Plaintiffs’ motions for class certification and declaratory and permanent injunctive relief on Plaintiffs’ Count V, ruling that M.C.L. § 769.25a(6) constituted an unconstitutional violation of the Ex Post Facto Clause of the U.S. Constitution, Art. I § 10. *Hill v. Snyder*, 308 F. Supp. 3d 893 (E.D. Mich. 2018), *aff’d* 900 F.3d 260 (6th Cir. 2018).

15. On April 9, 2018, this Court also denied Defendants’ motion for summary judgment as to Plaintiffs’ Count VI. *Id.* at 912.

16. On July 12, 2019, this Court again denied, in part, Defendants' renewed motion for summary judgment as to Plaintiffs' Count VI. *Hill v. Whitmer*, 2019 WL 3067977 (E.D. Mich. July 12, 2019). 10.

17. On August 26, 2019, this Court granted Plaintiffs' request to file a motion to amend their complaint to address the unreasonable delay in providing Plaintiffs with any opportunity for resentencing, and depriving the majority of the Plaintiff class of the opportunity for release because of such unreasonable delays in resentencings. (Order, Dkt. 286, Pg ID 4545). Plaintiffs plead the facts supporting Plaintiffs' claims as to proposed Count VIII below.

18. Plaintiffs acknowledge judgment has been entered on Counts I-V and Count VII, and retain facts and legal claims as to these counts solely to preserve issues for potential appellate review.

JURISDICTION AND VENUE

19. Jurisdiction is conferred on this Court by 28 U.S.C. § 1331, which authorizes federal courts to decide cases concerning federal questions, and by 28 U.S.C. § 1343(a), which authorizes federal courts to hear civil rights cases.

20. Venue is proper in this Court, as the Defendants conduct their business across the state, including in the Eastern District of Michigan, and some of the named Plaintiffs are incarcerated in the Eastern District of Michigan.

PARTIES

Plaintiffs

21. Plaintiff Henry Hill was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Saginaw County, Michigan, for crimes he committed when he was sixteen years old. Although the state prosecutor initially sought to reimpose Mr. Hill's life-without-parole sentence, on May 4, 2017, Mr. Hill was instead punished with a term-of-years sentence. After the state credited Mr. Hill for his good-time and disciplinary credits he became immediately parole-eligible. On October 31, 2017, Mr. Hill was released on parole. On June 6, 2018, Mr. Hill was discharged from parole after serving thirty-four years in adult prison.

22. Plaintiff Jemal Tipton was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Oakland County, Michigan, for crimes he committed when he was seventeen years old. Mr. Tipton has never been afforded a meaningful opportunity to obtain his release. He is currently in the custody of the Michigan Department of Corrections. Mr. Tipton is imprisoned at the Macomb Correctional Facility in Macomb County, Michigan, where he is assigned to the lowest custody level possible for an individual serving this sentence. To date, Mr. Tipton has served thirty-two years in adult prison. On

September 27, 2019, Mr. Tipton was resentenced to a term-of-years. Defendant MDOC is still to calculate Mr. Tipton's earned good-time and disciplinary credits.

23. Plaintiff Damion Todd was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Wayne County, Michigan, for crimes committed when he was seventeen years old. On March 29, 2017, Mr. Todd was resentenced to a term-of-years which made him immediately parole-eligible. On May 15, 2018, Mr. Todd was released on parole after serving thirty-two years in adult prison.

24. Plaintiff Bobby Hines was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Wayne County, Michigan, for crimes he committed when he was fifteen years old. On March 16, 2017, Mr. Hines was resentenced to a term-of-years sentence, which made him immediately parole eligible. On September 12, 2017, Mr. Hines was released on parole after serving twenty-eight years in adult prison.

25. Plaintiff Kevin Boyd was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Oakland County, Michigan, for a crime he committed when he was sixteen years old. At his resentencing hearing the state prosecutor sought to reimpose Mr. Boyd's life-without-parole sentence. On May 15, 2019, Mr. Boyd was resentenced to a term-of-years and became immediately parole-eligible. On June 24, 2019, Mr. Boyd was reviewed by

the Michigan Parole Board after having served twenty-four years in adult prison. On or about October 15, 2019, Mr. Boyd was notified that he will be released on parole on January 7, 2020.

26. Plaintiff Bosie Smith was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Washtenaw County, Michigan, for a crime he committed when he was sixteen years old. The state prosecutor initially sought to reimpose Mr. Smith's life-without-parole sentence. On March 22, 2017, Mr. Smith was resentenced to a term-of-years sentence and was released on parole on May 8, 2018 after serving twenty-six years in adult prison.

27. Plaintiff Jennifer Pruitt was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Oakland County, Michigan, for crimes she committed when she was sixteen years old. On March 2, 2017 Ms. Pruitt was resentenced to a term-of-years sentence. Ms. Pruitt became parole-eligible after computation of her good-time and disciplinary credits, and was released on parole on October 16, 2018 after serving twenty-five years in adult prison.

28. Plaintiff Matthew Bentley was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Huron County, Michigan, for crimes he committed when he was fourteen years old. The state prosecutor

initially sought to reimpose Mr. Bentley's life-without-parole sentence but missed the statutory deadline to file the relevant notice. Instead, on September 25, 2017, Mr. Bentley was resentenced to a term-of-years sentence. Mr. Bentley remains imprisoned at the Thumb Correctional Facility in Lapeer County, Michigan, where he is assigned to the lowest custody level possible for an individual serving this sentence. Mr. Bentley has served twenty-one years in adult prison.

29. Plaintiff Keith Maxey was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Wayne County, Michigan, for crimes he committed when he was sixteen years old. Mr. Maxey has never been afforded a meaningful opportunity to obtain his release. He is currently in the custody of the Michigan Department of Corrections. Mr. Maxey is imprisoned at the Thumb Correctional Facility in Lapeer County, Michigan, where he is assigned to the lowest custody level possible for an individual serving this sentence. Mr. Maxey has served eleven years in adult prison, and has no scheduled date for his resentencing.

30. Plaintiff Giovanni Casper was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Kent County, Michigan, for crimes he committed when he was seventeen years old. On September 30, 2016, Mr. Casper was resentenced to a term-of-years sentence. He is currently in the custody of the Michigan Department of Corrections. Plaintiff Casper is

imprisoned in the G. Robert Cotton Correctional Facility in Jackson County, Michigan, where he is assigned to the lowest custody level possible for an individual serving this sentence. Mr. Casper has served twelve years in adult prison.

31. Plaintiff Jean Carlos Cintron was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Oakland County, Michigan, for crimes he committed when he was sixteen years old. On May 3, 2018, Mr. Cintron was resentenced to a term-of-years. He is currently in the custody of the Michigan Department of Corrections. Plaintiff Cintron is imprisoned in the Ionia Correctional Facility in Ionia County, Michigan, where he is assigned to the lowest custody level possible for an individual serving this sentence. Mr. Cintron has served ten years in adult prison.

32. Plaintiff Nicole Dupure was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Macomb County, Michigan, for crimes she committed when she was seventeen years old. Ms. Dupure has never been afforded a meaningful opportunity to obtain her release. She is currently in the custody of the Michigan Department of Corrections. Ms. Dupure is imprisoned in the Women's Huron Valley Correctional Facility in Washtenaw County, Michigan, where she is assigned to the lowest custody level possible for an individual serving this sentence. State prosecutors are seeking to reimpose her

life-without-parole sentence but have not yet scheduled a date for her resentencing hearing. Ms. Dupure has served thirteen years in adult prison.

33. Plaintiff Dontez Tillman was charged, convicted and sentenced as an adult to a mandatory sentence of life imprisonment in Oakland County, Michigan, for a crime he committed when he was fourteen years old. Following the U.S. Supreme Court decision in *Miller v. Alabama*, Mr. Tillman was resentenced to serve between 32.5 and 60 years in prison. Mr. Tillman has never been afforded a meaningful opportunity to obtain his release. He is currently in the custody of the Michigan Department of Corrections. Mr. Tillman is imprisoned in the Thumb Correctional Facility in Lapeer County, Michigan, where he is assigned to the lowest custody level possible for an individual serving this sentence. Mr. Tillman has served ten years in adult prison.

Defendants

34. Defendant Gretchen Whitmer is Governor of the State of Michigan. Defendant Whitmer is invested with executive power pursuant to Art. V § 1 of the Michigan Constitution and is responsible for ensuring compliance with the laws of the State of Michigan. Governor Whitmer is sued in her official capacity.

