

STATE OF MICHIGAN
IN THE SUPREME COURT
Appeal from the Michigan Court of Appeals
[Talbot, P.J., and Fitzgerald and Whitbeck, JJ.]

PEOPLE OF THE STATE OF MICHIGAN, Supreme Court No. 146478

Plaintiff-Appellee,

Court of Appeals No. 307758

v

St. Clair Circuit Court
No. 06-001700-FC

RAYMOND CURTIS CARP,

Defendant-Appellant.

The appeal involves a ruling that a provision of the Constitution, a statute, rule or regulation, or other State governmental action is invalid.

BRIEF ON APPEAL OF
ATTORNEY GENERAL BILL SCHUETTE AS INTERVENOR

ORAL ARGUMENT REQUESTED

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Dated: February 20, 2014

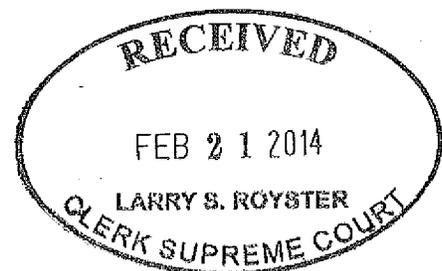


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COUNTER-STATEMENT OF QUESTIONS PRESENTED

The Court granted leave limited to two questions:

1. Whether *Miller v Alabama*, 567 US ___; 132 S Ct 2455 (2012), applies retroactively under federal law, per *Teague v Lane*, 489 US 288 (1989), to cases that have become final after the expiration of the period for direct review.

Appellant's answer: Yes.

Appellee's answer: No.

Attorney General's answer: No.

Court of Appeals' answer: No.

2. Whether *Miller v Alabama*, 567 US ___; 132 S Ct 2455 (2012), applies retroactively under state law, per *People v Maxson*, 482 Mich 385 (2008), to cases that have become final after the expiration of the period for direct review.

Appellant's answer: Yes.

Appellee's answer: No.

Attorney General's answer: No.

Court of Appeals' answer: No.

CONSTITUTIONAL PROVISIONS, STATUTES, RULES INVOLVED

The Michigan sentencing scheme involves the interplay of three statutes.

MCL 750.316, MCL 769.1, and MCL 791.234(6).

MCL 750.316:

(1) A person who commits any of the following is guilty of first degree murder and shall be punished by imprisonment for life:

(a) Murder perpetrated by means of poison, lying in wait, or any other willful, deliberate, and premeditated killing.

MCL 769.1:

(1) A judge of a court having jurisdiction may pronounce judgment against and pass sentence upon a person convicted of an offense in that court. The sentence shall not exceed the sentence prescribed by law. The court shall sentence a juvenile convicted of any of the following crimes in the same manner as an adult:

* * *

(g) First degree murder in violation of section 316 of the Michigan penal code, 1931 PA 328, MCL 750.316.

MCL 791.234:

(6) A prisoner sentenced to imprisonment for life for any of the following is not eligible for parole and is instead subject to the provisions of section 44:

(a) First degree murder in violation of section 316 of the Michigan penal code, 1931 PA 328, MCL 750.316.

INTRODUCTION

As a class of prisoners, the more than 300 offenders serving a mandatory life sentence for committing first-degree murder while teenagers are some of the most dangerous in Michigan. More than 80 of these offenders were sentenced to life without parole more than 25 years ago, with the oldest reaching back 50 years to 1962. The community's interest in finality weighs heavily here. The ability of a trial court to consider the factors listed in *Miller* for these cases is seriously limited.

Consider one of St. Clair County's oldest murder cases: James Porter brutally murdered a mother and her four children, including a ten-year boy, in 1982 when Porter was 16 years old; he was sentenced to life without parole in 1983. Now that Porter is almost 50 years old, the individual considerations of *Miller* for the crime committed 30 years ago – whether Porter's "immaturity, impetuosity, and failure to appreciate risks" along with his "family and home environment that surrounds him" might support a lesser sentence than non-parolable life – may be impossible to determine. These considerations of finality undergird the analysis of retroactivity. And they support the conclusion that *Miller* does not apply retroactively either under federal law or state law.

Under federal law, the *Miller* rule is a new one. It also is procedural in nature as the U.S. Supreme Court expressly recognized: "[our decision] mandates only that a sentence follow a certain *process* – considering an offender's youth and attendant characteristics – before imposing a particular penalty." 132 S Ct at 2471 (emphasis added). It "does not categorically bar a penalty for a class of offenders or type of crime[.]" *Id.* The *mandatory* nature of life imprisonment is not a part of the

punishment, but only a description of the manner by which it is determined. A teenage murderer may be sentenced to life without parole after *Miller*, but the sentencing court must now use a process that allows for individual considerations.

Carp's other arguments are also unavailing. The fact that the U.S. Supreme Court applied *Miller* to a case on collateral review – Kuntrell Jackson – is of no moment because the State of Arkansas did not argue that Jackson's sentence was already final, and retroactivity may be waived if not raised. Carp's reliance on the U.S. Supreme Court's death-penalty jurisprudence is equally unpersuasive for the same reason. Requiring individual consideration of a defendant before imposing the death penalty is a change in process, not substance. The fact that an individualized sentencing allows for consideration of mitigating factors does not make the change a substantive one, because *Miller* does not require any specific finding. It does not create a new "sentencing" element. The same conduct is subject to the same possible punishment of life without parole.

Under state law, the answer is the same. Under *Maxson's* three-prong test, *Miller* is not retroactive. First, this issue does not involve the ascertainment of guilt or innocence. Second, there has been no adverse reliance by Carp. And third, regarding the administration of justice, the importance of finality supports the conclusion that *Miller* does not apply retroactively. The scores of cases that are more than 25 years old punctuate this point. In fact, an evaluation of the *Maxson* factors shows that the test – based on the overruled *Linkletter* case – is outmoded; this Court should adopt the *Teague* test.

COUNTER-STATEMENT OF FACTS AND PROCEEDINGS

The Attorney General adopts the statement of facts and proceedings as prepared by the St. Clair County Prosecutor's Office. As noted in the introduction, there are more than 350 offenders who are currently serving a life-without-parole sentence for committing murder while under the age of 18. For St. Clair County, there are five murderers within this group whose cases were final: Raymond Carp (sentenced in 2006), Michael Hills (sentenced in 2006), Justin Rose (sentenced in 1999), Terry Patterson (sentenced in 1996), and James Porter (sentenced in 1983). See Attachment A, List of Juvenile Offenders Serving Life Without Parole as of March 29, 2011. Given that there are some 80 offenders who were sentenced more than 25 years ago, the Attorney General wishes to highlight the facts of the Porter case to underscore the considerations of finality at issue in this appeal.¹

In 1982, James Porter was the friend of Eric Giuliani, who had graduated from high school that Giuliani still attended. (Vol. II, pp 478-479). In the few months before the date of the crime, the Giuliani home had been subject to a couple of burglaries. (*Id.* at 488-491.) On April 7, 1982, Eric's sister, Cindy (thirteen years old) and the mother, Elizabeth Giuliani, were planning on going bowling. It had been a snow day. (*Id.* at 529). On that same day, Porter's younger brother Kent saw James Porter leaving the family home with a "gun case." (Vol. I, pp 394-396).

The evidence demonstrated that Porter arrived at the Giuliani home that morning and systematically executed the entire family, other than the father

¹ The page references to the Porter trial are appended as Attachment B.

Richard Giuliani, who was not at home. Mrs. Giuliani was found outside of her bathroom in the hallway; Porter had shot her twice in head with a .22 rifle, one above her right eye and the other above her left ear. (Vol. II, pp 616-617, 657). Her daughter, Kathy, who was sixteen years old, was found next to her mother, still dressed in her pajamas; Porter shot her once in the left temple. (*Id.* at 620, 660). Kathy's younger sister, Cindy, was found in the bathroom. (*Id.* at 661). She was already dressed, wearing a blue blouse, blue jeans, and socks. (*Id.*) Porter shot her three times, once in the left shoulder, and twice in the head. (*Id.* at 626). Eric Giuliani was found near his own bedroom; Porter shot him twice in the head. (*Id.* at 628, 665).

The final victim found in the house was Dean or "Deano" Giuliani, who was ten years old. He was in the small bathroom, fully dressed apparently hiding in the shower stall. (*Id.* at 666). Porter shot him in the left temple and the face with the bullet passing through his brain. (*Id.* at 632). There were casings throughout the house. (*Id.* at 604) (the responding officer explained that the casings were "everywhere I went").

Afterward, Porter withdrew some cash from Eric Giuliani's bank account and went shopping with his friend Rick DeBruycker at a car audio store, K-Mart, and Taco Bell before his arrest. (Vol. III, pp 879-880). Porter had argued with Eric Giuliani about the earlier burglaries before his killing spree. (Vol. III, pp 984-986).

James Porter was sentenced to life in prison for five counts of first-degree murder on March 14, 1983, more than 30 years ago.

ARGUMENT

I. **The *Miller* decision does not apply retroactively under *Teague v Lane*, 489 US 288 (2012), to cases that were final on direct review.**

In determining whether a decision of the United States Supreme Court applies retroactively to cases that were final on direct review, this Court employs a two-step process. See *Maxson*, 482 Mich at 388-393. First, the Court examines whether the rule must apply retroactively under federal law as defined by *Teague*. *Maxson*, 482 Mich at 388. Second, the Court determines whether the rule should apply retroactively under state law, relying on the three factors under *People v Sexton*, 458 Mich 43, 60-61; 580 NW2d 404 (1998). *Maxson*, 482 Mich at 393.

Under the *Teague* analysis, the *Miller* decision is a new rule that is procedural in nature, and is not a watershed rule. Thus, it does not apply retroactively. Carp relies on the fact that the U.S. Supreme Court applied *Miller* to Kuntrell Jackson, whose case appeared on collateral review. But this issue was not joined because the State of Arkansas waived any claim about retroactivity under *Teague* by failing to raise it. The *Miller* Court did not address the issue of retroactivity. Carp's other arguments are also unavailing.

A. ***Miller* is a procedural rule that does not apply retroactively.**

"Application of constitutional rules not in existence at the time a conviction became final seriously undermines the principle of finality which is essential to the operation of our criminal justice system." *Teague v Lane*, 489 US 288, 309 (1989) (plurality opinion). The retroactive application of new rules to cases on collateral

review impedes the effective operation of state criminal justice systems by “continually forc[ing] the States to marshal resources in order to keep in prison defendants whose trials and appeals conformed to then-existing constitutional standards.” *Id.* at 310. By limiting the retroactive application of new rules in collateral review, “the *Teague* principle protects not only the reasonable judgments of state courts but also the States’ interest in finality quite apart from their courts.” *Beard v Banks*, 542 US 406, 413 (2004).

Based on these principles, the U.S. Supreme Court has held that new rules announced in its decisions apply to all cases that are pending on direct review or not yet final. *Schriro v Summerlin*, 542 US 348, 351 (2004). But for convictions that are already final, the new rule applies in only “limited circumstances.” *Summerlin*, 542 US at 351-352. The exceptions to the rule of nonretroactivity have been placed into two categories. “The first exception permits the retroactive application of a new rule if the rule places a class of private conduct beyond the power of the State to proscribe, or addresses a substantive categorical guarantee accorded by the Constitution, such as a rule prohibiting a certain category of punishment for a class of defendants because of their status or offense.” *Graham v Collins*, 506 US 461, 477 (1993) (internal quotes and citations omitted). The second exception, which applies to watershed rules, has not yet been fully defined but is “clearly meant to apply only to a small core of rules requiring observance of those procedures that are implicit in the concept of ordered liberty.” *Id.* (internal quotes and citations omitted).

In this case, Carp's conviction and sentence for first-degree murder became final on September 21, 2009. Under *Teague*, *Miller* should not be applied retroactively because (1) the rule is new, (2) it is procedural and not substantive, and (3) it is not one of the few "watershed" rules that are required for ordered liberty. Carp concedes that the rule is a new one and does not argue that it is a watershed rule, effectively conceding that point as well. The Attorney General shall address all three points based on arguments that have been advanced by amici filings.

1. The rule in *Miller* is new.

The first step in the *Teague* analysis is determining whether the rule announced in *Miller* is new. To determine whether the *Miller* rule is, indeed, new, a court ascertains the "legal landscape" at the time the defendant's conviction became final and asks whether then-existing precedent "compels the rule." *Beard*, 542 US at 411. "[A] case announces a new rule when it breaks new ground or imposes a new obligation on the States or the Federal Government." *Teague*, 489 US at 301 (plurality opinion). A new rule is defined as one that "was not dictated by precedent existing at the time the defendant's conviction became final." *Id.*

Here, it is not disputed that the *Miller* rule created a new obligation. At the time the opinion issued, three-quarters of the states and the federal government had life-without-parole sentencing for teenage murderers. Twenty-eight states had mandatory sentencing schemes. And the Supreme Court never before had held that these regimes were subject to an individualized sentencing hearing. Carp concedes the point. See Carp's Brief, p 17.