35. Defendant Heidi E. Washington is Director of the Michigan Department of Corrections. Defendant Washington has authority over the Michigan Parole Board pursuant to M.C.L. § 791.231a, which determines which

Michigan prisoners are eligible for release on parole. Defendant Washington also has authority over policies and placements regarding programming for prisoners. She is sued in her official capacity and in her individual capacity.

36. Defendant Michael Eagen is Chair of the Michigan Parole Board. Under M.C.L. § 791.234, the Parole Board determines which prisoners, under their jurisdiction, to release on parole. Defendant Eagen is sued in his official capacity.

37. Defendant Dana Nessel is Attorney General of the State of Michigan. As Attorney General Defendant Nessel has supervisory power over prosecuting attorneys throughout Michigan. She also has the power to intervene in and appear for the people of the state in any state court in which the people of the state are a party, and to take any action that a party to the case may take. Defendant Nessel is sued in her official capacity

BACKGROUND FACTUAL ALLEGATIONS

Michigan's Former Sentencing Framework

38. Since abolishing capital punishment, the harshest punishment the State of Michigan can impose against any individual for any crime or series of crimes is a life sentence without the possibility of parole.

39. Michigan's Penal Code sets forth the punishments for crimes categorized as first-degree homicides, which include premeditated murder, felony murder, and murder of a peace officer. M.C.L. § 750.316.

40. Michigan's Code of Criminal Procedure provides that a person who aids or abets a murder is punishable as if that person had directly committed the offense. M.C.L. § 767.39.

41. The mandatory punishment for first-degree murder, whether it be premeditated, felony murder or aiding and abetting a murder, is imprisonment for life. M.C.L. § 750.316.

42. Plaintiffs' judgments of conviction and sentence state that they were sentenced to imprisonment for life for a conviction under M.C.L. § 750.316.

43. Before 2013, this mandatory punishment applied to individuals, including Plaintiffs, who committed offenses when they were under 18 years of age.

44. Michigan law grants the Michigan Department of Corrections Parole Board ("Michigan Parole Board") the authority to release individuals sentenced to life if a prisoner meets certain specified criteria. M.C.L. § 791.234.

45. Since 2008, the Michigan Parole Board has had the authority to grant release to individuals sentenced to life imprisonment after serving 15 years except for individuals serving a life sentence for a conviction under M.C.L. § 750.316.

46. Before 2013, Plaintiffs were excluded from ever being considered for release on parole because of their mandatory convictions and life sentences imposed under M.C.L. § 750.316.

47. On January 30, 2013, this court struck down as unconstitutional M.C.L. § 750.316 as it applied to children convicted of first-degree homicide offences.

48. Defendants continued to apply M.C.L. § 791.234(6) to exclude Plaintiffs, and all youth convicted of first degree homicide offences, from the Michigan Parole Board's jurisdiction, until passage of M.C.L. § 769.25 and M.C.L. § 769.25a, enacted in 2014.

Punishment of Children in Michigan

49. Over 360 individuals in Michigan were punished with mandatory life sentences for crimes they committed as children, without any meaningful opportunity to obtain their release based upon their demonstrated maturation and rehabilitation. Michigan is one of only three states that allows the state to impose life-without-parole sentences on children as young as 14 for all homicide offences including felony murder.

50. Michigan, Pennsylvania, Texas, Florida and Louisiana accounted for two-thirds of all such life-without-parole sentences in the United States. Michigan had the second highest number in the country.

51. Since *Miller*, Texas and Florida have abolished life-without-parole sentences for children. Pennsylvania has abolished the sentence for felony murder, and has committed not to seek life-without-parole sentences for those children who

it convicted of a first-degree premeditated homicide offense and resentences. Louisiana and Michigan remain the only states that continue to impose the sentence at any significant level.

52. Thirty-seven states now either prohibit life-without-parole sentences for children or have not imposed the sentence since *Miller*.

53. Since *Miller*, Michigan has resentenced over 150 Plaintiffs. State prosecutors have not sought to reimpose life-without-parole sentences for the majority of these individuals, and Michigan state courts have only reimposed the sentence on 10 of them. The majority of these sentences have been appealed and are pending before Michigan appellate courts.

The Current Michigan Sentencing Scheme

54. In January 2013, this Court granted summary judgment in favor of Plaintiffs on their First Amended Complaint. The Court declared M.C.L. § 791.234(6) unconstitutional as applied to Plaintiffs and all others serving life sentences for first-degree homicide offenses committed when they were under 18 years of age.

55. In November 2013, the Court ordered Defendants to create an administrative structure to allow persons who committed their offenses when they were less than 18 years of age to be considered for release on parole. Defendants appealed and this ruling was stayed.

56. On March 4, 2014, Michigan enacted M.C.L. §§ 769.25 and 769.25a. These statutes provide that Plaintiffs and similarly-situated individuals are subject to resentencing, including the possibility of imposition of a life-without-parole sentence.

57. The legislation does not establish a time frame for when these individuals must be resentenced.

58. Under the new legislation, prosecutors may seek a life-without-parole sentence for persons who commit certain homicide offenses when they are under 18 years of age by filing a motion in the state trial court. The legislation required that any motion must be filed within 180-days of the U.S. Supreme Court's mandate in *Montgomery*.

59. If prosecutors do not file such a motion, or if the court chooses not to impose a life-without-parole sentence, the resentencing court must sentence the individual to a term-of-years sentence with a minimum sentence of between 25 and 40 years imprisonment, and a maximum sentence of no less than 60 years.

60. Contrary to *Miller* and *Montgomery* that "appropriate occasions" for sentencing youth to life without parole will be "uncommon" or "rare," *Miller*, 567 U.S. at 479; *Montgomery*, 136 S. Ct. at 733-94. *See also Tatum v. Arizona*, 137 S. Ct. 11; 196 L. Ed 284 (2016), Michigan prosecutors filed motions seeking to reimpose life-without-parole sentences on the majority of the 363 individuals

whose mandatory life-without-parole sentences were vacated by *Montgomery*.

61. Prosecutors in Berrien, Macomb, Muskegon, Genesee and Kent counties, initially filed motions seeking to reimpose the sentence on every child who Michigan had punished with a mandatory life sentence, and Oakland county prosecutors sought to reimpose it on all but four of the 48 who had previously been sentenced to a mandatory life sentence in that county.

62. The filing of these motions placed Plaintiffs in legal limbo: Plaintiffs' original life-without-parole sentences were vacated by *Miller/Montgomery*, but no date has been set for their resentencing hearings.

63. Prosecutors, including Defendant Attorney General as head prosecutor, filed motions seeking to impose life sentences on 254 of the total 363 class members. They filed these motions over three years ago, but approximately 196 Plaintiff class members have *yet* to be resentenced.

64. Pending their resentencing hearings, Defendant Michigan Department of Corrections ("MDOC") refuses to provide Plaintiff class members with either core or other rehabilitative programming. Nearly four years after the U.S. Supreme Court vacated their life sentences as cruel and unusual punishment and mandated resentencing, Defendant MDOC continues to treat half of the Plaintiff class members as if they are serving non-parolable life sentences, resulting in restrictions to their custody levels, deprivation of rehabilitative and other in-prison

programming, education and job entitlements necessary for Plaintiff class members to demonstrate their maturation and rehabilitation and thereby to secure their release.

65. Prosecutors also exploit Plaintiff class members' carceral limbo to coerce them into sentencing plea agreements whereby Plaintiffs "agree" to unconstitutional term-of-years sentences that the state could not otherwise impose.

66. Over 130 Plaintiff class members who have not yet been resentenced are – or would be – entitled to the benefit of this Court's 2018 ruling on Plaintiffs' Count V (Ex Post Facto Clause of the U.S. Constitution, Art. I § 10) which could make them immediately eligible for release on parole if they are resentenced to a term-of-years sentence. After they are resentenced, some Plaintiff class members with accumulated good-time and disciplinary credits will even have served sufficient time in prison that they will have served their maximum sentence and be immediately eligible for release on the day that they are resentenced.

67. At least 10 Plaintiff class members have already served well over 40 years in prison and if resentenced to a term-of-years sentence (even if the highest term is imposed) would be immediately parole-eligible. The eldest of these class members is over sixty-five years old.

68. To date the majority of Plaintiff class members for whom prosecutors sought to reimpose life-without-parole sentences were instead given term-of-year

sentences.

69. To date over 90% of those Plaintiff class members who have been reviewed by the Michigan Parole Board have been released on parole.

70. Seven counties are yet to hold any resentencing hearings and three other counties have resented less than 25% of the Plaintiff class members convicted in those counties since *Montgomery*. In Oakland County, 32 Plaintiff class members have yet to be resented, and Wayne County has yet to resentence fifty-six Plaintiff class members.