2. The new rule that the U.S. Supreme Court announced in *Miller* is procedural.

The second step in the *Teague* analysis is to determine whether the new rule announced in *Miller* is substantive or procedural. New substantive rules – which generally apply retroactively – include those that “narrow the scope of a criminal statute by interpreting its terms,” as well as those that “place particular conduct or persons covered by the statute beyond the State’s power to punish.” *Summerlin*, 542 US at 351–352 (citations omitted). The U.S. Supreme Court has explained that “a decision that modifies the elements of an offense is normally substantive” while one that does not “alter the range of conduct the statute punishes” is procedural. *Summerlin*, 542 US at 354. Procedural rules are ones that “regulate only the manner of determining the defendant’s culpability[.]” *Summerlin*, 542 US at 353, citing *Bousley v United States*, 523 US 614, 620 (1998) (emphasis in original).

The *Miller* decision regulates the manner of determining a defendant’s sentence. The Court rejected the petitioners’ request to categorically ban LWOP sentences for juvenile offenders. *Id.* at 2469 (“we do not consider Jackson’s and Miller’s alternative argument that the Eighth Amendment requires a categorical bar on life without parole for juveniles”). Rather, the decision “mandates only that a sentencer follow a certain *process* – considering an offender’s youth and attendant characteristics – before imposing a particular penalty.” *Miller*, 132 S Ct at 2471 (emphasis added). A juvenile convicted of murder is subject to a life-without-parole sentence after *Miller*, just as before, but only the process by which the State may impose that sentence has been altered. The fact that the Court in *Miller* qualified

the point by noting that the occasions in which such a sentence is appropriate “will be uncommon” does not change the reality that LWOP remains a valid possible punishment. *Miller*, 132 S Ct at 2469. The obligation is for the sentencing court to engage in an individual sentencing procedure where there is discretion to consider a “lesser sentence,” which the U.S. Supreme Court stated included “life *with* the possibility of parole.” *Id.* at 2460 (emphasis in original). There is no dispute that the *Miller* decision does not narrow the scope of a criminal statute, see *Summerlin*, 542 US at 351-352, and does not place particular conduct outside the State’s power to punish. *Id.* *Miller* also does not decriminalize any class of conduct, see *Graham v Collins*, 506 US at 477, and does not prohibit a certain category of punishment for a class of defendants – juvenile murderers may still be sentenced to life without parole. *Id.*

A comparison to the recent decisions of the U.S. Supreme Court that introduced a new substantive rule demonstrates the procedural nature of the change here. In *Graham v Florida*, 560 US 48 (2010), the U.S. Supreme Court concluded that it was unconstitutional for a state to impose a life sentence without the opportunity for parole on a juvenile offender for a non-homicide offense. As the Court described, the case implicated “a particular type of sentence as it applies to an entire class of offenders.” *Id.* at 61. In all circumstances, the Court determined that this sentence – the death penalty – was unconstitutional for these offenders regardless of the process used. This is the paradigm of the exclusion of a category of punishment for a class of defendants.

For this reason, the *Graham* decision applies retroactively and governs all such prisoners. *In re Sparks*, 657 F3d 258, 262 (CA 5, 2011). The same is true for the death penalty as applied to juveniles, *Roper v Simmons*, 543 US 551, 568 (2005), as well as the mentally disabled, see *Atkins v Virginia*, 536 US 304, 321 (2002), and *Penry v Lynaugh*, 492 US 302, 329–330 (1989) (although overruled on other grounds, the Court stated that prohibiting the execution of the mentally retarded would be applied retroactively to cases on collateral review). These are likewise categorical exclusions.

To put it another way, a convicted teenage murderer post *Miller* is still subject to the same possible punishment – life without the opportunity for parole – as before. In contrast, the Court noted in *Penry* that prohibiting the execution of those with mental infirmities would fall under the first exception to *Teague* because the prohibition would preclude a *category* of punishment “regardless of the procedures followed.” *Penry*, 492 US at 330 (“[I]f we held, as a substantive matter, that the Eighth Amendment prohibits the execution of mentally retarded persons such as *Penry* regardless of the procedures followed, such a rule would fall under the first exception to the general rule of nonretroactivity and would be applicable to defendants on collateral review.”). In contrast, the only change at issue here is the process by which this determination is made.

Carp raises a series of arguments about why this rule is substantive in nature – which may be digested into four separate claims – all of which this Court should reject.

First, Carp argues that *Miller* is substantive because it is “a categorical ban on mandatory life without parole.” Carp’s Brief, p 17. The Supreme Court expressly stated the contrary in *Miller*, explaining that there was no categorical exclusion of punishment for a class of offenders. 132 S Ct at 2471 (“Our decision does not categorically bar a penalty for a class of offenders or type of crime”). Moreover, Carp misunderstands of the nature of the punishment. “Mandatory” is not part of the punishment. The mandatory nature of the sentence only describes the process. That process does not exclude a category of punishment. The punishment here is a life sentence without parole.² And that punishment is the same whether arrived at through an individual sentencing or by a process that requires it mandatorily.

Several state Supreme Courts that have ruled that *Miller* is retroactive on this basis have likewise erred by ignoring the decision’s plain language. See *Diatchenko v District Att’y*, 466 Mass 655, 666 (2013) (“The rule explicitly forecloses the imposition of a certain category of punishment—mandatory life in prison without the possibility of parole—on a specific class of defendants[.]”); *Jones v State*, 122 So3d 698, 702 (Miss 2013) (“By prohibiting the imposition of a mandatory sentence, the new obligation prevents a significant risk that a [juvenile] . . . faces a punishment that the law cannot impose on him.”); and *State v Ragland*, 836 NW2d 107, 117 (Iowa 2013) (“As a substantive change in the law which puts matters outside the scope of the government’s power, the holding should apply retroactively”).

² This Court’s analysis in *People v Bullock*, 440 Mich 15, 42; 485 NW2d (1992), which refers to the mandatory character of a punishment as an “aspect” of the penalty, does not gainsay this point.

Second, Carp argues that the U.S. Supreme Court's death penalty jurisprudence supports a finding that *Miller* is substantive and is retroactive. Carp's Brief, p 21. This argument is unavailing.

A triumvirate of Supreme Court cases established that the imposition of the death penalty as a mandatory matter, without individualized sentencing, was unconstitutional: *Woodson v North Carolina*, 428 US 280 (1976) (plurality opinion); *Lockett v Ohio*, 438 US 586 (1978) (plurality opinion); and *Eddings v Oklahoma*, 455 US 104 (1982). Carp argues that because this rule was applied to cases in collateral review, the U.S. Supreme Court necessarily determined that this was a substantive rule. *Sumner v Shuman*, 483 US 66 (1987); *Hitchcock v Dugger*, 481 US 393 (1987).

The problem with this claim is that the issue of retroactivity was never addressed in *Sumner* or in *Hitchcock*. Just as for Kuntrell Jackson, see pp 24-25, the issue of retroactivity was waived. Although one of the briefs noted that the lower court's decision balanced the state's interest in finality, the States argued that their death penalty statutes were distinguishable, and not governed by *Lockett*. Nevada's Brief in *Sumner*, 1987 WL 880296, *6; Florida's Brief in *Hitchcock*, 1986 WL 728192, *28-48. The States did not argue that *Lockett* should not apply because the cases were final on direct review when *Lockett* was decided.

Instead, for the death penalty cases, the U.S. Supreme Court cases that are most analogous that have addressed retroactivity – those involving new rules for death penalty sentencing – were all ones in which the changes were *not* applied retroactively. See, e.g., *Beard v Banks*, 542 US 406 (2004) (new rule that

invalidated capital sentencing schemes that required unanimity on mitigating factors was not retroactive); *Summerlin*, 542 US at 356 (new rule requiring fact-finding by jury for element necessary for the death penalty not retroactive); *Graham v Collins*, 506 US at 475 (new rule that state cannot “limit[] the manner in which [defendant’s] mitigating evidence may be considered” during death penalty sentencing phase was not retroactive); *Saffle v Parks*, 494 US 484, 495 (1990) (new rule that would prohibit an instruction telling the jury to avoid the influence of sympathy during death-penalty sentencing phase was not retroactive). These cases directly relate to rules that enable the sentencing body to more fully consider mitigating circumstances before imposing the death penalty but the Supreme Court ruled that any change was not substantive. These cases provide the only guidance from the Supreme Court on the retroactivity of rules related to the death penalty.

In *Beard*, the U.S. Supreme Court examined the rule from *Mills v Maryland*, 486 US 367 (1988), addressing a death penalty sentencing scheme that required all mitigating factors necessary to avoid the penalty to be found unanimously by the jury. *Beard*, 542 US at 408. The Court held in *Mills* that the scheme was unconstitutional where the jurors may have believed that they must unanimously agree on a particular mitigating factor before relying on it to impose a lesser sentence. *Mills*, 486 US at 384. The mitigating factors advanced in *Mills* included the facts that the perpetrator was only 20 years old at the time of the crime, had only a 6th grade education, and had suffered some brain damage as a child. *Id.* at 370. On the issue of retroactivity, the Court in *Beard* stated that the first *Teague*

exception based on it being a substantive rule was not even argued: “There is no argument that th[e] [first *Teague*] exception applies here.” *Beard*, 542 US at 416-417 (citations, quotes, brackets omitted).

And a case that may have the closest set of facts to this case is *Graham v Collins*, 506 US 461. There, the habeas petitioner was sentenced to death for a murder that he committed while he was 17 years old. *Id.* at 463. Graham contended that the three questions that the jury was required to answer in determining whether he should be sentenced to death did not enable the jury to “give effect” to the mitigating evidence of his “youth [and] family background”:

[W]e are asked to decide whether the jury that sentenced petitioner, Gary Graham, to death was able to give effect, consistent with the Eighth and Fourteenth Amendments, to mitigating evidence of Graham’s youth, family background, and positive character traits. [*Id.*]

This same basic concern underlies the *Miller* decision in its analysis of mandatory sentencing, which prevents the sentencing court from considering the youth and other individual traits of a teenage murderer. *Miller*, 132 S Ct at 2466. Nevertheless, the Court in *Graham* determined that the proposed change, which would have enabled the jury to more fully consider the mitigating circumstances, would not be a substantive change in law. See *Graham*, 506 US at 475, 477 (“Plainly, [the first *Teague*] exception has no application here because the rule Graham seeks would neither decriminalize a class of conduct nor prohibit the imposition of capital punishment on a particular class of persons.”) (internal quotes omitted). Here too, a required change to the sentencing scheme that allows for considerations of youth as a mitigating factor is not a substantive change in law.

Third, Carp argues that *Miller* is substantive under *Summerlin* because *Miller* “requires [the sentencing court] to take into account how children are different.” Carp’s Brief, pp 18, 20, quoting *Miller*, 132 S Ct at 2469. The basic premise of Carp’s argument on this point is wrong.

The key sentences from *Miller* that state the Court’s holding underscore that the Eighth Amendment requires a change to the sentencing process, and does not require any specific findings. *Miller*, 132 S Ct 2469 (“We therefore hold that the Eighth Amendment *forbids a sentencing scheme* that mandates life in prison without possibility of parole for juvenile offenders”) (emphasis added); 132 S Ct 2475 (“the mandatory sentencing schemes before us violate this principle of proportionality”). This change in process allows the sentencing court to consider mitigating factors is analogous to the one considered in *Beard* – which does not apply retroactively – that ensures that mitigating factors can be considered by individual jurors, and need not be found unanimously. *Beard*, 542 US at 416-417. The change in process is predicated on the need for the proper consideration of mitigating factors, but is nonetheless still a procedural change.

Carp conflates the change in process that enables the sentencing court to consider mitigating circumstances with the Court establishing a requirement that the sentencing court make a specific finding necessary to a particular sentence, the latter of which would be a substantive change. Rather, the point is that *Miller* requires a change to the sentencing scheme – the procedure of sentencing – to enable the sentencing court to consider mitigating factors. *Miller*, 132 S Ct at 2458

“But the mandatory penalty schemes at issue here prevent the sentencer from taking account of these central considerations [of the offender’s youth].”

The analysis from *Summerlin* demonstrates the point and confirms that the change here is not a substantive one. In *Summerlin*, the Court announced that *Ring v Arizona*, 536 US 584 (2002), established a procedural rule when *Ring* held that a jury – not a sentencing judge – must find aggravating circumstances necessary for the imposition of the death penalty. *Summerlin*, 542 US at 353. The Court in *Summerlin* evaluated a death penalty sentencing phase in which the finding of the presence or absence of specific aggravating factors were essential for the imposition of death and therefore were the equivalent of elements for federal constitutional purposes. *Summerlin*, 542 US at 354 (“those aggravators effectively were elements for federal constitutional purposes, and so were subject to the procedural requirements the Constitution attaches to trial of elements”). The U.S. Supreme Court noted that where it “made a certain fact essential to the death penalty,” it would be a substantive change. *Id.* That is inapplicable here. There is no single controlling factor – no “certain fact” essential – under *Miller* that a sentencing court must find to justify its sentence. It does not create a sentencing “element.” If Carp were right, *Miller* would require a jury determination, since any new sentencing elements would be prerequisites to the penalty. *Ring*, 536 US 584, 604 (“the required finding [of an aggravated circumstance] expose[d] [Ring] to a greater punishment than that authorized by the jury’s guilty verdict.”). But there are none here. The punishment of LWOP is available without any new required

finding. Instead, *Miller* sets out a different sentencing scheme – “individualized sentencing” – rather than a mandatory penalty scheme. That is process.

To be sure, *Miller* is replete with references about the importance of the sentencing court to consider the teenage murderer’s youthful characteristics and requiring the sentence to “tak[e] account of an offender’s age and the wealth of characteristics and circumstances attendant to it” *id.*, 132 S Ct at 2467, but nevertheless the Court was unambiguous that the cure to this ill was to provide an individualized sentence, i.e., to give the sentencing court “discretion to impose a different punishment.” *Id.* at 2460. The *Miller* Court explained this point in distinguishing its holding from *Graham v Florida*:

Graham established one rule (a flat ban) for nonhomicide offenses, while we set out a different one (**individualized sentencing**) for homicide offenses. [*Miller*, 132 S Ct at 2466 (emphasis added).]

It is a change in the process, not in the “elements” or findings a court must make. See *Miller*, 132 S Ct at 2471 (“it mandates only that a sentencer follow a certain process”) (emphasis added). It is not a substantive one.

A review of the Supreme Court death penalty cases also confirms this point. All of these cases examined changes to process that related to the consideration of mitigating evidence. Obviously, the consideration of mitigating evidence relates to the substance, but all of the required changes related to the process by which such evidence was considered. See *Beard*, 542 US at 416-417 (unanimity on mitigating factor); *Summerlin*, 542 US at 356 (fact-finding by jury for death penalty); *Graham v Collins*, 506 US at 475 (limits on consideration of mitigating evidence); *Saffle*, 494 US at 495 (anti-sympathy instruction).

Fourth, in a similar point, Carp argues that the *Miller* decision evidences the distinction in *Saffle* between “what” and “how,” because it mandates the presentation of mitigating evidence. Carp’s Brief, p 24. But this argument misapprehends the decision in *Saffle*.

In *Saffle*, the U.S. Supreme Court evaluated whether the death penalty was unconstitutionally imposed on a perpetrator where the jury was instructed “to avoid any influence of sympathy.” *Saffle*, 494 US at 486. In determining whether this standard should apply on collateral habeas review, the Court examined whether this limitation on anti-sympathy instructions would be a new rule or whether it was dictated by the decisions in *Lockett* and *Eddings*. *Saffle*, 494 US at 488-489. The Court determined that it would be a new rule that did not apply collaterally. *Id.*

Carp cites the language distinguishing between “what mitigating evidence the jury must be permitted to consider” and “how the State may guide the jury in considering” it. Carp’s Brief, p 25, citing *Saffle*, 494 US at 490. But this analysis did not relate to whether the proposed rule was substantive or procedural but rather whether the rule was “new,” i.e., whether it was “dictated” by existing precedent or not, at the time the state court issued its decision. *Saffle*, 494 US at 490. And the answer was “yes,” the rule was a new one, and therefore subject to the *Teague* retroactivity analysis. The dichotomy between what/how was not employed to determine whether the rule was substantive or procedural.

The same is true in Carp’s reliance on *Beard*. Carp’s Brief, p 26. The analysis in *Beard* distinguishing between “how the sentencer considers evidence”

under the *Mills* rule” and “what evidence it considers” again was relied on to determine whether the rule in *Mills* was a new one or not. *Beard*, 542 US at 415. The Court concluded that “*Mills* announced a new rule” and therefore was subject to the general prohibition on retroactive application unless it could meet the *Teague* test. *Beard*, 542 US at 416. But the Court did not rely on the distinction between “what” and “how” to determine whether the change was substantive or procedural.

Instead, in *Beard*, the Court merely noted that the test for determining whether it was substantive or procedural was to examine if the rule “prohibit[ed] a certain category of punishment for a class of defendants because of their status or offense.” *Id.* at 417. That was the same reasoning employed in *Summerlin*. Rejecting an argument that the *Ring* requirement that a jury make the determination of the aggravating circumstances warranting the death penalty created a substantive rule, the Court said that the holding “did not alter the range of conduct Arizona law subjected to the death penalty.” *Summerlin*, 542 US at 353. Instead, the Court said, “*Ring* altered the range of permissible methods for *determining* whether a defendant’s conduct is punishable by death, requiring that a jury rather than a judge find the essential facts bearing on punishment.” *Id.* (emphasis added). In other words, “*the range of conduct punished . . . was the same* before [the controlling decision] as after.” *Id.* at 354 (emphasis added). The same is true here.

As another example, in *Apprendi v New Jersey*, the U.S. Supreme Court held that any fact other than that of a prior conviction that increases a criminal penalty beyond the prescribed statutory maximum must be submitted to a jury and proved

beyond a reasonable doubt. 530 US 466, 490 (2000). The federal circuits have unanimously found that *Apprendi* is procedural and not retroactive. See, e.g., *Sepulveda v U.S.*, 330 F3d 55, 61 (CA 1, 2003). That is because the *Apprendi* rule did not “prohibit a certain category of punishment for a class of defendants.” *McCoy v U.S.*, 266 F3d 1245, 1256 (CA 11, 2001). That is the test the Court has applied.³

The state courts have divided on the question with the better-reasoned decisions finding *Miller* to be procedural. Compare *State v Tate*, ___ So3d ___; 2013 WL 5912118 (La, Nov 5, 2013) (not retroactive); *Commonwealth v Cunningham*, 81 A3d 1 (Pa, 2013) (same); *Chambers v Minnesota*, 831 NW2d 311 (Minn, 2013) (same) and *Geter v State*, 115 So3d 375 (Fl, 2012) (same), with *State v Mantich*, 287 Neb 320 (2014) (retroactive), *Diatchenko*, 466 Mass at 666 (same); *Jones v State*, 122 So3d [Miss] at 702 (same); and *Ragland*, 836 NW2d [Iowa] at 117 (same). So have the federal circuits. The Fifth and Eleventh Circuits have found *Miller* not to be retroactive, while the Second, Third, Fourth, and Eighth Circuits have indicated that it is retroactive. See *In re Pendleton*, 732 F3d 280, 283 (CA 3, 2013) (listing cases). See also *Hill v Snyder*, 2013 WL 364198, *2 (January 30, 2013) (*Miller* applies to five plaintiffs because civil case under 42 USC §1983 pending when *Miller* was decided; in *obiter dictum* stating that *Miller* would apply retroactively). Yet, none of these decisions bind this Court.

³ The American Civil Liberties Union amicus argues that the *Miller* rule is substantive because it increases the range of possible outcomes, by requiring the inclusion of life *with* the opportunity for parole. Amicus Br. at 9. But this is not the standard for retroactivity. Here, the same conduct is subject to the same possible punishment of life without parole. See *Miller*, 132 S Ct at 2471 (“Our decision does not categorically bar a penalty for a class of offenders”). The ACLU asks for a new test.

3. The new procedural rule that the U.S. Supreme Court announced in *Miller* is not a “watershed” change.

If a new rule is procedural, it has retroactive effect only if the rule constitutes a “watershed rule[] of criminal procedure” that “implicate[s] the fundamental fairness” of criminal proceedings. *Teague*, 489 US at 311, 312 (plurality opinion). The U.S. Supreme Court has stressed repeatedly the limited scope of this exception, noting that it is “clearly meant to apply only to a small core of rules” that “are implicit in the concept of ordered liberty.” *Beard*, 542 US at 417. The Supreme Court often – and only – has used *Gideon v Wainwright*, 372 US 335 (1963), a landmark case involving the right to counsel, as an example of a rule that might fall under this exception because it is “fundamental and essential” to fair trials. *Beard*, 542 US at 417. Carp does not argue that the *Miller* rule is a watershed rule, effectively conceding the point, see Carp’s Brief, pp 10-13, 49, but the Attorney General addresses it nonetheless because the amici address the point.

The U.S. Supreme Court has never found a procedural rule to meet this “watershed” standard. In rejecting the conclusion that the new procedural rule under *Crawford v Washington* applied retroactively, the Court said:

This exception is “extremely narrow[.]” *Schriro v Summerlin*, 542 US 348, 352 (2004). We have observed that it is “unlikely” that any such rules “ha[ve] yet to emerge,” *ibid.* (quoting *Tyler v Cain*, 533 US 656, 667, n7 (2001); []); see also *O’Dell v Netherland*, 521 US 151, 157 (1997); *Graham, supra*, at 478; *Teague, supra*, at 313 (plurality opinion). And in the years since *Teague*, we have rejected every claim that a new rule satisfied the requirements for watershed status. [*Whorton v Bockting*, 549 US 406, 417–418 (2007).]

Neither have there been any cases post *Whorton* that held a procedural rule to be retroactive in application.

Moreover, this conclusion is consistent with the requirement that a rule must be sweeping in nature to fall within the second exception. The sweep of the change in *Miller* is limited. It modifies only the process by which the sentencing court must reach its decision for first-degree murder cases, and only does so for certain offenders. Other, more global changes to the criminal process have not been applied retroactively. The most significant example of this point is the conclusion that the Court did not apply retroactively the case holding that the right to a jury trial under the Sixth Amendment applies to the states under *Duncan v Louisiana*, 391 US 145 (1968). *DeStefano v Woods*, 392 US 631, 635 (1968). The same is true for the *Crawford* decision about the Confrontation Clause, see *Whorton*, which may arise in any criminal trial. The Supreme Court provided a list of other rules in *Whorton* that were not given retroactive effect. *Whorton*, 549 US at 418, citing *Beard*, 542 US at 406 (rejecting retroactivity for *Mills*); *O'Dell*, 521 US at 157 (rejecting retroactivity for *Simmons v South Carolina*, 512 US 154 (1994)); *Gilmore v Taylor*, 508 US 333 (1993) (rejecting retroactivity for a new rule relating to jury instructions on homicide); *Sawyer v Smith*, 497 US 227 (1990) (rejecting retroactivity for *Caldwell v Mississippi*, 472 US 320 (1985)). The Sixth Circuit reached the same conclusion regarding *Halbert v Michigan*, 545 US 605 (2005), the case creating the constitutional requirement of the appointment of counsel for appeals from plea-based convictions. *Simmons v Kapture*, 516 F3d 450, 451 (CA 6, 2008). As did this Court in *Maxson*. 482 Mich at 402-403.

Furthermore, U.S. Supreme Court ruled that the decision in *Padilla v Kentucky*, 130 S Ct 1473 (2010), was not retroactive under *Teague*. *Chaidez v United States*, 133 S Ct 1103, 1107 (2013). In *Padilla*, the U.S. Supreme Court determined that counsel has an obligation to inform his client when a guilty plea will render the defendant subject to automatic deportation; otherwise the plea is constitutionally infirm. *Padilla*, 130 S Ct at 1478. The Supreme Court did not reach the two *Teague* exceptions after concluding that it was a new rule. *Chaidez*, 133 S Ct at 1107, n 3. The Michigan Court of Appeals had earlier reached the same decision, but examined the *Teague* exceptions and ruled that the decision is not “so implicit in the structure of the criminal proceedings that retroactivity is mandated.” *People v Gomez*, 295 Mich App 411, 417; 820 NW2d 217 (2012). That is because the rule only applies to “a subset of criminal defendants who might wish to consider immigration consequences.” *Id.* The same is true here: the procedural rule from *Miller* only applies to a subset of criminal defendants – juvenile murderers.

The *Miller* rule does not implicate the fundamental fairness of criminal proceedings. It is far more limited in scope than *Gideon*, and its relationship to the accuracy of the sentencing process is far less direct than the right to counsel is to ensuring fair trials. Although the new rule may reduce the number of teenage murderers sentenced to LWOP, such a result is not “implicit in the concept of ordered liberty.” *Beard*, 542 US at 417. *Miller*, therefore, does not present a “watershed rule.” *Id.*

B. The fact that Jackson's case in *Miller* was on collateral review is not controlling.

Carp argues that the *Miller* rule is retroactive based on the fact that the Supreme Court applied it in the companion case of *Jackson v Hobbs* to a habeas petitioner whose appeal was taken from state collateral review. Carp's Brief, pp 29-33. *Teague* suggests that if a new rule is applied retroactively to one defendant, it should be applied evenhandedly to other defendants retroactively. 489 US at 300.

But Carp fails to consider that the defense of retroactivity must be raised by the state or otherwise the issue is waived. The Supreme Court has no obligation to raise *sua sponte* a retroactivity issue the state has not addressed:

Generally speaking, "[r]etroactivity is properly treated as a threshold question, for, once a new rule is applied to the defendant in the case announcing the rule, evenhanded justice requires that it be applied retroactively to all who are similarly situated." *Teague, supra*, 489 US, at 300.