71. M.C.L. § 769.25a provides that resentencing hearings must occur in the following order of priority:

(5) Resentencing hearings under subsection (4) shall be held in the following order of priority:

(a) Cases involving defendants who have served 20 or more years of imprisonment shall be held first.

(b) Cases in which the prosecuting attorney has filed a motion requesting a sentence of imprisonment for life without the possibility of parole shall be held after cases described in subdivision (a) are held.

(c) Cases other than those described in subdivisions (a) and (b) shall be held after the cases described in subdivisions (a) and (b) are held.

M.C.L. § 769.25a(5)(a)-(c). These requirements are not being followed; class members who have served less than 20 years have been resented, while class members for whom prosecutors are seeking life-without-parole sentences still await resentencing

72. For individuals who are resentenced to a term-of-years sentence, there is no meaningful opportunity for them to obtain their release until they have served the minimum sentence in its entirety. After the minimum sentence has been served, parole-eligibility and release-on-parole determinations are governed by M.C.L. §§ 791.231-791.246, the same procedure applicable for adult prisoners.

73. The parole review process does not require the Michigan Parole Board to consider the age of the offender at the time they committed their offense as a mitigating factor, nor any of the *Miller* factors in making release-on-parole determinations.

74. On August 5, 2015, Plaintiff Tillman was resentenced under M.C.L. § 769.25 to a term of imprisonment of thirty-two and a half to sixty years. This sentence means that Mr. Tillman will only become parole-eligible at the age of forty-six and a half. The sentence also does not take into consideration Mr. Tillman's age and lesser culpability at the time he committed the offense nor his growth, maturation, or rehabilitation.

75. Plaintiffs remain in Defendant MDOC's custody serving the same mandatory sentences of life-imprisonment imposed following their convictions, deprived of rehabilitative and other programming, and without any meaningful opportunities for release in sight. Plaintiffs' resentencing hearings have been unnecessarily delayed and Plaintiffs have not been afforded any other meaningful

opportunity to obtain their release based on an assessment of their age and reduced culpability at the time of their offenses and their unique capacity for change, maturation and rehabilitation as compared to adult offenders.

76. While they are incarcerated, Defendant MDOC continues to deny Plaintiffs in-prison programming necessary to demonstrate their maturation and rehabilitation, including programming specifically recommended in their sentencing reports as a condition of their future release on parole, such as substance abuse, violence prevention, anger management and skill based rehabilitative programs. Defendant MDOC denies Plaintiffs this programming based on Defendant's continued consideration of them as serving life-without-parole sentences.

GENERAL FACTUAL ALLEGATIONS

77. None of the Plaintiffs who have not been resentenced have been considered for release on parole. Nor has Michigan provided Plaintiffs with any other meaningful opportunity to obtain their release that takes into consideration Plaintiffs' child status and lesser culpability as compared to adults when they committed their offenses, and their demonstrated maturity and rehabilitation since that time.

78. Plaintiffs did not have the same maturity and sense of responsibility as adults when they committed their offenses.

79. The State of Michigan recognizes this relative lack of maturity and responsibility based on their age in other areas of the law by prohibiting persons below 18 years of age from voting, entering into valid contracts, serving on juries, joining the armed forces, smoking tobacco, marrying without parental consent, leaving school, working full time, or applying for a driver's license without first undergoing youth-specific driver education classes.

80. Plaintiffs were more vulnerable to adult influences and peer pressure than adults.

81. Plaintiffs were more likely to act impetuously without regard for consequences as compared to adults.

82. Plaintiffs have a greater capacity for change, growth and rehabilitation than adults.

83. Plaintiffs' ineligibility for earned good- time and disciplinary credits renders immaterial maturity, good behavior, character and rehabilitation for purposes of considering them for release on parole.

84. The sentencing schemes under which Plaintiffs are being punished do not provide Plaintiffs with a meaningful opportunity to obtain their release that allows them to demonstrate their maturation and rehabilitation.

85. Michigan continues to imprison Plaintiffs without providing them with a meaningful opportunity to obtain their release once they have demonstrated

their maturation and rehabilitation. In particular Michigan does not have procedures in place to meaningfully determine whether Plaintiffs' criminal conduct was due to transient immaturity and whether Plaintiffs have matured and been rehabilitated.

86. Plaintiffs' ages at the time they committed their offenses means that they will be punished more severely than adults who may have been punished with the same sentence because they will serve more years and a greater percentage of their lives in prison than adult offenders.

87. There is no legitimate penological justification for punishing Plaintiffs without also affording them a meaningful opportunity to obtain their release based upon their demonstrated maturation and rehabilitation because such a denial fails to serve any of the recognized penal objectives.

88. Michigan accounts for over 15% of all persons in the United States who were subjected to life-without-parole sentences for crimes committed when they were under 18 years of age and 40% of individuals serving life-without-parole sentences in those states that continue to allow the sentence.

89. Michigan is in the minority of states that continues to impose life-without-parole sentences for persons who commit their offenses when they are under 18 years of age.

90. Of the five states responsible for nearly two-thirds of individuals serving life-without-parole sentences for crimes they committed when they were less than 18 years of age, only Michigan and Louisiana have failed to amend their laws or practices to restrict the imposition of such life-without-parole sentences.

91. Currently, fewer than 15 states continue to allow life-without-parole sentences to be imposed on persons below 18 years of age in the manner that Michigan does.

92. The United States is the only country in the world that authorizes and imposes life-without-possibility-of-release sentences on persons who commit offenses when they were below 18 years of age.

93. The United Nations Human Rights Committee identified this practice as non-compliant with Article 24(1) of the International Covenant on Civil and Political Rights (“ICCPR”).

94. The United States is a party to the ICCPR, but has reserved the right to treat juveniles as adults only in “exceptional circumstances.”

95. Michigan’s laws do not constitute such an exceptional circumstance, as they presumptively treat all persons less than 18 years of age involved in homicide offenses as adults and continue to detain such persons as if they were adults for such involvement without affording them a meaningful opportunity to obtain their release based on their demonstrated maturation and rehabilitation.

96. In December 2006, the United Nations General Assembly passed a resolution, 185-1 (United States), calling upon all nation states to abolish life imprisonment without possibility of release sentences for those persons who commit offenses when they are below 18 years of age.

97. In 2008, the United Nations Committee on the Elimination of Racial Discrimination in its consideration of U.S. compliance with the Convention on the Elimination of All Forms of Racial Discrimination found that the practice of sentencing persons who commit offenses when they are below 18 years of age to life without possibility of release violated key provisions of the treaty, and called upon the United States to end the practice and to review the situation of prisoners currently serving such sentences.

98. Article 37(a) of the United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990), ratified by every member state of the United Nations except the United States, explicitly prohibits the imposition of “life imprisonment without the possibility of release ... for offenses committed by persons below 18 years of age.”

99. In Michigan, 363 individuals were serving sentences of mandatory life imprisonment for first-degree homicide convictions for offenses they committed when they were under 18 years of age; nearly 200 Plaintiffs continue to serve this sentence without a meaningful opportunity to obtain their release based on their

demonstrated maturity and rehabilitation and, as Defendants do not consider any of them parole-eligible, none of them has been afforded a meaningful opportunity to obtain their release on parole.

100. Over 130 Plaintiffs have served sufficient time to be immediately parole-eligible if they are resentenced to a term-of-years sentence.

101. None of the Plaintiffs waiting to be resentenced has had an opportunity for parole review since this Court's 2018 ruling on Count V (Ex Post Facto Clause of the U.S. Constitution, Art. I § 10). Nor has Michigan provided any of these Plaintiffs with any meaningful opportunities to obtain their release on parole or at a resentencing hearing under the legislation since the *Montgomery* decision, over three and a half years ago.

102. Of the Plaintiffs who have been resentenced, and who have been considered by the Michigan Parole Board for release on parole, over 90% have been released on parole at their first review, and over 100 Plaintiff class members have been released. None of the Plaintiff class members have reoffended.

103. In the majority of cases in which prosecutors have sought to reimpose life-without-parole sentences on Plaintiff class members, courts have instead imposed term-of-years sentences. And in the majority of resentencing hearings involving imposition of a term-of-years sentence, Plaintiff class members have either been released or are awaiting a decision on their parole-eligibility.

PLAINTIFFS' INDIVIDUAL FACTUAL ALLEGATIONS

Henry Hill

104. One evening in 1980, Henry Hill, aged sixteen, went with two of his cousins, Larnell Johnson and Dennis Johnson, to a park in Saginaw, Michigan. There they saw Anthony Thomas, a young man with whom Henry's cousins had prior conflicts. Henry's cousins shot at Anthony Thomas. Henry was reported to have been shooting into the air before he fled the park with his cousin Dennis. His other cousin, Larnell Johnson, remained, shooting and killing Anthony Thomas.