The State of Texas, however, did not address retroactivity in its petition for certiorari or its briefs on the merits, and when asked about the issue at oral argument, counsel answered that the State had chosen not to rely on *Teague*. Tr. of Oral Arg. 4-5. Although the *Teague* rule is grounded in important considerations of federal-state relations, we think it is not "jurisdictional" in the sense that this Court, despite a limited grant of certiorari, must raise and decide the issue *sua sponte*. [*Collins v Youngblood*, 497 US 37, 40-41 (1990) (paragraph break added; parallel cites omitted).]

In other words, where the state fails to raise the retroactivity issue, the argument is waived. See also *United States v Tosh*, 330 F3d 836, 840 n 3 (CA 6, 2003) ("Because the government failed to raise the retroactivity issue on appeal, we deem the issue waived.").

And in the case that Carp relies on, *Jackson v Hobbs*, the State of Arkansas did not raise the retroactivity issue in its brief in opposition to the petition for certiorari. It did not cite *Teague* or provide any analysis of retroactivity. Arkansas' Br in Opp, filed June 1, 2011.⁴ Arkansas' merits brief likewise did not address *Teague*, retroactivity, or the fact that this was a new rule that should not apply retroactively to a case that was final on direct review. Arkansas' Merits Br, filed on February 14, 2012, 2012 WL 523347 (2012). Consequently, Arkansas waived any claim regarding retroactivity. Unsurprisingly, the Court's opinions in *Miller* and *Jackson* never discuss *Teague* or retroactivity. Thus, contrary to Carp's brief, the fact that the Court applied the new procedural rule to the teenage murderer in *Jackson* does not prohibit state courts from considering the retroactivity issue. To the contrary, in the absence of any controlling statement from the Supreme Court regarding retroactivity, state courts are duty bound to address and resolve the issue.

Carp argues that this result would allow Jackson to obtain the benefit of relief while others who are similarly situated would not. Carp's Brief, p 29. But this is always the case when the government waives an argument that otherwise is available to the prosecution of its appeal. That is the nature of waiver. It is particular to the party.

⁴ This brief may be found at the following web address:

<http://sblog.s3.amazonaws.com/wp-content/uploads/2011/10/Jackson-USSC-States-BIO-6-1-11.pdf> (accessed on February 14, 2014).

II. *Miller* does not apply retroactively under *People v Maxson*, 482 Mich 385 (2008), to cases that were final on direct review.

Under Michigan law, the fact that there is no retroactivity under *Teague* does not end the inquiry. *Maxson*, 482 Mich at 392. That is because a state may give broader effect to a new procedural rule than federal law requires. *Danforth v Minnesota*, 552 US 264, 289 (2008). “Federal law simply ‘sets certain minimum requirements that States must meet but may exceed in providing appropriate relief.’” *Id.*, quoting *American Trucking Assns., Inc. v Smith*, 496 US 167, 178–179 (1990) (plurality opinion).

Like the Supreme Court in *Teague*, Michigan generally has declined to apply new criminal procedural rules to final convictions. *Maxson*, 482 Mich at 382–383. This Court has articulated a three-part analysis to make that decision. *People v Sexton*, 458 Mich 43, 60–61, 580 NW2d 404 (1998). This Court considers: (1) the purpose of the new rule, (2) the general reliance on the old rule, and (3) the effect of retroactive application of the new rule on the administration of justice. *Id.*, citing *People v Hampton*, 384 Mich 669, 674; 187 NW2d 404 (1971). Under all of these factors, this Court should find that *Miller* does not apply retroactively.

Moreover, these factors are ultimately predicated on the outdated decision in *Linkletter v Walker*, 381 US 618 (1965), which has since been overruled. This Court should take this opportunity to update Michigan law, and adopt the *Teague* test as the Michigan test for determining whether a decision applies retroactively to cases that are final on direct review.

A. The three prongs of *Maxson* all support the conclusion that *Miller* should not be applied retroactively.

1. The first prong of *Maxson* on the “purpose of the rule” is inapplicable to *Miller* because the new rule is irrelevant to a defendant’s “guilt or innocence.”

Under the first *Maxson* prong, a law may be applied retroactively when it “concerns the ascertainment of guilt or innocence.” *Maxson*, 482 Mich at 393, citing *Sexton*, 458 Mich at 63. A new rule of procedure that “does not affect the integrity of the fact-finding process,” on the other hand, only should be applied prospectively. *Id.* Here, the *Miller* rule mandates a certain process before a court may sentence a juvenile murderer to LWOP. The procedure does not implicate the fact-finding process and does not concern guilt or innocence in any way. Therefore, the first *Maxson* prong counsels against *Miller*’s retroactivity.

Carp argues that this Court has found that this “fact-finding” may be detached from considerations of guilt or innocence and applies to the sentencing phase, which only determines punishment. Carp’s Brief, p 35, citing *People v Holcomb*, 395 Mich 326; 235 NW2d 343 (1975). This Court should reject this argument for two reasons.

First, the *Holcomb* case does not address the claim that the first prong of the retroactivity analysis extends to sentencing proceedings, where guilt or innocence is no longer at issue. *Holcomb* addressed the circumstance in which a criminal defendant sought to represent himself at trial, but was denied in violation of *Faretta v California*, 422 US 806 (1975) (right to self-representation under the Sixth Amendment). This Court ruled that the denial was a Sixth Amendment violation

and remanded for new trial. *Holcomb*, 395 Mich at 330. In its analysis, it noted that this right to represent oneself is “not qualitatively different” from the right to counsel, and therefore accorded its decision “full retroactive effect.” *Id.* at 336, n 7. This Court noted in passing that the U.S. Supreme Court had in *Mempa v Ray*, 389 US 128 (1968), and *McConnell v Rhay*, 393 US 2 (1968), recognized the right to counsel at sentencing, among others, and then stated that “these cases . . . found that the right to counsel related to ‘the very integrity of the fact-finding process.’” *Holcomb*, 395 Mich at 336, n 7. But this citation does not answer the question whether a sentencing process affects the integrity of the fact-finding process for retroactivity purposes for a rule that does not affect a finding of guilt or innocence. And such an answer would be obiter dictum in any event given the posture of the case.

Second, this Court need not attempt to tease out this principle from *Holcomb* where the issue was squarely presented in *Maxson* and resolved exclusively on the grounds that the rule would not affect determinations of “guilt or innocence.” In *Maxson*, this Court was addressing the U.S. Supreme Court decision in *Halbert*, which determined that Michigan had an obligation to appoint counsel for plea-based convictions for indigent defendants. *Halbert*, 545 US at 610. In determining that the first prong weighed against retroactive application, this Court noted that the appeal from a plea does not affect the integrity of the fact-finding process because it does not affect guilt or innocence. *Maxson*, 482 Mich at 394 (“It is hard to imagine a more dispositive process by which guilt can be accurately determined, and in which

the appellate process becomes less central to an accurate determination of guilt, than that in which a full admission to criminal conduct has come from the mouth of the defendant himself under oath”). The Court stated this point even though the claim was front and center that the percentages of appellate relief expressly included claims of “reducing a sentence.” *Maxson*, 482 Mich at 397, n 11.⁵

2. The second prong also supports the conclusion that *Miller* does not apply retroactively.

In examining the second *Maxson* prong, a court determines whether individuals or entities have been “adversely positioned . . . in reliance” on the old rule. *Maxson*, 482 Mich at 394, citing *Rowland v Washtenaw County Road Commission*, 477 Mich 197, 221; 731 NW2d 41 (2007). Given the mandatory nature of the sentencing scheme in place for many years, it is difficult to conceive how any defendant could have detrimentally and reasonably relied on the *Miller* rule. While some number of juvenile murderers serving LWOP sentences would receive relief if *Miller* is given retroactive effect, “this would be true of extending any new rule retroactively.” *Maxson*, 482 Mich at 397. Thus, the second prong also counsels against retroactivity.

Carp suggests that detrimental reliance can be established through “a demonstration of actual harm.” Carp’s Brief, p 36. The argument relies exclusively on the possible change in sentencing outcomes for juvenile murderers without any analysis of reliance. This is a misreading of *Maxson*.

⁵ This Court examined the effect on outcomes under the second prong of *Maxson*. 482 Mich at 397.

The *Maxson* decision demonstrates that the requirement of proof of reliance is distinct from the proof of actual harm:

To be considered to have detrimentally relied on the old rule, a defendant must have relied on the rule in not pursuing an appeal *and* have suffered harm as a result of that reliance. [*Id.* at 394 (emphasis added).]

This proof requires two steps: reliance and detrimental harm. *Id.* at 396 (“Second, a defendant who relied on the old rule in not filing an appeal must also have suffered actual harm from that reliance in order to have ‘detrimentally relied’ on the old rule.”). Raymond Carp cannot demonstrate any reliance on the mandatory nature of his sentence to life imprisonment without parole. Rather, only criminal defendants who pled guilty – and decided not go to trial to avoid this sentencing outcome – might be said to have “detrimentally relied” on this old rule.

Evaluating exclusively the possible detrimental harm to the class of offenders affected by the new rule reads out the reliance component of the second prong. The clear import of the citation in *Maxson* that there must be detrimental reliance is that the defendant must have taken some action that he might not otherwise have done in the absence of the rule. See *Maxson*, 482 Mich at 394 (examining whether the criminal defendant relied on the old rule). Carp’s analysis would make the question of reliance irrelevant for the second factor.

Insofar as Carp argues that the relevant consideration of reliance is the State’s reliance because a criminal defendant need not “adversely” rely on the rule, but see *Linkletter*, 381 US at 636 (evaluating the reliance of the “accused” on the old rule), such an analysis effectively collapses the second prong into the third prong on

the administration of justice. Whether the State's reliance on the old rule should weigh against retroactivity is on all fours on the importance of finality as examined in the third prong.

In fact, in *Sexton*, this Court joined its analysis of the second and third prongs of *Hampton* together to examine whether the rule was "unexpected." *Sexton*, 458 Mich at 64 ("Judicial decisions are generally given complete retroactive effect unless the decisions are unexpected or indefensible."). But of course this analysis merely tracks whether the rule is a new one or not. *Id.* at 67 ("Because *Bender* is a new rule of law, it is uniquely susceptible to prospective application."). This is just a *Teague* analysis. And there is no dispute that the rule here is a new one, which would likewise make it amenable to prospective application alone.

And even on the extent of the harm to Carp, there is some question about whether the proper metric is to examine the likelihood outcome on the tiny number of juvenile murderers sentenced to life without parole each year in comparison to the total number of felony convictions, or even murder convictions.⁶ In any event, this factor also weighs against retroactivity.

⁶ According to the list from the Department of Corrections, there are currently 368 such prisoners (committed while under the age of 18) who were sentenced to life without parole in the prison. See Attachment A. On average, there have been approximately 10 teenage murderers sentenced each year to life without parole since 1975. There are more than 3,000 offenders in the MDOC who were convicted of first-degree murder under MCL 750.316. See 2010 MDOC Annual Report, p C1c, 4 of 11. This report may be found at the following web address:

[http://www.michigan.gov/documents/corrections/2011-08-31 - MDOC Annual Stat Report - Vers 1 0 362197 7.pdf](http://www.michigan.gov/documents/corrections/2011-08-31_-_MDOC_Annual_Stat_Report_-_Vers_1_0_362197_7.pdf) (accessed on February 14, 2014).

3. The third prong weighs against retroactivity as well.

Under the third and final *Maxson* prong, the retroactive application of the *Miller* rule would have a markedly adverse effect on the administration of justice. The retroactive application of *Miller* would “*continually* force[] the State[] to marshal resources in order to keep in prison defendants whose trials and appeals conformed to then-existing constitutional standards.” *Teague*, 489 US at 310 (emphasis in original). The offense to the administration of justice is two-fold.

As an initial matter, it will require the criminal justice system to reevaluate the sentences of more than 350 prisoners who committed the most heinous of crimes under Michigan law. In the most populous county – Wayne County – this will require more than 100 resentencings for cases that span a forty-year or fifty-year history. In real terms, these sentences relate to cold cases, cold in that all of the relevant witnesses have moved on, which will require a huge investment of resources to properly research and investigate by tracking down surviving police officers, possible medical professionals for the perpetrator’s mental status at the time of the murder, and family members of the victim and perpetrator so that they may participate at the resentencing. This would be a difficult undertaking in all cases and may be impossible in some.

Moreover, for many of the cases, the sentencing court will be unable to accomplish the specific task required under *Miller*. *Miller* lists the different possible factors for the sentencing court’s consideration, which may be digested into six categories:

[1] [*the*] immaturity, impetuosity, and failure to appreciate risks and consequences[;]

[2] [] the family and home environment that surrounds [the defendant]—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional[;]

[3] [] the circumstances of the homicide offense[;]

[4] including the extent of his participation in the conduct[;]

[5] *the way familial and peer pressures may have affected him*[;]

[6] [how] he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys. [*Miller*, 132 S Ct at 2468 (brackets inserted; emphasis added).]

Several of these factors are dependent on the psychological profile of the perpetrator *at the time of the crime*, not the time of (re)sentencing. And these are facts that would have been unnecessary to prove at trial, so there will be no existing factual record on which to draw. The question whether a specific juvenile murderer was “immature” or “impetuous,” and whether that person was affected by familial or peer pressure at the time of the murder, may be impossible to determine.

Significantly, more than 80 of these men were sentenced to life without parole more than 25 years ago, some reaching back more than 50 years to 1962. See Attachment A.⁷ The necessary medical witnesses to answer these questions will not have conducted the research when these crimes occurred, so these questions will be

⁷ In an updated Corrections list, there are another twelve lifers sentenced between 1962 and 1974 for murder committed while they were juveniles not listed in Attachment A, the oldest of whom is Sheldry Topp, who was sentenced to life imprisonment on December 17, 1962 for a murder he committed when he was 17 years old. See the Corrections website for his entry (accessed on February 14, 2014): <http://mdocweb.state.mi.us/otis2/otis2profile.aspx?mdocNumber=108969>

unanswerable. That, of course, is the point of finality. At some point, a decision that was constitutionally proper at the time of its entrance must stand, and cannot be subject to a radical revisiting 40 or 50 years later.

Consider the case of James Porter, another St. Clair County murder case that would be subject to *Miller* if applied retroactively. His brutal murder of a mother and her four children occurred on April 7, 1982, more than 30 years ago. He was 16 years old at the time of the murder and is 48 years old today. Porter systematically murdered his teenage friend Eric Guliani, and Eric's mother, and Eric's three younger siblings, 16-year old Kathy, 13-year old Cindy, and 10-year old Deano, who had been hiding in the bathroom. Whether Porter was impetuous or immature in 1982, or whether he was under family or peer pressure, when he committed this mass murder is now hard to determine. The St. Clair Prosecutor's Office may not be able to explore these matters in a significant way at a resentencing. The State's strong interest in finality – an essential concept in the American criminal justice system – will be significantly undermined if *Miller* is applied retroactively. For the Porter case, and scores like it, the *Miller* test cannot even be meaningfully applied. Consistent with the administration of justice, the courts should not have to. The third *Maxson* prong weighs heavily against retroactivity.

The conclusion that this rule should not apply retroactively fits squarely within this Court's jurisprudence, which has been reluctant to apply change in procedural rules retroactively. See *Maxson*, 482 Mich at 393, citing *Sexton*, 458 Mich at 60-61 (requirement that the police inform a suspect when retained counsel

is available for consultation); *People v Stevenson*, 416 Mich 383; 331 NW2d 143 (1982) (abrogation of common-law “year and a day” rule); *People v Young*, 410 Mich 363; 301 NW2d 803 (1981) (pre-conviction filing of habitual offender notice); *People v Smith*, 405 Mich 418, 433; 275 NW2d 466 (1979) (repeal of criminal sexual psychopath statute barring criminal action against those adjudicated criminal sexual psychopaths); *People v Markham*, 397 Mich 530; 245 NW2d 41 (1976) (double jeopardy “same transaction” test); *People v Rich*, 397 Mich 399; 245 NW2d 24 (1976) (erroneous “capacity standard” jury instruction); *People v Butler*, 387 Mich 1; 195 NW2d 268 (1972) (waiver of a defendant’s constitutional rights in taking a guilty plea); *Jensen v Menominee Circuit Judge*, 382 Mich 535; 170 NW2d 836 (1969) (constitutional right to appeal in criminal cases); *People v Woods*, 382 Mich 128; 169 NW2d 473 (1969) (custodial interrogation procedures); *People v Fordyce*, 378 Mich 208; 144 NW2d 340 (1966) (custodial interrogation procedures). Given the focus the *Maxson* test places on “ascertainment of guilt or innocence” as the first factor, the conclusion that *Miller* should not apply retroactively also fits within the broader arc of Michigan’s jurisprudence in this area.

Carp also relies on this Court’s decision in *People v Bullock*, 440 Mich 15; 485 NW2d 866 (1992). Carp’s Brief, p 43. But Carp’s reliance is misplaced and, in fact, demonstrates the need for this Court to adopt the *Teague* test.

In *Bullock*, this Court found that Michigan’s mandatory sentence of life imprisonment without the possibility of parole violated the state constitutional prohibition against “cruel or unusual” punishment. *Id.* at 42. The Court then

applied its decision to “these defendants and all others who have been sentenced under the same penalty.” *Id.* The Court provided no retroactivity analysis, and did not cite the controlling three-prong test that originated in *People v Hampton*, 384 Mich 669, 674; 187 NW2d 404 (1971). Thus, it provides no guidance on the application of the three factors to this case. Rather, the best guidance comes in this Court’s most recent application of *Maxson*, which demonstrates that *Miller* should not be applied retroactively. Moreover, the *Bullock* case is distinguishable because the Court ordered that all of the offenders were eligible for parole. *Bullock*, 440 Mich at 42. Thus, the decision enacted a substantive change in law because in contrast to *Miller*, it effectively created a categorical exclusion for all the defendants, changing their sentence from LWOP to life *with the opportunity for parole*.⁸

B. The *Maxson* test based on the overruled decision of *Linkletter* is outdated and should be replaced with the *Teague* test.

The seminal case for the Michigan retroactivity standard is *Linkletter v Walker*, 381 US 618 (1965). This Court adopted it in 1971 in *Hampton*, identifying the familiar three-prong test. *Id.* at 674 (“There are three key factors which the court has taken into account: (1) the purpose of the new rule; (2) the general reliance on the old rule; and (3) the effect on the administration of justice”). The U.S. Supreme Court overruled *Linkletter* in two cases, *Griffith v Kentucky*, 479 US 314 (1987) and *Teague*, ultimately creating the system of analysis evaluated in the first issue. *Danforth v Minnesota*, 552 US 264, 299 (2008). The State is bound to

⁸ Although the Court indicated that it was not resolving the constitutionality of the life-without-parole penalty when imposed after an individualized sentence, *Bullock*, 440 Mich at 42, nevertheless it provided the relief to all prisoners, categorically.

follow *Griffith* and *Teague*, but where they do not apply, it is at liberty to provide greater protection under its own constitution. *Danforth*, 552 US at 288-289.

The primary inadequacy of the old *Linkletter* test as reflected in Michigan law is the inapplicability of two of its factors to rules that change sentencing process or the change in possible punishments: (1) the purpose of the new rule insofar as it relates to the “ascertainment of guilt or innocence,” *Hampton*, 384 Mich at 677; and (2) the reliance on the old rule. Carp’s effort to find support in Michigan that the *Linkletter* standard applies to sentencing cases under *Holcomb* substantiates the point.

With respect to the ascertainment of guilt or innocence, it is black letter law in Michigan that the conviction arises from the trial or plea, and that the sentencing is just a reflection of the consequences of the conviction. *People v Funk*, 321 Mich 617, 621; 33 NW2d 95 (1948) (“The conviction is the finding of guilt. Sentence is not an element of the conviction but rather a declaration of its consequences.”). As a result, the sentencing is irrelevant to the issue. Yet, it is clear that the ascertainment of guilt or innocence is a necessary element of the Michigan test’s first prong. See, e.g., *Maxson*, 482 Mich at 393; *Sexton*, 458 Mich at 60-61.

With respect to reliance, the point is the same. A defendant does not generally rely on sentencing processes. To the contrary. The mandatory nature of the sentence would only encourage a defendant to avoid such a conviction. The U.S. Supreme Court noted that the accused in *Linkletter* as well as the State had relied on the prior rule that was invalidated. *Id.* at 636 (“It is true that both the accused

and the States relied upon *Wolf*.”). This Court has also examined the extent of the defendant’s reliance. See, e.g., *Maxson*, 482 Mich at 824 (“a defendant who relied on the old rule in not filing an appeal must also have suffered actual harm from that reliance in order to have ‘detrimentally relied’ on the old rule”). The only changes to sentencing that a defendant might seek to apply would be one that would have beneficial consequences for that defendant’s sentencing. It is hard to conceive of a circumstance in which a criminal defendant can complain about detrimental reliance on an old rule for sentencing.

The other significant defect in the *Linkletter* test is the inconsistency of application. Even if this Court expanded the Michigan retroactivity test to encompass changes to sentencing rules, the rule would still be subject to this infirmity. The plurality opinion in *Teague* examined at length the failings of *Linkletter*, noting its failure to produce “consistent results”:

Not surprisingly, commentators have “had a veritable field day” with the *Linkletter* standard, with much of the discussion being “more than mildly negative.” Beytagh, Ten Years of Non-Retroactivity: A Critique and a Proposal, 61 Va.L.Rev. 1557, 1558, and n. 3 (1975) (citing sources). [*Teague*, 489 US at 302-303 (plurality).]

Thus, the *Linkletter* standard has been discarded for more than 20 years.

Of course, the Attorney General notes that regardless of the standard that is applied here – either *Teague* or *Maxson* – the *Miller* decision does not apply retroactively. Because the *Miller* rule is a procedural one, that does not exclude a category of punishment, but only changes the process of sentencing to an individualized one, the considerations of finality govern. The sentences for the more than 350 murderers over the past 40 years are valid and should not be set aside.

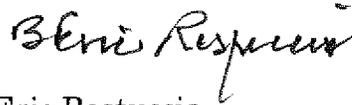
CONCLUSION AND RELIEF REQUESTED

This Court should affirm the decision of the Michigan Court of Appeals.