105. At the time of the incident, Henry had been attending Saginaw High School where he had undergone psychological testing and found to have a verbal IQ of 69, a performance IQ of 58, and a full scale IQ of 61. He had a reading word recognition level of 3.6 grade level, a spelling performance at a 3.0 grade level, and an arithmetic ability at 3.3 grade level. The psychologist who conducted the tests concluded that these results showed signs of a suppressed mental age, and that his general insight and maturity level was that of a pre-adolescent.

106. Henry was charged for his participation in the Anthony Thomas death with aiding and abetting first degree murder. Based on this charge, the juvenile court waived its jurisdiction over Henry and one of his co-defendants, sixteen-year-old, Dennis Johnson. Both stood trial as adults.

107. Following his trial, Henry was convicted by a jury of first degree aiding and abetting murder.

108. Henry's pre-sentence investigation report notes that his intelligence classification was in the mentally defective range with an academic ability at the third grade level. In the examiner's opinion Henry had the maturity of a nine-year-old child and was motivated by instant gratification, and the desire to be accepted and secure.

109. The trial court had no discretion to consider Henry's juvenile status, mental age or maturity. Michigan law required that the trial court charge and punish Henry as if he were an adult and sentence him as such to the mandatory adult sentence of life imprisonment. Because of the nature of the offense, the Michigan Parole Board was never given jurisdiction to consider Henry for parole. At no stage in his prosecution was Henry's juvenile status considered and, following his conviction, he has never been afforded a meaningful opportunity for release based on his demonstrated maturity and rehabilitation.

110. He worked and participated in his bible study group for which he consistently received excellent reports. Henry did not have a misconduct citation for over a decade and was on a custody level II, the lowest possible for his sentence. He was regarded as a model prisoner.

111. Prosecutors originally sought to reimpose Mr. Hill's life-without-parole sentence but on May 4, 2017, at his resentencing hearing, the court instead resentenced Mr. Hill to a term-of-years sentence. On November 8, 2010, Mr. Hill became parole-eligible. On July 3, 2017, Mr. Hill was considered for release by the Michigan Parole Board and released on October 31, 2017. On June 6, 2018, Mr. Hill was discharged from parole after serving 36 years in an adult prison.

Jemal Tipton

112. In 1987, Jemal Tipton, then aged seventeen, participated in a robbery at the Hunter's Ridge Condominium Complex in Farmington Hills, Michigan with two adults, Nellie McInnis, a forty-six-year-old acquaintance of his mother, and his older brother, Anthony Parks.

113. Nellie McInnis drove Jemal and Anthony to where the robbery took place. She gave Jemal a .22 caliber pistol and identified an acquaintance of hers, Edward Chapman, as the person to rob.

114. Armed with the .22 pistol, Jemal approached Edward Chapman and demanded his valuables. A scuffle ensued and the gun went off twice. One shot struck Edward Chapman, killing him.

115. Jemal had a difficult upbringing in which he was shuttled between family members and friends during his mother's stays in jail or drug treatment

facilities before ending up in the care of Nellie McInnis, a family acquaintance with a long criminal history.

116. Under Michigan laws then in force, Jemal was automatically charged as an adult with felony murder. He was tried as an adult, and after trial he was convicted and given the mandatory adult sentence for the offense, life in an adult prison.

117. In sentencing Jemal, the trial court had no discretion to consider his juvenile status.

118. Michigan law required that the trial court punish Jemal as if he were an adult and sentence him as such to the mandatory adult sentence of life imprisonment.

119. Because of the nature of the offense, the Michigan Parole Board never had jurisdiction to consider Jemal for parole. At no stage in his prosecution was his juvenile status considered and he has never been afforded a meaningful opportunity for release based on this status and his demonstrated maturity and rehabilitation.

120. Since his incarceration, Jemal has taken every opportunity to rehabilitate himself. He obtained his GED and electrician certification. He currently earns three dollars a day doing electrician work detail and mentors younger prisoners, encouraging them to continue their education while in prison.

Defendants continue to preclude Jemal from participation in rehabilitation and core programming based on their consideration of Jemal as non-parolable.

121. Jemal has exhausted all of his post-conviction appellate options.

122. Since his incarceration, Jemal has been given a total of eight misconduct tickets, the last one occurring over twenty years ago. Jemal has now served *over* thirty-two years in adult prison.

123. In 2016, prosecutors filed a motion seeking to reimpose Mr. Tipton's life-without-parole sentence.

124. On August 28, 2019, the prosecutor withdrew the motion, and on September 27, 2019, Mr. Tipton was resentenced to a term-of-years.

125. Although Defendant MDOC has still to calculate Mr. Tipton's earned good-time and disciplinary credits it is possible that Mr. Tipton may have served sufficient time in prison that he may be entitled to immediate parole consideration, now that he has been resentenced to a term-of-years.

Damion Todd

126. In 1986, Damion Todd was a seventeen-year-old entering his senior year in high school. On a Saturday night in August, Damion and three friends drove to an end of the summer party in Detroit, Michigan. A short while after they had left the party and were driving home, a group of men drove by and shot at

them in their car. Convinced that they were from the party, one of Damion's companions suggested they get his gun and look for the men.

127. They drove back to the party where they were again shot at. Damion's friend then gave him a shotgun, and told him to fire back. Damion asserts he intended only to fire at the group that shot at them to scare them. However, a young woman who was at the party, Melody Rucker, was struck and died shortly thereafter.

128. At the time of the incident, Damion was a senior at Henry Ford High School in Detroit. He was captain of his football team and had received Letters of Intent from several Division I AA football schools. Damion had no prior involvement in any juvenile or adult criminal proceedings.

129. Damion had volunteered for two summers with the Detroit Police Cadets, a member of the Police Athletic League sports teams, and he was active in his church choir. He worked part-time in a family restaurant in Southfield, as well as in his family's business.

130. Damion was automatically charged and tried as an adult with assault with intent to kill, first degree murder and felony firearm possession. Damion was subsequently convicted on these charges and sentenced to life on the murder charge, 100 to 200 years on the assault conviction and two years for felony firearm possession.

131. The Michigan Department of Corrections' psychologist's intake report noted that persons with profiles as similar to Damion's "tend to be persons with very good institutional and post-release adjustment" and that he "could have been dealt with just as efficiently and less expensively through probation in the community," as "by the time Mr. Todd reaches his early 30's, he would have matured out of a youthful exuberance and indiscretions which resulted in the needless and tragic death of an innocent female bystander."

132. Damion's sentence for the assault with intent to murder was reversed in 1996 as being excessive and an abuse of discretion. He was resentenced to ten to thirty years on this charge. His mandatory life sentence for his conviction under M.C.L. § 750.316, however, remains.

133. The trial court had no discretion to consider Damion's juvenile status, mental age or maturity. Michigan law required that the trial court charge and punish Damion as if he were an adult and sentence him as such to the mandatory adult sentence of life imprisonment. Because of the nature of the offense, the Michigan Parole Board had no jurisdiction to consider Damion for parole. At no stage in his prosecution was Damion's juvenile status considered, and he has never been afforded a meaningful opportunity for release based on this status and his demonstrated maturity and rehabilitation.

134. Since his incarceration, Damion obtained certificates in food technology, custodial maintenance, officiating certificates for basketball, volleyball, baseball and Jaycees (a worldwide organization that does humanitarian acts such as donating toys to children). He is a member of the Prisoners of Christ Church and in 1987 he received his GED. Damion received only four misconduct tickets in the thirty-one years he had been incarcerated. He acted as a mentor to young prisoners and was considered by prison officials to be a respectful, thoughtful adult who does his job with excellence and with no management problems. Defendants precluded Damion from rehabilitation programs based on their consideration of him as non parolable until his release.

135. On March 29, 2017, Mr. Todd was resentenced. Mr. Todd was deemed eligible for parole as of September 26, 2013. On March 19, 2018, he was considered by the Michigan Parole Board, and released on parole on May 15, 2018, after serving thirty-one years.

Bobby Hines

136. In 1989, fifteen-year-old Bobby Hines went with nineteen-year-old Christopher Young and sixteen-year-old Derius Woolfolk to confront James Warner about Warner's alleged involvement in the theft of a jacket from a boy in the neighborhood. The boy had reported that James Warner had threatened him and taken his jacket for money owed on a drug deal.

137. When the young men saw Warner, Derius Woolfolk fatally shot him and wounded another man he was with. Bobby, who touched neither the weapon nor the victims, was charged as an adult with felony murder. He was tried and subsequently convicted on this charge and sentenced to life imprisonment.