Respectfully submitted,

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Dated: February 20, 2014

ATTACHMENT A

JUVENILES (UNDER AGE 18 AT TIME OF OFFENSE) SERVING LWOP AS OF MARCH 29, 2011

offender_no	NAME	DOB	Age at Offense	Current Age	Commitment Date	Offense Date	Sentence Date	Offense	Convicted By	Offense Description	County	Current Status	
1	750065	TILLMAN DONTEZ MARC	05/28/1994	14	16	12/04/2009	08/23/2008	12/02/2009	750316B	J	HOMICIDE, FELONY MURDER	63	ACTIVE
2	748594	MC CLOUD THOMAS JAY JR	12/01/1993	14	17	12/04/2009	08/23/2008	12/02/2009	750316B	J	HOMICIDE, FELONY MURDER	63	ACTIVE
3	665309	HAWKINS DEANTE	08/28/1991	14	19	10/30/2007	06/25/2006	10/25/2007	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
4	260818	TREMBLE TJ JAMES	05/18/1982	14	28	12/09/1997	04/19/1997	12/05/1997	750316B	J	HOMICIDE, FELONY MURDER	06	ACTIVE
5	271014	BENTLEY MATTHEW SCOTT	10/04/1982	14	28	08/31/1998	09/02/1997	08/31/1998	750316B	J	HOMICIDE, FELONY MURDER	32	ACTIVE
6	370249	ROBINSON KEVIN	09/16/1984	15	26	06/08/2001	08/30/2000	06/07/2001	750316B	J	HOMICIDE, FELONY MURDER	61	ACTIVE
7	283097	PETTY GREGORY	11/18/1982	15	28	03/16/1999	07/19/1998	03/12/1999	750316B	C	HOMICIDE, FELONY MURDER	82	ACTIVE
8	287874	HALL CHAVEZ	03/19/1983	15	28	10/12/1998	01/27/1999	10/08/1999	750316B	J	HOMICIDE, FELONY MURDER	13	ACTIVE
9	260160	WILLIAMS SHYTOUR TONRAY	04/26/1981	15	29	11/06/1997	01/03/1997	11/05/1997	750316B	J	HOMICIDE, FELONY MURDER	73	ACTIVE
10	252581	MAZE ROBERT JARAR	08/07/1980	15	30	11/01/1996	02/01/1996	10/18/1996	750316B	P	HOMICIDE, FELONY MURDER	41	ACTIVE
11	252562	PELTIER CHRISTOPHER LEE	09/29/1980	15	30	11/01/1996	02/01/1996	10/23/1996	750316B	J	HOMICIDE, FELONY MURDER	41	ACTIVE
12	165840	CLEMONS WILLIE TERRELL	11/03/1979	15	31	09/13/1996	10/16/1995	09/05/1996	750316B	P	HOMICIDE, FELONY MURDER	41	ACTIVE
13	251228	MARTIN BENSON L	01/29/1980	15	31	08/16/1996	10/08/1995	08/07/1996	750316B	J	HOMICIDE, FELONY MURDER	63	ACTIVE
14	251329	PATTON WILLIS L	12/26/1979	15	31	08/23/1996	12/04/1995	08/19/1996	750316B	J	HOMICIDE, FELONY MURDER	63	ACTIVE
15	228465	LONGERBEAM JEREMY LEE	05/24/1976	15	34	12/17/1992	03/16/1992	12/16/1992	750316B	J	HOMICIDE, FELONY MURDER	44	ACTIVE
16	200324	RIDDLE TIMOTHY	05/20/1973	15	37	04/17/1989	07/09/1988	04/14/1989	750316B	J	HOMICIDE, FELONY MURDER	RC	ACTIVE
17	203782	EDWARDS MICHAEL	01/09/1974	15	37	09/21/1989	04/30/1989	12/22/1994	750316B	J	HOMICIDE, FELONY MURDER	25	ACTIVE
18	791561	TAYLOR ROBERT	10/26/1992	16	18	02/11/2011	08/09/2009	02/03/2011	750316B	J	HOMICIDE, FELONY MURDER	50	ACTIVE
19	732378	CINTRON JEAN	11/23/1991	16	19	06/16/2009	09/13/2008	06/15/2009	750316B	J	HOMICIDE, FELONY MURDER	63	ACTIVE
20	705258	MAXEY KEITH LENARD	01/04/1991	16	20	10/22/2008	12/24/2007	10/16/2008	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
21	618518	GILBERT NATHANIEL TYRONE	03/09/1989	16	22	10/06/2008	11/17/2005	09/26/2006	750316B	J	HOMICIDE, FELONY MURDER	50	ACTIVE
22	413732	FERRELL MAURICE	08/17/1985	16	25	06/05/2002	01/16/2002	06/04/2002	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
23	417328	WILLIAMS JOHNNY J	11/08/1985	16	25	07/02/2002	12/17/2001	04/04/2005	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
24	375597	WALKER MARLON DEWAYNE	04/06/1984	16	26	08/17/2001	08/30/2000	08/15/2001	750316B	J	HOMICIDE, FELONY MURDER	61	ACTIVE
25	386035	LATIMER ERIC JONATHON	04/19/1984	16	26	02/07/2002	07/24/2000	01/11/2002	750316B	J	HOMICIDE, FELONY MURDER	25	ACTIVE
26	358745	BLACK MAURICE D	05/15/1983	16	27	02/14/2001	04/06/2000	02/12/2001	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
27	302122	MCLEMORE PATRICK JAMES	09/28/1982	16	28	02/02/2000	06/14/1999	01/31/2000	750316B	J	HOMICIDE, FELONY MURDER	25	ACTIVE
28	313560	COPELAND CORNELIUS C	12/17/1981	16	29	06/20/2000	03/11/1998	06/09/2000	750316B	J	HOMICIDE, FELONY MURDER	63	ACTIVE
29	265328	NUNEZ JUAN CARLOS	10/24/1980	16	30	04/23/1998	09/17/1997	04/20/1998	750316B	J	HOMICIDE, FELONY MURDER	70	ACTIVE
30	250980	CARTER PAUL	07/17/1979	16	31	08/01/1996	11/12/1995	07/24/1996	750316B	J	HOMICIDE, FELONY MURDER	41	ACTIVE
31	250994	CANTU JUAN	05/31/1979	16	31	08/02/1996	11/12/1995	07/24/1996	750316B	J	HOMICIDE, FELONY MURDER	41	ACTIVE
32	253032	MONTALVO SAULO	01/02/1980	16	31	11/22/1996	02/01/1996	11/06/1996	750316B	P	HOMICIDE, FELONY MURDER	41	ACTIVE
33	253128	JONES DANIEL F	12/06/1979	16	31	12/02/1996	01/14/1996	11/25/1996	750316B	J	HOMICIDE, FELONY MURDER	RC	ACTIVE
34	258660	POWELL SHANNON L	11/07/1978	16	32	08/28/1997	06/29/1995	03/26/1997	750316B	J	HOMICIDE, FELONY MURDER	RC	ACTIVE
35	308045	LOGAN AKIL L	01/24/1979	16	32	04/12/2000	10/06/1995	04/04/2000	750316B	J	HOMICIDE, FELONY MURDER	63	ACTIVE
36	217709	REED FERANDAL S	09/06/1974	16	36	07/03/1991	02/17/1991	07/21/2009	750316B	J	HOMICIDE, FELONY MURDER	RC	ACTIVE
37	217645	PERRY MICHAEL LEE	10/04/1973	16	37	03/28/1991	06/14/1990	06/27/1991	750316B	J	HOMICIDE, FELONY MURDER	73	ACTIVE

offender_no	NAME	DOB	Age at Offense	Current Age	Commitment Date	Offense Date	Sentence Date	Offense	Convicted By	Offense Description	County	Current Status	
38	200603	OSTERHOUT STEVEN ALAN	09/15/1971	16	39	04/27/1989	04/12/1988	05/01/1992	750316B	J	HOMICIDE, FELONY MURDER	69	ACTIVE
39	783743	MASALMANI IHAB	12/25/1991	17	19	11/04/2010	08/09/2009	11/04/2010	750316B	J	HOMICIDE, FELONY MURDER	50	ACTIVE
40	709776	JACKSON DREMARIS ANDREW	10/19/1990	17	20	11/18/2008	05/18/2008	11/14/2008	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
41	687570	ORLEWICZ JEAN PIERRE	03/14/1990	17	21	05/13/2008	11/07/2007	05/12/2008	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
42	598119	DONALD CORY LEE	06/01/1988	17	22	10/24/2006	11/14/2005	10/20/2006	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
43	625984	NICHOLS ADRIAN WENDELL	11/23/1988	17	22	12/07/2006	03/23/2006	12/06/2006	750316B	J	HOMICIDE, FELONY MURDER	63	ACTIVE
44	652228	WALKER JERRY O'KEITH	11/11/1988	17	22	07/13/2007	01/27/2006	07/10/2007	750316B	J	HOMICIDE, FELONY MURDER	25	ACTIVE
45	516680	FIELDS ANTHONY	06/23/1987	17	23	04/05/2005	06/03/2004	03/31/2005	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
46	618415	COLEMAN THOMAS H C	01/05/1988	17	23	09/12/2006	10/05/2005	09/07/2006	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
47	487692	BURNS-PERRY BRANDON JUSTI	08/23/1986	17	24	03/04/2004	09/02/2003	02/24/2004	750316B	J	HOMICIDE, FELONY MURDER	63	ACTIVE
48	511663	CLARK CHRISTOPHER JR	03/15/1987	17	24	06/05/2007	08/29/2004	05/31/2007	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
49	599905	DUPURE NICOLE ANN	07/08/1986	17	24	04/13/2006	04/23/2004	04/06/2006	750316B	J	HOMICIDE, FELONY MURDER	50	ACTIVE
50	403858	DAVIS JAJUAN L	01/04/1985	17	26	05/01/2003	05/12/2002	04/14/2003	750316B	J	HOMICIDE, FELONY MURDER	63	ACTIVE
51	379111	HENDRICK KENNETH LEE	12/17/1983	17	27	11/09/2001	01/17/2001	10/30/2001	750316B	J	HOMICIDE, FELONY MURDER	73	ACTIVE
52	384572	CHAPMAN ANTHONY JOSEPH	08/28/1983	17	27	08/16/2005	04/26/2001	08/15/2005	750316B	J	HOMICIDE, FELONY MURDER	59	ACTIVE
53	387044	JACKSON ROY B	07/29/1983	17	27	01/22/2002	12/11/2000	01/18/2002	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
54	401181	SMITH MARIO	11/30/1983	17	27	03/18/2002	08/16/2001	03/13/2002	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
55	409968	WILLIAMS FREDERICK	09/29/1983	17	27	04/29/2002	01/17/2001	04/26/2002	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
56	424363	POWELL CORDELL	01/07/1984	17	27	08/20/2002	11/15/2001	08/14/2002	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
57	656895	MCCONNELL ANGELA RENEE	08/22/1983	17	27	12/04/2003	08/31/2000	12/01/2008	750316B	J	HOMICIDE, FELONY MURDER	39	ACTIVE
58	318791	STANFORD JOSEPH KL JR	08/10/1982	17	28	08/23/2000	01/18/2000	08/18/2000	750316B	J	HOMICIDE, FELONY MURDER	13	ACTIVE
59	324495	TILLMAN TRAVIS	05/09/1982	17	28	11/29/2000	11/26/1999	11/22/2000	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
60	325887	MALESKI CHAD EDWARD JOHN	09/21/1982	17	28	12/20/2000	03/15/2000	12/19/2000	750316B	J	HOMICIDE, FELONY MURDER	41	ACTIVE
61	325889	ROGERS JOSHUA	08/12/1982	17	28	12/20/2000	03/15/2000	12/19/2000	750316B	J	HOMICIDE, FELONY MURDER	41	ACTIVE
62	316846	BURNS RECHO	02/15/1982	17	29	07/21/2000	01/15/2000	07/18/2000	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
63	320502	PRINCE ROBERT SAMPSON	03/17/1982	17	29	10/20/2000	01/15/2000	10/11/2000	750316B	J	HOMICIDE, FELONY MURDER	50	ACTIVE
64	270103	MCCRADY TERRENCE LEE	09/02/1980	17	30	10/09/1998	05/23/1998	08/31/1998	750316B	J	HOMICIDE, FELONY MURDER	25	ACTIVE
65	277651	WALKER JEROME	02/03/1981	17	30	01/08/1999	05/24/1998	01/06/1999	750316B	J	HOMICIDE, FELONY MURDER	RC	ACTIVE
66	282369	WATERS CHARLES WAYNE	07/17/1980	17	30	03/04/1999	11/22/1997	02/26/1999	750316B	J	HOMICIDE, FELONY MURDER	13	ACTIVE
67	288794	GONZALEZ DANIEL JESSE	01/16/1981	17	30	07/14/1999	02/13/1998	03/15/1999	750316B	J	HOMICIDE, FELONY MURDER	73	ACTIVE
68	256195	MARTIN ALLAN GENE-REEDER	03/24/1979	17	31	05/09/1997	11/11/1996	05/06/1997	750316B	P	HOMICIDE, FELONY MURDER	11	ACTIVE
69	259094	GIVENS ANTHONY JOVAN	04/11/1979	17	31	09/19/1997	12/02/1996	09/08/1997	750316B	J	HOMICIDE, FELONY MURDER	11	ACTIVE
70	280916	ABBATOY MARK ANTHONY	10/23/1979	17	31	12/12/1997	05/07/1997	12/08/1997	750316B	P	HOMICIDE, FELONY MURDER	11	ACTIVE
71	251367	JOHNSON DARNELL DEVON	08/11/1979	17	31	01/09/1998	05/03/1997	01/09/1998	750316B	J	HOMICIDE, FELONY MURDER	14	ACTIVE
72	270932	MARTINEZ ANTHONY	10/08/1979	17	31	08/31/1998	08/16/1997	08/27/1998	750316B	J	HOMICIDE, FELONY MURDER	82	ACTIVE
73	279609	JACKSON DAMON ANDREW	09/22/1979	17	31	03/07/2001	09/03/1997	03/08/2001	750316B	J	HOMICIDE, FELONY MURDER	41	ACTIVE
74	250616	GRANDION BRIAN L	05/02/1978	17	32	07/10/1996	10/08/1995	06/25/1996	750316B	J	HOMICIDE, FELONY MURDER	63	ACTIVE
75	254416	BRYANT DIARRA	10/11/1978	17	32	02/19/1997	01/31/1996	02/13/1997	750316B	J	HOMICIDE, FELONY MURDER	RC	ACTIVE