138. The incident occurred in the summer of 1989 shortly after Bobby had completed his eighth grade education at Brooks Middle School in Detroit, Michigan, where he had regular attendance and average grades.

139. Bobby's co-defendants – Christopher Young, who provided the weapon and sixteen-year-old, Derius Woolfolk, who fatally shot the victim – were both convicted of second degree murder and are serving parolable life sentences.

140. Bobby was automatically charged as an adult under Michigan's post-1988 laws without consideration of his juvenile status, mental maturity or relative culpability. He was tried as an adult and upon conviction the court had to choose between punishing him as an adult or releasing him at age twenty-one.

141. The pre-sentence investigation report set forth an evaluation of and plan for Bobby stating that there was no dispute as to what occurred but that due to the "seriousness of the present offenses this writer feels the services and facilities in the adult program would offer more time and circumstance to rehabilitate this defendant. For these reasons and for the best interest of the public welfare and

security, it is recommended this defendant be sentenced to a period of incarceration in an adult facility.”

142. The court had no discretion but to sentence Bobby to “a period of incarceration in an adult facility.” Michigan law required that the trial court either sentence him as a juvenile to be released at age twenty-one or sentence him as an adult to a mandatory sentence of life. Bobby was sentenced to serve “the rest of [his] natural life to hard labor and solitary confinement.” Because of the nature of the offense, the Michigan Parole Board had no jurisdiction to consider Bobby for parole, and he has never been afforded a meaningful opportunity for release based on his juvenile status and his demonstrated maturity and rehabilitation.

143. Bobby was assigned to the lowest custody level available for his sentence. He exhausted all prison educational programs and resources available to him and continued to be denied rehabilitative programming due to Defendants’ consideration of him as non-parolable until his resentencing.

144. Mr. Hines was resentenced on March 16, 2017 and became parole-eligible on October 25, 2011. He was interviewed by the Michigan Parole Board on April 24, 2017 and released on September 12, 2017 after serving twenty-seven years.

Kevin Boyd

145. In 1994, Kevin Boyd, then aged sixteen, was convicted of first degree premeditated murder for his role in the murder of his father, Kevin Boyd, Sr. by his mother, Lynn Boyd.

146. Kevin's mother and father had been separated for six years on August 5, 1994, when Kevin's mother and her lover asked Kevin to give them the keys to his father's apartment, telling him they were going to kill his father. Kevin gave his mother the keys and did not report his mother's threat to the police. The next day Kevin went to his father's apartment, found him murdered and immediately called the police.

147. Four months later, on October 18, 1994, Kevin's mother confessed to the murder and was arrested. Kevin was also arrested at this time. He was interrogated without counsel or a guardian present.

148. Kevin admitted to having given the keys to his mother knowing that she was planning to murder his father and therefore takes responsibility for his role in the murder. He maintains he did not participate in the actual stabbing incident.

149. Kevin was automatically charged under Michigan's post-1988 laws and tried as an adult without a judicial waiver hearing.

150. By the time of his sentencing Kevin had turned nineteen, giving the court a difficult choice: to sentence Kevin as a juvenile with mandatory release in

two years or to sentence him as an adult which would result in a mandatory life sentence.

151. Despite positive reviews for Kevin from supervisors at the juvenile facility where he was detained pending trial and sentencing, opinions that he was nonviolent and unlikely to be a repeat offender and his involvement being based on his youthful desire to please his mother, it was felt that three years would be inadequate for the juvenile system to fully rehabilitate Kevin. Kevin was therefore sentenced to life imprisonment.

152. Kevin appealed and the Michigan Court of Appeals reversed his sentence, finding that the trial court had abused its discretion in sentencing Kevin as an adult, as Kevin was “a model prisoner, an excellent student, amenable to treatment, not a danger to the public and remorseful for his actions.” Four months later, with little explanation, the appeals court reversed itself.

153. Michigan law required that Kevin be sentenced to mandatory life imprisonment. Because of the nature of the offense, the Michigan Parole Board had no jurisdiction to consider Kevin for parole and he has never been afforded a meaningful opportunity for release based on his juvenile status and his demonstrated maturity and rehabilitation.

154. During his incarceration, Kevin received his GED, several trade certificates and was considered a model prisoner.

155. The state prosecutor sought to reimpose Mr. Boyd's life-without-parole sentence. Mr. Boyd's resentencing hearing was held on April 25, 2019, and on May 15, 2019, he was resentenced to a term-of-years. Mr. Boyd became parole-eligible on June 1, 2015, and on June 24, 2019, he was considered for release on parole by the Michigan Parole Board. On or about October 15, 2019, Mr. Boyd was notified that he would be released on parole on January 7, 2020 after having served twenty-five years in adult prison.

Bosie Smith

156. In 1992, Bosie Smith, then aged sixteen, was involved in the stabbing death of an adult male during a fight.

157. Although the adult male who initiated the fight was eight years older and twice the size of the 103 pound Bosie, the jury rejected Bosie's claim of self-defense and convicted him on the first degree murder charge.

158. Bosie was born with fetal alcohol syndrome. He was abandoned by both his parents and was raised by his maternal grandmother. At the time of his conviction, he had completed schooling through the eighth grade. Bosie was a member of his school's wrestling team and local church youth group.

159. Bosie was tried as an adult under Michigan's automatic transfer laws. He was charged and tried as an adult without a judicial waiver hearing or any consideration of his juvenile status, mental age or maturity.

160. Both the case evaluator and the judge were troubled by the idea of sentencing Bosie to life imprisonment. Nevertheless, the case evaluator recommended adult sentencing because the only other option was four years in the juvenile system. The trial judge stated that he would sentence Bosie to a term of years if he had that option but that he was bound by the statute, which required a mandatory life sentence.

161. On appeal, the conviction was affirmed but the case was remanded upon a finding that the trial court abused its discretion in sentencing Bosie as an adult. The Court of Appeals ordered Bosie to undergo psychological testing to assist the trial court in its sentencing. However, the Supreme Court reversed the Court of Appeals remand order, finding that there was no clear error or abuse of discretion by the trial court.

162. Michigan law required that the trial court sentence Bosie to the mandatory adult sentence of life imprisonment. Because of the nature of the offense, the Michigan Parole Board had no jurisdiction to consider Bosie for parole and, he has never been afforded a meaningful opportunity for release based on his juvenile status and his demonstrated maturity and rehabilitation.

163. During his incarceration, Boise completed his GED and was involved in numerous prison groups, including Commitment to Change, Career Scope, Second Chance at Life, and Retired Greyhound Prison Program. Boise also earned

certificates pertaining to “Communication Skills,” “Diversity,” “Critical Thinking,” “Prisoner Rape Elimination Act Education,” and “Blood Bourn.” Throughout his time in prison, Bosie maintained Level II custody, the lowest allowed for his offense. He exhausted all prison educational programs and resources available to him and was denied rehabilitative programing due to Defendants’ consideration of him as non-parolable.

164. The prosecutor originally sought to reimpose Mr. Smith’s life-without-parole sentence, but on March 22, 2017 he was resentenced to term-of-years sentence instead, which made him parole-eligible on September 5, 2018. The Michigan Parole Board considered Mr. Smith for release on parole and released him on September 5, 2018 after Mr. Smith had served thirty-one years.

Jennifer Pruitt

165. In 1992, Jennifer Pruitt, then aged sixteen, participated in a plan to rob one of her neighbors in Pontiac, Michigan.

166. Jennifer was a runaway from sexually and physically abusive parents when she committed her crime. She had no prior criminal record.

167. At the time of the robbery, Jennifer was staying with Donnell Miracle, a twenty-three-year-old neighbor. While Miracle initiated the robbery plan, Jennifer was the one who singled out the neighbor, Elmer Heichel, as the person to rob.

168. Elmer Heichel let Jennifer and Miracle into his house at 1:30 a.m. on August 30, 1992. Jennifer went to use the bathroom and then went into the back room to steal the neighbor's wallet. When she came out of the room she witnessed Miracle stabbing Elmer Heichel.

169. Jennifer did not participate in the stabbing. She also reported the incident and her involvement to the police that same day, leading to the subsequent arrest of Miracle.

170. The trial of Jennifer Pruitt was delayed. Jennifer's remorse was so strong that she became self-injurious and was committed to a psychiatric facility where she was deemed incompetent to stand trial for over a year.

171. Under Michigan law, Jennifer was automatically charged as an adult with first degree murder and armed robbery. She was convicted of felony murder and sentenced as an adult based upon the pre-sentence investigation report's assertion that the adult facilities would afford greater opportunities for her rehabilitation. However, the report failed to acknowledge that her rehabilitation and eventual return to society was impossible because under Michigan law, the court had no discretion to give her any sentence other than life in prison.