offender_no	NAME	DOB	Age at Offense	Current Age	Commitment Date	Offense Date	Sentence Date	Offense	Convicted By	Offense Description	County	Current Status	
76	256960	THOMAS DESHON A	04/15/1978	17	32	06/06/1997	06/29/1995	06/03/1997	750316B	J	HOMICIDE, FELONY MURDER	RC	ACTIVE
77	247481	ADRIAN JAMES EARL	11/15/1977	17	33	01/24/1996	04/27/1995	01/12/1996	750316B	J	HOMICIDE, FELONY MURDER	81	ACTIVE
78	248294	FRAZIER COREY RAMONE	09/27/1977	17	33	03/06/1996	06/21/1995	03/05/1996	750316B	P	HOMICIDE, FELONY MURDER	25	ACTIVE
79	252622	MITCHELL CHRISTOPHER B	03/20/1978	17	33	03/27/1997	11/28/1995	03/27/1997	750316B	J	HOMICIDE, FELONY MURDER	73	ACTIVE
80	244473	FUSON JAMES DEAN	04/29/1976	17	34	07/26/1995	01/24/1994	07/25/1995	750316B	J	HOMICIDE, FELONY MURDER	RC	ACTIVE
81	246866	BURDIS DOMINIC PAUL	07/11/1976	17	34	12/13/1995	06/17/1994	12/11/1995	750316B	J	HOMICIDE, FELONY MURDER	09	ACTIVE
82	236302	JOHNSON SHAVANTE	05/31/1975	17	35	03/24/1994	05/19/1993	03/22/1994	750316B	J	HOMICIDE, FELONY MURDER	RC	ACTIVE
83	226609	REEDY MARK LEE	01/04/1974	17	37	09/11/1992	08/14/1991	08/03/1992	750316B	J	HOMICIDE, FELONY MURDER	73	ACTIVE
84	195160	PATTERSON MICHAEL EARL	03/31/1970	17	40	02/24/2006	03/10/1988	02/22/2006	750316B	J	HOMICIDE, FELONY MURDER	41	ACTIVE
85	173681	MASON GARRON LEON	05/14/1965	17	45	08/18/2003	12/16/1982	08/17/2003	750316B	J	HOMICIDE, FELONY MURDER	41	ACTIVE
86	779224	ELIASON DAKOTAH WOLFGANG	09/23/1995	14	15	10/26/2010	03/07/2010	10/25/2010	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	11	ACTIVE
87	165851	KING CEDRIC	05/23/1983	14	27	12/11/1998	03/27/1998	11/24/1998	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	41	ACTIVE
88	712538	FAVORITE DQUAN	03/26/1992	15	18	01/15/2009	12/10/2007	01/08/2009	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	73	ACTIVE
89	744816	MORTON WILLIAM	01/08/1993	15	18	10/21/2009	10/16/2008	10/15/2009	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
90	712541	MACK CAPRICE LASEAN	12/26/1991	15	19	01/15/2009	12/10/2007	01/08/2009	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	73	ACTIVE
91	623369	CARP RAYMOND CURTIS	10/04/1990	15	20	11/21/2008	05/31/2006	11/20/2006	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	74	ACTIVE
92	283097	PETTY GREGORY	11/18/1982	15	28	03/16/1999	07/19/1998	03/12/1999	750316A	C	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
98	289128	WILLIAMS AHMAD R	07/24/1982	15	28	05/25/1999	01/15/1998	02/28/2002	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	41	ACTIVE
94	250160	WILLIAMS SHYTOUR TONRAY	04/28/1981	15	29	11/06/1997	01/03/1997	11/05/1997	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	73	ACTIVE
95	294293	HAYWOOD LAMAR A	02/11/1982	15	29	08/13/1999	06/08/1997	08/10/1999	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
96	225772	WHITFIELD ROBERT LEE	02/28/1976	15	35	07/24/1992	01/19/1992	07/22/1992	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	33	ACTIVE
97	788526	BELTON JONATHAN	06/30/1992	16	18	12/14/2010	12/28/2008	12/14/2010	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	63	ACTIVE
98	685577	JOHNSON DEQUAVIOUS TRAYON	07/11/1990	16	20	05/23/2008	03/02/2007	05/15/2008	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	73	ACTIVE
99	687791	COMMIRE SHAWN MICHAEL	02/12/1991	16	20	05/15/2008	06/05/2007	05/12/2008	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	09	ACTIVE
100	615809	HERNANDEZ LOUIS FERNANDO	05/09/1989	16	21	09/14/2006	11/27/2005	09/12/2006	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
101	622693	GAINES DEONDRE DEQWAIN	04/07/1989	16	21	11/15/2006	01/03/2006	11/08/2006	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	73	ACTIVE
102	492717	COLLIER LARKETA	02/25/1987	16	24	04/14/2004	09/17/2003	04/13/2004	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
103	459963	KIRKSEY MICHAEL LANCE	02/15/1986	16	25	06/23/2003	09/12/2002	06/16/2003	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	63	ACTIVE
104	372355	WILLIAMS LEON	06/17/1984	16	26	08/09/2001	11/16/2000	08/08/2001	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
105	386035	LATIMER ERIC JONATHON	04/19/1984	16	26	02/07/2002	07/24/2000	01/11/2002	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	25	ACTIVE
106	278182	ESPIE JOHN RONALD	03/23/1982	16	28	09/10/1999	11/25/1998	09/10/1999	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	78	ACTIVE
107	293586	HYNES CHRISTOPHER W	12/11/1982	16	28	09/14/1999	12/17/1998	09/13/1999	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	19	ACTIVE
108	274787	WHITTINGTON ELLIOT LASHON	06/10/1981	16	29	11/18/1998	12/16/1997	11/10/1998	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	73	ACTIVE
109	283528	WEBB OLIVER IV	10/06/1981	16	29	05/24/1999	04/12/1998	05/06/1999	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	73	ACTIVE
110	270825	HAYWOOD LONNELL V	06/23/1980	16	30	08/26/1998	02/12/1997	08/24/1998	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
111	252358	QUALLS YUSEF	04/29/1979	16	31	10/22/1996	10/15/1995	10/18/1996	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	RC	ACTIVE
112	252655	PATTERSON TERRY ALLEN	07/19/1979	16	31	11/05/1996	03/16/1996	11/04/1996	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	74	ACTIVE
113	252656	ROSE JUSTIN EDWARD	07/14/1979	16	31	11/05/1996	03/16/1996	03/08/1999	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	74	ACTIVE

	offende r_no	NAME	DOB	Age at Offense	Current Age	Commitment Date	Offense Date	Sentence Date	Offense	Convicted By	Offense Description	County	Current Status
114	257297	MATTHEWS EDWARD M	01/02/1980	16	31	08/23/1997	04/28/1996	08/19/1997	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	63	ACTIVE
115	280107	BELL NATHAN GREGORY	01/11/1980	16	31	11/04/1997	09/26/1996	10/30/1997	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	25	ACTIVE
116	280107	BELL NATHAN GREGORY	01/11/1980	16	31	11/04/1997	09/26/1996	10/30/1997	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	25	ACTIVE
117	247052	WILEY CHRISTOPHER	09/27/1977	16	33	12/21/1995	08/22/1994	12/19/1995	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	RC	ACTIVE
118	251328	BOYD KEVIN M	09/26/1977	16	33	08/23/1996	08/06/1994	08/19/1996	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	63	ACTIVE
119	254637	LEAMON ROBERT EUGENE III	11/07/1976	16	34	02/28/1997	07/13/1993	02/14/2000	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	14	ACTIVE
120	217778	BLACK AMY LEE	06/11/1974	16	36	07/05/1991	12/07/1990	07/03/1991	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	61	ACTIVE
121	218771	HERNANDEZ BARBARA P	03/16/1974	16	37	08/26/1991	05/12/1990	08/20/1991	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	63	ACTIVE
122	650315	MOORE MARK DEKHAIRA	12/19/1989	17	21	11/17/2008	09/16/2007	11/10/2008	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
123	660230	BLACKSHERE JUSTIN CHRISTO	08/18/1989	17	21	09/11/2007	01/02/2007	09/07/2007	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
124	687570	ORLEWICZ JEAN PIERRE	03/14/1990	17	21	05/13/2008	11/07/2007	05/12/2008	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
125	630831	CANNON MICHAEL TERENCE	08/11/1988	17	22	01/04/2007	04/26/2006	12/21/2006	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
126	652228	WALKER JERRY O'KEITH	11/11/1988	17	22	07/13/2007	01/27/2006	07/10/2007	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	25	ACTIVE
127	468515	RODGERS EARL	04/27/1987	17	23	07/01/2005	09/12/2004	06/29/2005	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
128	594095	HILLS MICHAEL REID	09/14/1987	17	23	03/01/2005	06/27/2005	02/27/2006	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	74	ACTIVE
129	595067	JACKSON CHRISTOPHER EUGEN	12/11/1987	17	23	02/27/2006	07/05/2005	02/15/2006	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	63	ACTIVE
130	492983	PATTERSON SHARON	05/25/1986	17	24	04/15/2004	09/17/2003	04/13/2004	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
131	503492	SWANIGAN JARRETT WADE	09/18/1986	17	24	07/26/2004	02/01/2004	07/22/2004	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
132	599905	DUPURE NICOLE ANN	07/08/1986	17	24	04/13/2006	04/23/2004	04/06/2006	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	50	ACTIVE
133	432591	JOHNSON TERRILL LAWRENCE	10/21/1984	17	26	10/17/2002	04/30/2002	10/16/2002	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
134	465435	FRENCH ANTONIO	04/13/1984	17	26	08/14/2003	01/07/2002	08/12/2003	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
135	372350	FIELDS FREDERICK	07/22/1983	17	27	07/19/2001	12/15/2000	07/17/2001	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
136	409968	WILLIAMS FREDERICK	09/29/1983	17	27	04/29/2002	01/17/2001	04/26/2002	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
137	410196	HINDS ROBERT T	01/24/1984	17	27	05/03/2002	05/16/2001	05/02/2002	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
138	423065	RUSHELL MARCUS LAMAR	06/10/1983	17	27	08/12/2002	01/13/2001	08/08/2002	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
139	303575	WASHINGTON JAMES III	04/10/1982	17	28	02/24/2000	06/27/1999	02/17/2000	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	73	ACTIVE
140	304730	OSBORNE MARC ANTHONY	07/10/1981	17	29	02/04/2000	05/22/1999	01/31/2000	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	41	ACTIVE
141	366059	HUFFMAN-KING DERONE ALLEN	12/10/1981	17	29	04/20/2001	05/30/1999	04/16/2001	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	39	ACTIVE
142	271856	STEFFENHAGEN GARRY LEE	06/20/1980	17	30	09/28/1998	02/03/1998	09/28/1998	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	29	ACTIVE
143	282369	WATERS CHARLES WAYNE	07/17/1980	17	30	03/04/1999	11/22/1997	02/26/1999	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	13	ACTIVE
144	288794	GONZALEZ DANIEL JESSE	01/16/1981	17	30	07/14/1999	02/13/1998	06/15/1999	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	73	ACTIVE
145	265168	POWELL TIEREE T	03/18/1980	17	31	04/17/1998	08/28/1997	04/01/1998	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	63	ACTIVE
146	292523	WHITE WALTER L	05/26/1978	17	32	07/13/1999	02/29/1995	07/09/1999	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	82	ACTIVE
147	248519	HARRINGTON BRANDON	04/21/1977	17	33	03/18/1995	02/18/1995	03/15/1995	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	RC	ACTIVE
148	251469	SMITH MARK ADAM	09/07/1977	17	33	09/04/1996	07/30/1995	08/29/1996	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	25	ACTIVE
149	264304	WILLIAMS ANTWAN L	01/25/1978	17	33	07/22/1999	08/31/1995	07/22/1999	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	63	ACTIVE
150	165805	DANIEL KYLE DEVON	07/07/1976	17	34	06/14/1995	09/29/1993	06/12/1995	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	RC	ACTIVE
151	237921	MCKINNEY FREDERICK ALLEN	03/28/1976	17	34	06/27/1994	11/25/1993	06/16/1994	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	73	ACTIVE