172. Given the nature of the offense for which Jennifer was convicted, the Michigan Parole Board did not have jurisdiction to consider her for parole, and she

was never afforded a meaningful opportunity for release based on her juvenile status and her demonstrated maturity and rehabilitation.

173. During Jennifer's initial years in adult prison, she was raped by two male correctional officers. She had also undergone counseling to assist her recovery from post-traumatic stress disorder.

174. In her last ten years in prison, Jennifer completed her GED and all recommended rehabilitation programs offered her. Jennifer had been waived to a Level I security classification, based on her special status as a counselor and mentor. She was described as an "inmate role model and excellent worker, dependable, honest, sincere and reliable." She exhausted all prison educational programs and resources available to her and was denied rehabilitative programming due to Defendants' consideration of her as nonparolable until resentencing.

175. The On March 2, 2017, Jennifer was resentenced to a term-of-years sentence and became parole-eligible on April 4, 2017. Because of Defendants' failure to provide Jennifer with rehabilitative and other programming, Jennifer was not considered for release on parole by the Michigan Parole Board until April 30, 2018. This failure to provide required programming also delayed Jennifer's release on parole until October 16, 2018.

Matthew Bentley

176. In 1997, Matthew Bentley was a fourteen-year-old ninth grader at Bad Axe High School in Michigan when he decided to break into a house in his neighborhood.

177. Matthew was the youngest child of his mother and father's second marriage, and he was five when his father was incarcerated for sexual abuse of his sister. He was then raised by his mother. Matthew had a difficult time focusing at school, and in grade school he was diagnosed with Attention Deficit Disorder. He was prescribed Ritalin and he took the medication until his mother could no longer afford it. He was an active member of the Boy Scouts, young marines, and his local church. He helped with his brother-in-law's business, swam, wrote poetry, played basketball and babysat his nieces and nephews.

178. Matthew began drinking alcohol at the age of eleven and using marijuana at age thirteen. In 1996, he was prescribed Zoloft for depression and Dexedrine for hyperactivity. His use of drugs and behavior resulted in foster care placement shortly before he committed his offense.

179. On the day of the incident, Matthew left school early and broke into a home he thought was unoccupied. While he was in the house, he found the owner's gun, which he took with him while rummaging through the house for

other valuables. When unexpectedly confronted by the owner of the house, Matthew shot and fatally wounded her before fleeing the scene.

180. Matthew was arrested the same day and, under the newly enacted Michigan law lowering the age for automatic waiver to adult prosecution to fourteen, was charged as an adult with felony murder, home invasion, and felony firearm possession.

181. Tried as an adult, Matthew was convicted of all three offenses and given the mandatory sentence of life imprisonment. The judge stated at his sentencing hearing that if he had a choice he would have given Matthew a term of years which would have afforded him the opportunity for release in fifteen years.

182. In addition to lowering the age for automatic adult prosecution to fourteen, the 1996 laws under which Matthew was charged and sentenced eliminated any discretion to consider Matthew's juvenile status at sentencing. Matthew was charged, tried, convicted and sentenced without any discretion to consider his juvenile status, mental age or maturity. Michigan law required that the trial court punish Matthew as if he were an adult and sentence him to the mandatory adult sentence of life imprisonment. Because of the nature of the offense, the Michigan Parole Board had no jurisdiction to consider Matthew for parole.

183. At no stage of his criminal prosecution and sentencing was Matthew's juvenile status considered, and he has never been afforded a meaningful opportunity for release based on this status and his demonstrated maturity and rehabilitation.

184. Since being imprisoned, Matthew has earned his GED and a trade certificate in custodial maintenance. He acts as a mentor and a guardian to incoming young prisoners who are targeted by older sexually predatory inmates.

185. Prosecutors sought to reimpose Mr. Bentley's life-without-parole sentence, but did not pursue the sentence on resentencing because they missed the 180-day filing deadline.

186. On September 25, 2017, Mr. Bentley was resentenced to 32-60 years and will become parole-eligible on March 1, 2026.

187. Mr. Bentley has now served over twenty-one years in prison. He is currently a Level II custody level prisoner, the lowest allowed for his offense. He is, for the first time, eligible for participation in rehabilitative programming.

Keith Maxey

188. In 2007, Keith Maxey was sixteen when he accompanied two adult acquaintances to meet some men to buy marijuana. Three people were shot during the drug deal, including Keith. Keith and one of his co-defendants were

subsequently charged with attempting to rob the drug dealers and in the death of one of them, who later died from his wound.

189. Keith's co-defendant, Tyrell Adams, a twenty-year-old who shot the victims and committed the murder, pled to second degree murder and is serving a term of years. The second co-defendant Antoine Bailey, who was also a twenty-year-old, was charged and convicted of assault with intent to commit murder and sentenced to fifteen years.

190. Keith, the only juvenile involved in the incident, was automatically charged and tried as an adult and convicted of first degree felony murder.

191. Keith was then sentenced as an adult to a mandatory life sentence.

192. Keith appealed his conviction and sentence but the Court of Appeals affirmed the lower court's order. His application for leave to appeal to the Michigan Supreme Court was denied.

193. The 1996 laws under which Keith was charged and sentenced eliminated any discretion to consider Keith's juvenile status at sentencing. Keith was charged, tried, convicted and sentenced without any consideration of his juvenile status, mental age or maturity. Michigan law required that the trial court punish Keith as if he were an adult and sentence him to the mandatory adult sentence of life imprisonment. Because of the nature of the offense, the Michigan Parole Board had no jurisdiction to consider Keith for parole, and he has never

been afforded a meaningful opportunity for release based on his juvenile status and his demonstrated maturity and rehabilitation.

194. The prosecutor is not seeking to reimpose Mr. Maxey's life-without-parole sentence.

195. Keith has not been resentenced, and has no scheduled date for his resentencing hearing.

196. Keith has been imprisoned for nearly eleven years without any opportunity to complete core programming of violence prevention, assaultive or substance abuse or other rehabilitative programs. During his time he has received few misconduct citations, the last one being four years ago, and is classified to the lowest security level allowed for his offense. Keith continues to be denied rehabilitative and core programming due to the fact that he has not been resentenced.

Giovanni Casper

197. In 2006, Giovanni Casper was in the tenth grade and had just turned seventeen when he attended a social event at a local roller rink with his friends. A fight broke out at the roller rink, between Giovanni and his friends and another group of teenagers, which was broken up by employees at the roller rink. Another fight began when Kenneth Dear approached Giovanni and began swinging punches.

198. The testimony at trial was that Giovanni was standing in front of Kenneth Dear at the roller rink when Dear suffered a single and fatal gunshot wound to the chest. The prosecution argued that although no one saw a gun in Giovanni's hand his proximity to Mr. Dear and the testimony of prior bad blood between the two teens was sufficient to sustain a conviction.

199. Giovanni was automatically charged and tried as an adult and convicted of first-degree pre-meditated homicide.

200. Giovanni was sentenced as an adult to a mandatory life sentence.

201. Giovanni maintains his innocence and appealed his conviction to the Michigan Court of Appeals which affirmed his sentence in 2009. His application for leave to appeal to the Michigan Supreme Court was denied.

202. The laws under which Giovanni was charged and sentenced eliminated any discretion to consider his juvenile status at sentencing. Giovanni was charged, tried, convicted and sentenced without any consideration of his juvenile status, mental age or maturity. Michigan law required that the trial court punish Giovanni as if he were an adult and sentence him to the mandatory adult sentence of life imprisonment. Because of the nature of the offense, the Michigan Parole Board had no jurisdiction to consider Giovanni for parole, and he has never been afforded a meaningful opportunity for release based on his juvenile status and his demonstrated maturity and rehabilitation.

203. Prosecutors did not seek to reimpose Giovanni's life-without-parole sentence.

204. On September 30, 2016, Giovanni was resentenced to 40-60 years and he will become parole eligible on November 13, 2048.

205. Giovanni has been imprisoned for twelve years. During this time he has completed his GED and is classified to the lowest security level allowed for his offense. Before he was resentenced Giovanni had exhausted all prison educational programs and resources available to him and Defendants deprived Giovanni of core and other rehabilitative programming because they considered him as non-parolable. The lack of such programming negatively impacted the outcome of Giovanni's resentencing hearing.

Jean Carlos Cintron

206. Jean Carlos Cintron was sixteen years old in 2008 when he went with his older brother and two of his brother's friends to the house of Laval Crawford, a man alleged to have beaten and robbed Jean at gun point earlier in the day.

207. Laval Crawford and a group of his friends returned to the home armed with guns. Jean, with his brother and two co-defendants, ran out of the house, shooting their guns. Jean's co-defendant Diego Galvan was convicted of fatally shooting Laval Crawford and sentenced to life for first-degree premeditated

murder. Jean's older brother was also convicted of first-degree murder and sentenced to life.

208. Jean, the only juvenile involved in the incident, was automatically charged as if he were an adult with felony murder. He was tried as an adult, without any consideration of his juvenile status, and convicted of felony murder and received the mandatory punishment of life without parole.

209. Prior to this offense, Jean was an 11th grade student, in excellent standing, at Pontiac Central High School, with no prior juvenile, misdemeanor or felony offenses.

210. At no stage of his criminal proceeding was Jean's juvenile status considered.

211. The prosecutor did not seek to reimpose Jean's life-without-parole sentence. On May 3, 2018 Jean was resentenced to 30-60 years. Jean will become parole-eligible on May 25, 2041.

212. Jean had earned his GED and is currently a level II custody prisoner, the lowest level allowed for his offense.

213. Before he was resentenced, Jean had exhausted all prison educational programs and resources available to him. The lack of rehabilitative programming before he was resentenced negatively impacted Jean at resentencing.

Nicole Dupure

214. In 2004, Nicole was seventeen when her older boyfriend, William Blevins, was charged with robbery and murder of an elderly woman, Shirley Perry, in Macomb County, Michigan.

215. Initially, William Blevins admitted that he had acted alone in stabbing Shirley Perry but later, in exchange for a plea to second degree homicide, Blevins testified that Nicole aided and abetted the robbery and homicide William Blevins, the individual who actually committed the murder, is eligible for release in 2024.

216. Nicole Dupure was charged as an adult and convicted of first degree homicide under alternate theories of felony murder and first degree premeditated murder. She was given the mandatory sentence for an adult, life without possibility of parole, and incarcerated in an adult prison.

217. Nicole Dupure had no prior contact with the criminal justice system, juvenile record or misdemeanors.

218. At no stage of her criminal prosecution and sentencing was Nicole's juvenile status considered, and she has never been afforded a meaningful opportunity for release based on this status and her demonstrated maturity and rehabilitation.

219. Since her imprisonment, Nicole has participated in all programs available to her and she has maintained an excellent work record.

220. The Court of Appeals affirmed Nicole's first degree conviction and dismissed her second degree conviction.

221. Nicole is currently a Level II custody level prisoner, the lowest allowed for her offense.

222. Nicole has exhausted all prison educational programs and resources available to her and continues to be denied core and other rehabilitative programming because Defendants consider her as non-parolable.

223. Prosecutors filed a motion to reimpose Nicole's life-without-parole sentence, but Defendants have not yet scheduled her resentencing hearing. Nicole Dupure has served over thirteen years.

Dontez Tillman

224. In 2008, Dontez Tillman was a fourteen year old middle school student who had just finished the seventh grade when he was arrested and charged as an adult with felony murder in Oakland County, Michigan.

225. Dontez was subsequently convicted of felony murder for his role in the beating of a homeless man, Wilford Hamilton, who died four days later as a result of his injuries.

226. Dontez, at fourteen years old, was charged as if he were an adult, tried and convicted at the age of fifteen. Dontez was then punished with a mandatory life-without-parole sentence to be served in an adult prison.

227. Dontez' co-defendants included Darrin Higgins, a 15 year old who was charged with the beating deaths of two men. Darrin pled to two charges of second degree murder and received a term-of-years sentence.

228. Another of Dontez' co-defendants, Thomas McCloud, who, like Dontez, was also fourteen years old, was charged, tried, convicted as if he were an adult and sentenced to life-without- possibility of parole.

229. Following the Supreme Court's decision in *Miller v. Alabama*, Dontez was resentenced to 32.5 to 60 years in prison by a judge. Under the statutory scheme then in place, there was no requirement that the resentencing court consider as mitigating factors Dontez's age and its attendant characteristics. Nor is there any requirement that the Michigan Parole Board consider these factors, or Dontez subsequent growth and maturation when the Board considers him for release on parole. Dontez will never be afforded a meaningful opportunity to obtain his release that is based on his age at the time he committed his offense, and on his demonstrated maturation and rehabilitation.

230. Since his imprisonment, Dontez has been denied participation in recommended substance abuse programming and has not been provided violence prevention programming. Dontez recently completed his GED.

231. Dontez currently is a Level II custody level prisoner, the lowest allowed for his offense.

CLASS ALLEGATIONS

232. Plaintiffs seek relief on behalf of themselves and all others similarly situated, namely, all current individuals in Defendants' custody who received a life sentence for a first-degree homicide offense committed by them when they were below 18 years of age.

233. After this Court granted summary judgment in Plaintiffs' favor on the claims in Plaintiffs' First Amended Complaint, Defendants refused to recognize that the Court's order applied to anyone other than the named Plaintiffs.

234. Therefore, it is necessary and appropriate to certify this case as a class action under the Federal Rules of Procedure, Rule 23(b)(2). Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole. Plaintiffs seek class certification to ensure that this Court's declaratory and injunctive orders will cover all individuals who are subject to Defendants' continuing refusal to comply with *Graham*, *Miller*, *Montgomery*, and other related constitutional requirements pertaining to the punishment of persons who commit offenses when they are below 18 years of age.

235. The class is so numerous that joinder of all members is impracticable. There are over 360 individuals in Defendants' custody serving life sentences for offenses committed when they were below 18 years of age.

236. There are questions of law or fact common to the class. All class members are individuals in Defendants' custody for first-degree homicide offenses committed when they were below 18 years of age, and the question of law common to the class is whether they are being denied a meaningful opportunity to obtain their release based on their demonstrated maturity and rehabilitation.

237. Plaintiffs' claims are typical of the claims of the class. Plaintiffs' claims arise from the same event, practice, or course of conduct that gives rise to the claims of other class members, and their claims are all based on the same legal theories.

238. Plaintiffs will fairly and adequately assert and protect the interests of the class. Plaintiffs have common interests with the other class members, and are not antagonistic to the interests of other class members. Additionally, the attorneys for Plaintiffs are experienced and capable litigators in the field of civil and human rights, including litigation on behalf of incarcerated individuals and in class actions.

239. On April 9, 2019, this Court certified this matter as a class, appointed class counsel, and recognized the existence of subclasses.

**CAUSES OF ACTION
42 U.S.C. § 1983**

**FIRST CAUSE OF ACTION
(CRUEL & UNUSUAL PUNISHMENT AND DUE PROCESS)**

240. M.C.L. § 791.234(6), as it continues to be enforced, violates Plaintiffs' rights under the Eighth and Fourteenth Amendments, because it deprives Plaintiffs punished with a mandatory sentence of life imprisonment to a meaningful opportunity to obtain release based on their demonstrated maturity and rehabilitation.

**SECOND CAUSE OF ACTION
(CRUEL & UNUSUAL PUNISHMENT)**

241. M.C.L. §§ 750.316, 769.25, 769.25a and 791.234 violate the Eighth Amendment, because they subject Plaintiffs to sentences of life imprisonment without the possibility of release on parole for offenses committed by them when they were below 18 years of age.

**THIRD CAUSE OF ACTION
(EX POST FACTO)**

242. At the time of Plaintiffs' offenses, the mandatory and maximum sentence for first-degree murder under M.C.L. § 750.316 was life imprisonment.

243. For individuals convicted of second-degree murder under M.C.L. § 750.317, the maximum sentence is also life imprisonment.

244. When Plaintiffs were convicted, Plaintiffs' eligibility for release on parole while serving their life sentences was determined by M.C.L. § 791.234,

which authorizes the Michigan Parole Board to exercise jurisdiction over individuals serving life sentences who were convicted of second-degree murder but prohibits the Board from considering for release on parole individuals serving life sentences for first-degree murder.

245. Because M.C.L. § 791.234 is a provision of the Michigan corrections code and a component of the judgment of sentence, the legislature was and is free to enlarge the Parole Board's jurisdiction to include prisoners serving life sentences for convictions under M.C.L. § 750.316, just as it has jurisdiction over prisoners serving life sentences for convictions under M.C.L. § 750.317.

246. Following the Supreme Court's ruling in *Miller v. Alabama*, the legislature amended M.C.L. § 750.316 and enacted M.C.L. §§ 769.25 and 769.25a, which changed the maximum sentence for first degree murder from life imprisonment to life imprisonment without the possibility of parole for persons who committed their offenses when they were below 18 years of age.

247. The life-without-parole punishment of M.C.L. §§ 750.316, 769.25 and 769.25a, as applied only to Plaintiffs, and others below 18 years of age at the time they committed their offenses, violates the Ex Post Facto Clause of Article I, § 10, of the United States Constitution because it subjects Plaintiffs to a harsher sentence than the law in effect at the time of their offense and original sentencing and imposes this sentence only on Plaintiffs and those similarly situated.

**FOURTH CAUSE OF ACTION
(CRUEL & UNUSUAL PUNISHMENT AND DUE PROCESS)**

248. Under the Eighth Amendment, a mandatory punishment of life in prison without the possibility of release on parole is cruel and unusual punishment when imposed for an offense committed by persons when they were below 18 years of age.

249. For children who face a punishment of imprisonment for the rest of their lives, the Eighth Amendment and Due Process Clause requires that opportunities to obtain release be meaningful.

250. Under M.C.L. §§ 750.316, 769.25 and 769.25a, Plaintiffs face a mandatory term of imprisonment that is the equivalent of life imprisonment. If Plaintiffs are not sentenced to life without the possibility of parole, they must be sentenced to a term of years that requires their imprisonment for up to a minimum of 60 years. A 60 year sentence substantially exceeds their life expectancy in prison.

251. Under M.C.L. §§ 791.231 through 791.246, Plaintiffs who are subject to a prison term of no less than a 60-year maximum sentence are not guaranteed a meaningful opportunity for release on parole before the end of their natural lives due to Defendants' policies and procedures governing access to prison programming and parole eligibility, consideration and release.

252. This statutory scheme violates Plaintiffs' rights under the Eighth and Fourteenth Amendments.

**FIFTH CAUSE OF ACTION
(EX POST FACTO)**

253. Until 1987, Michigan allowed reduction of sentences for those prisoners who served "good-time" without misconducts or accumulated disciplinary credits. Prisoners could earn from 5-15 days per month off their minimum sentences and could also reduce their maximum sentence. M.C.L. § 800.33.

254. Over 75 individuals serving life sentences have accumulated good-time and/or disciplinary credits.

255. In *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016), the Supreme Court confirmed that Plaintiffs' life sentences were void *ab initio*.

256. Under M.C.L. §§ 769.25 and 769.25a, Plaintiffs are now subject to term-of-years sentences to replace their void life sentences.

257. However, M.C.L. § 769.25a(6) deprives Plaintiffs of any good-time or disciplinary credit on time already served.

258. M.C.L. § 769.25a(6), as applied to Plaintiffs, violates the Ex Post Facto Clause of Article I, § 10, of the United States Constitution because it subjects Plaintiffs to a harsher punishment than the law in effect at the time of their offense and original sentencing.

**SIXTH CAUSE OF ACTION
(EIGHTH AMENDMENT AGAINST DEFENDANTS WASHINGTON &
EAGEN)**

259. In 2013, this Court declared that all individuals convicted and punished to mandatory sentences of life-without-possibility of parole for crimes committed when they were below 18 years of age to be serving parolable life sentences.

260. The Eighth Amendment and Due Process Clause require that any person below 18 years of age who is convicted of a homicide offense that does not reflect irreparable corruption must receive a fair and meaningful opportunity for release, including a right to educational and other rehabilitative programming, necessary for them to demonstrate growth, maturity, and suitability for release.

261. Defendants Washington and Eagen have continued to treat Plaintiffs as if they were serving nonparolable life sentences, and have and continue to deprive Plaintiffs of any meaningful opportunities for release.

262. Defendants Washington has refused and failed to provide programming, education, training and rehabilitation opportunities necessary for Plaintiffs to demonstrate their suitability for release.

263. Defendants have continued to deny Plaintiffs parole opportunities by invoking M.C.L. § 791.234, despite this statute having been declared unconstitutional. Therefore, Defendants have deprived Plaintiffs of meaningful

opportunities to obtain release based on their demonstrated growth, maturity and rehabilitation.

264. Defendants continued refusal to provide Plaintiffs rehabilitative programming and consequent meaningful opportunities to obtain release on parole has resulted in Plaintiffs' loss of liberty, extended their incarceration, causing them physical injuries and severe emotional distress.

265. Defendants' failure to provide Plaintiffs with access to the programming, education, training, rehabilitation opportunities violates Plaintiffs' rights under the Eighth and Fourteenth Amendments.

**SEVENTH CAUSE OF ACTION
(CUSTOMARY INTERNATIONAL LAW)**

266. By subjecting Plaintiffs to life in prison without a meaningful opportunity for release based on their juvenile status and their demonstrated maturity and rehabilitation, Defendants are punishing Plaintiffs with no legitimate penological justification, and as such subjecting them to cruel, inhuman or degrading treatment or punishment in violation of customary international law as reflected, *inter alia*, in the Universal Declaration on Human Rights, the ICCPR and the U.N. Convention on the Rights of the Child, which extend special measures of protection to children, prohibit life imprisonment without the possibility of release for offenses committed by persons below eighteen years of age, and condemn the practice as a form of cruel, inhuman or degrading treatment or punishment.

267. Defendants' violations of customary international law are actionable pursuant to 42 U.S.C. § 1983 in that customary international law has been held, since the Constitution's adoption, to be part of the laws of the United States.

**EIGHTH CAUSE OF ACTION
(EIGHTH AND FOURTEENTH AMENDMENTS OF THE U.S.
CONSTITUTION - PROCEDURAL DUE PROCESS (DELAY IN
RESENTENCING))**

268. Plaintiffs Dupure and Maxey assert this claim on behalf of themselves and the proposed sub-class of Plaintiffs who have yet to be resentenced.

269. Because of the unreasonable delays in their resentencing hearings, there are nearly 200 class members who continue to be held in carceral limbo without any meaningful opportunity to obtain their release based on their demonstrated maturation and rehabilitation.

270. The Fourteenth Amendment of the U.S. Constitution prohibits the State of Michigan from depriving any person of life, liberty, or property without due process of law.

271. Plaintiff sub-class members have substantial liberty interests in a resentencing hearing under M.C.L. § 769.25, and under the Eighth Amendment, pursuant to the Supreme Court's decision in *Miller v. Alabama*, 567 U.S. 460 (2012).

272. Plaintiffs' state and federal liberty interests in a resentencing hearing require that that Plaintiff sub-class members receive their resentencing hearings without undue delay.

273. Resentencing hearings will result in Plaintiff sub-class members receiving term-of-years sentences to replace their vacated life-without-parole sentences, which may result in their immediate eligibility for parole or for release. Plaintiff class members who receive a term-of-years sentence may also become eligible for rehabilitative and other programming necessary to demonstrate their suitability for release on parole.

274. Thus, Defendants' delay of more than three years in convening resentencing hearings is unreasonable and has prejudiced the sub-class. There are no valid justifications for the delays. Further, providing reasonably prompt resentencing hearings would not impose substantial fiscal and administrative burdens on the State. Defendants have instead unnecessarily extended Plaintiff Class' incarceration, and deprived them of eligibility for rehabilitative and other programming.

275. This failure to provide resentencing hearings to the Plaintiff Class violates the Eighth Amendment and the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for a judgment against Defendants and request that this Court:

- A. Issue a declaratory judgment declaring that the continued incarceration of Plaintiffs without affording them a meaningful opportunity to obtain release based on their child status at the time they committed their offenses and demonstrated maturity and rehabilitation, violates Plaintiffs' rights guaranteed by the United States Constitution, statutory law, and customary international law;
- B. Issue a declaratory judgment that M.C.L. §§ 750.316, 769.25, 769.25a, and 791.234, as applied to Plaintiffs, violates the Ex Post Facto Clause and the Eighth and the Fourteenth Amendments of the U.S. Constitution and customary international law;
- C. Issue a declaratory judgment that Defendants' laws, policies and practices in denying Plaintiffs of rehabilitative and other in-prison programming because of their "lifer" status violates Plaintiffs' right to a meaningful opportunity to obtain their release based on their demonstrated maturity and rehabilitation in violation of the Eighth Amendment of the U.S. Constitution.

- D. Issue a declaratory judgment that the failure to provide notice of and to convene resentencing hearings for the Plaintiff Class without undue delay violates the Eighth Amendment and the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution.
- E. Grant injunctive relief ordering Defendants to provide Plaintiffs with a meaningful opportunity to obtain their release based on their demonstrated maturity and rehabilitation;
- F. Retain jurisdiction over this action until the Court is satisfied that the unlawful laws, policies, practices, rules, acts and omissions complained of have been satisfactorily rectified;
- G. Award Plaintiffs attorney fees and costs; and
- H. Award such other and further relief as seems just and proper.

Dated: October 29, 2019

Respectfully submitted,

/s/ Deborah LaBelle

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CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2019, I electronically filed this paper and all attachments with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record.

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