offende r_no	NAME	DOB	Age at Offense	Current Age	Commitment Date	Offense Date	Sentence Date	Offense	Convicted By	Offense Description	County	Current Status	
152	244441	WARE GAMELIEL	01/28/1977	17	34	07/24/1995	02/17/1994	07/20/1995	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	RC	ACTIVE
153	244473	FUSON JAMES DEAN	04/29/1976	17	34	07/26/1995	01/24/1994	07/25/1995	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	RC	ACTIVE
154	246866	BURDIS DOMINIC PAUL	07/11/1976	17	34	12/13/1995	06/17/1994	12/11/1995	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	09	ACTIVE
155	214984	MILLER KISHAN	06/01/1973	17	37	02/25/1991	10/04/1990	02/22/1991	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	RC	ACTIVE
156	211451	ALLORE JERRY ALVIN JR	06/03/1972	17	38	09/06/1990	06/11/1989	09/04/1990	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	73	ACTIVE
157	217711	KNUCKLES DEMETRIUS JERMAI	01/02/1973	17	38	07/03/1991	06/24/1990	06/27/1991	750316A	C	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	RC	ACTIVE
158	165583	GOODYEAR ROBERT	05/18/1970	17	40	10/04/1988	12/20/1987	10/04/1988	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	25	ACTIVE
159	193092	MCNEAL LYNN JR	11/08/1970	17	40	04/01/1988	12/07/1987	03/29/1988	750316A	C	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	RC	ACTIVE
160	182623	WATSON DENNIS MCCANN	06/09/1968	17	42	02/20/1986	06/25/1985	01/29/1986	750316A	J	HOMICIDE, MURDER 1ST DEG-PREMEDITATED	RC	ACTIVE
161	522773	MARSH BRANDON MICHAEL	07/20/1968	15	22	03/02/2005	05/25/2004	04/13/2005	750316C	P	HOMICIDE, OPEN MURDER-STAT SHORT FM	09	ACTIVE
162	316482	GONZALEZ MARK AARON	01/10/1984	15	27	07/21/2000	07/20/1999	07/19/2000	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	25	ACTIVE
163	223767	SHOCKLEY CLIFTON D	07/25/1975	15	36	04/17/1992	11/12/1990	04/13/1992	750316C	P	HOMICIDE, OPEN MURDER-STAT SHORT FM	63	ACTIVE
164	316488	KENDRICK RYAN ALAN	02/02/1983	16	28	07/21/2000	07/20/1999	07/19/2000	750316C	P	HOMICIDE, OPEN MURDER-STAT SHORT FM	25	ACTIVE
165	266511	REYES TYRONE LEE	08/24/1980	16	30	05/15/1998	06/19/1997	05/14/1998	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	25	ACTIVE
166	253728	MELFI DAVID MICHAEL	03/26/1978	16	32	01/09/1997	03/06/1996	01/07/1997	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	25	ACTIVE
167	264578	SEAY JEFFERY LABELL	10/15/1978	16	32	04/06/1998	06/23/1995	04/03/1998	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	23	ACTIVE
168	211512	GRAY PATRICK JAY	03/04/1972	16	39	08/17/2000	12/10/1988	08/14/2000	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	39	ACTIVE
169	791483	RAMSEY ANTONIO DEQUARY	07/29/1992	17	18	02/11/2011	11/07/2009	01/28/2011	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	61	ACTIVE
170	741357	ZUNIGA MIKE TORRES	08/03/1991	17	19	10/14/2010	11/21/2008	10/07/2010	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	41	ACTIVE
171	650657	CASPER GIOVANNI KOESE-ERI	08/06/1989	17	21	07/03/2007	11/12/2006	06/26/2007	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	41	ACTIVE
172	692728	MURRAY ODIES ARDAY	11/08/1989	17	21	07/03/2008	08/27/2007	06/30/2008	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	39	ACTIVE
173	699501	HINTON CQUAN MICHAEL	02/16/1990	17	21	03/19/2009	10/09/2007	03/17/2009	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	25	ACTIVE
174	474035	BOYKIN DEMARIOL DONTAYE	04/19/1985	17	25	12/09/2003	01/29/2003	12/04/2003	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	41	ACTIVE
175	485040	SIESLING JON DONALD	06/25/1985	17	25	02/25/2004	01/22/2003	02/23/2004	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	41	ACTIVE
176	365306	MITCHELL ROBERT AZABEURE	07/06/1982	17	28	04/11/2001	05/24/2000	03/26/2001	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	41	ACTIVE
177	266834	WILSON CALVIN GREG	09/24/1980	17	30	05/22/1998	10/13/1997	05/20/1998	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	33	ACTIVE
178	270321	SHUMAN DOUGLAS S	07/05/1979	17	31	08/11/1998	02/12/1997	08/07/1998	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	75	ACTIVE
179	248773	WATTS DEVON RENISE	05/13/1978	17	32	03/29/1996	07/28/1995	03/18/1996	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	62	ACTIVE
180	252806	WYRICK DEVON LEE	05/18/1978	17	32	11/14/1996	01/08/1996	11/12/1996	750316C	J	HOMICIDE, OPEN MURDER-STAT SHORT FM	39	ACTIVE
181	788526	BELTON JONATHAN	06/30/1992	16	18	12/14/2010	12/28/2008	12/14/2010	750316D	J	INVALID KEY	63	ACTIVE
182	165773	ANDERSON MICHAEL	09/21/1978	15	32	09/02/1994	02/03/1994	09/01/1994	750316	P	MURDER, FIRST DEGREE	61	ACTIVE
183	240689	DEBARDELABEN WILLIE	06/07/1978	16	32	12/14/1994	02/12/1994	12/14/1994	750316	J	MURDER, FIRST DEGREE	73	ACTIVE
184	236305	CHEEKS CLINTON	01/12/1978	16	33	03/24/1994	09/26/1993	03/22/1994	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
185	237761	PAYNE ANTONIO DUANE	08/27/1977	16	33	06/17/1994	06/13/1993	04/28/1994	750316	J	MURDER, FIRST DEGREE	50	ACTIVE
186	228183	WALKER MARCUS	07/16/1976	16	34	12/02/1992	10/09/1991	12/01/1992	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
187	206186	ARMSTRONG THOMAS JARNAVIS	04/24/1974	16	36	01/05/1990	07/18/1989	01/03/1990	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
188	211016	BROWNLEE TREVOR TREMAINE	04/29/1974	16	36	08/15/1990	10/22/1989	08/10/1990	750316	J	MURDER, FIRST DEGREE	61	ACTIVE
189	224587	PENA AGUSTIN T	02/07/1975	16	36	05/28/1992	07/11/1990	05/19/1992	750316	J	MURDER, FIRST DEGREE	50	ACTIVE

offender_no	NAME	DOB	Age at Offense	Current Age	Commitment Date	Offense Date	Sentence Date	Offense	Convicted By	Offense Description	County	Current Status	
190	203116	PAREDES EFRAN JR	04/04/1973	15	37	08/18/1989	03/08/1989	08/14/1989	750316	J	MURDER, FIRST DEGREE	11	ACTIVE
191	203339	HINES BOBBY	01/03/1974	15	37	08/30/1989	05/01/1989	08/25/1989	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
192	201721	MARTIN JONATHAN DAVID	12/02/1972	15	38	06/14/1989	09/29/1988	06/06/1989	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
193	192593	THOMAS JAMES DIONE	09/16/1971	15	39	03/08/1988	01/26/1987	03/04/1988	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
194	192749	IVORY BRIAN FRED	01/02/1972	15	39	03/16/1988	06/09/1987	03/14/1988	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
195	194057	BLACK DONYELLE MICHAEL	10/19/1971	15	39	10/05/1988	07/14/1987	10/04/1988	750316	C	MURDER, FIRST DEGREE	63	ACTIVE
196	196334	HARRIS LARONE	03/05/1972	15	39	10/04/1988	08/10/1987	09/22/1988	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
197	198334	TAYLOR JAMES BOISE	09/24/1971	15	39	01/20/1989	07/14/1987	01/17/1989	750316	C	MURDER, FIRST DEGREE	63	ACTIVE
198	191796	WILLIAMS BENNIE RAY	07/17/1969	15	41	01/22/1988	06/21/1985	01/21/1988	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
199	165623	TAYLOR TONY LADON	03/05/1969	15	42	08/15/1988	09/26/1984	08/13/1988	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
200	176424	LASHUAY JERRY WARREN JR	07/17/1968	15	42	06/25/1984	10/26/1983	06/25/1984	750316	J	MURDER, FIRST DEGREE	56	ACTIVE
201	179552	PORTER CHARLES DENNIS JR	09/02/1969	15	42	05/09/1985	06/19/1984	05/09/1985	750316	J	MURDER, FIRST DEGREE	38	ACTIVE
202	182264	TOLLIVER DEXTER	02/27/1969	15	42	01/21/1986	07/31/1984	01/15/1986	750316	J	MURDER, FIRST DEGREE	73	ACTIVE
203	184895	STOREY MARK EVERETT	12/04/1968	15	42	09/05/1988	11/07/1984	09/02/1988	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
204	170722	MOORE RONALD LEE JR	01/26/1966	15	45	11/17/1982	10/31/1981	11/09/1982	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
205	162008	MUSSELMAN RICHARD GERALD	09/09/1964	15	46	09/04/1980	01/03/1980	08/26/1980	750316	J	MURDER, FIRST DEGREE	73	ACTIVE
206	164006	DAVIS SCOTT BRUCE	07/16/1964	15	46	04/08/1981	05/22/1980	04/03/1981	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
207	274787	WHITTINGTON ELLIOT LASHON	06/10/1981	16	29	11/18/1998	12/16/1997	11/10/1998	750316	J	MURDER, FIRST DEGREE	73	ACTIVE
208	248666	TURNER TYKEITH LEROY	07/28/1979	16	31	03/25/1996	08/19/1995	03/22/1996	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
209	261275	CRUZ FEDERICO LUIS	05/24/1979	16	31	01/06/1998	04/25/1996	12/30/1997	750316	J	MURDER, FIRST DEGREE	41	ACTIVE
210	246127	JORDAN DAVID ALLEN	09/15/1978	16	32	10/31/1995	01/28/1995	10/27/1995	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
211	240464	SCOTT MICHAEL	03/31/1977	16	33	12/01/1994	12/14/1993	11/30/1994	750316	P	MURDER, FIRST DEGREE	RC	ACTIVE
212	241559	FOSTER LEANDER K	05/18/1977	16	33	02/06/1995	05/03/1994	02/02/1995	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
213	243169	SYMONDS JASON BENJAMIN	01/21/1978	16	33	05/05/1995	04/26/1994	05/04/1995	750316	J	MURDER, FIRST DEGREE	13	ACTIVE
214	230698	AVERHEART ULYSSES	04/26/1976	16	34	04/27/1993	07/14/1992	04/23/1993	750316		MURDER, FIRST DEGREE	RC	ACTIVE
215	233924	WALKER WILLIAM RAY	03/31/1976	16	34	11/01/1993	11/08/1992	10/29/1993	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
216	235827	BLACK RODNEY	09/17/1976	16	34	02/25/1994	09/11/1993	02/24/1994	750316	P	MURDER, FIRST DEGREE	RC	ACTIVE
217	237168	WILLIAMS DONALD WILLIE	08/24/1976	16	34	05/13/1994	06/13/1993	04/20/1994	750316	J	MURDER, FIRST DEGREE	50	ACTIVE
218	237818	DAVIS CORTEZ	03/07/1977	16	34	06/21/1994	12/14/1993	12/22/1994	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
219	238588	LAUNSBURY STEPHEN N	02/12/1977	16	34	08/05/1994	11/26/1993	07/25/1994	750316	J	MURDER, FIRST DEGREE	41	ACTIVE
220	239128	SANDERS MAURICE MONTRELL	02/17/1977	16	34	09/15/1994	12/07/1993	09/01/1994	750316	J	MURDER, FIRST DEGREE	41	ACTIVE
221	241473	KELLY TERENCE DEAN	11/05/1976	16	34	02/01/1995	05/04/1993	01/30/1995	750316	J	MURDER, FIRST DEGREE	13	ACTIVE
222	248894	IRVIN LARRY	12/14/1976	16	34	04/05/1996	11/02/1993	04/04/1996	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
223	226959	LEWIS TIMOTHY	06/04/1975	16	35	09/28/1992	03/23/1992	09/24/1992	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
224	228758	SMITH BOSIE LEE	06/28/1975	16	35	01/07/1993	04/13/1992	12/31/1992	750316	J	MURDER, FIRST DEGREE	81	ACTIVE
225	232703	GERMAN ROBERT L	09/17/1975	16	35	08/20/1993	07/14/1992	09/05/1993	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
226	233439	HAYNES DEON LATROY	08/01/1975	16	35	10/05/1993	07/28/1992	09/29/1993	750316	J	MURDER, FIRST DEGREE	73	ACTIVE
227	234255	PRUITT JENNIFER M	11/27/1975	16	35	11/19/1993	08/30/1992	11/15/1993	750316	J	MURDER, FIRST DEGREE	63	ACTIVE

	offende r_no	NAME	DOB	Age at Offense	Current Age	Commitment Date	Offense Date	Sentence Date	Offense	Convicted By	Offense Description	County	Current Status
228	235621	JARRETT MICHAEL	10/17/1975	16	35	02/11/1994	01/23/1992	02/04/1994	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
229	216303	WILLIAMS LEONARD DEE	12/06/1974	16	36	04/26/1991	12/10/1990	04/24/1991	750316	J	MURDER, FIRST DEGREE	11	ACTIVE
230	217934	WATERFORD VICTOR LAMAR	09/04/1974	16	38	09/09/1991	12/08/1990	09/05/1991	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
231	221171	BASSETT THOMAS	06/09/1974	16	36	12/18/1991	02/05/1991	12/13/1991	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
232	222691	CAMPER OMAIR DAVID	09/30/1974	16	36	03/02/1991	09/03/1991	02/25/1992	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
233	223445	WARNER BRAD TREVOR	12/10/1974	16	36	04/02/1992	04/01/1991	03/31/1992	750316	J	MURDER, FIRST DEGREE	13	ACTIVE
234	225001	BURGOS JOSE	03/21/1975	16	36	06/17/1992	06/10/1991	06/15/1992	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
235	225535	AYALA ALEXIS	06/11/1974	16	36	07/15/1992	11/29/1990	07/06/1992	750316	J	MURDER, FIRST DEGREE	50	ACTIVE
236	208373	JOHNSON JAMAR DAMON	09/09/1973	16	37	04/11/1990	09/27/1989	04/04/1990	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
237	208373	JOHNSON JAMAR DAMON	09/09/1973	16	37	04/11/1990	09/27/1989	04/04/1990	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
238	208666	MICHAELS BRUCE CHRISTOPH	06/26/1973	16	37	04/25/1990	11/10/1989	04/20/1990	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
239	219445	EVANS RAMON	09/07/1973	16	37	09/30/1991	08/30/1990	09/25/1991	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
240	201545	GILL CLIFTON	07/31/1972	16	38	06/07/1989	12/27/1988	06/02/1989	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
241	208079	CALLOWAY ANDRE M	10/17/1972	16	38	03/28/1990	08/10/1989	03/23/1990	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
242	211683	HAYES JESSIE	09/12/1972	16	38	09/14/1990	03/13/1989	09/05/1990	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
243	200600	OSTERHOUT STEVEN ALAN	09/15/1971	16	39	04/27/1989	04/12/1988	05/01/1992	750316	J	MURDER, FIRST DEGREE	69	ACTIVE
244	188820	ALLEN HERBERT	04/27/1970	16	40	06/10/1987	10/09/1986	06/05/1987	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
245	191849	STRUNK KARL BRYAN	06/24/1970	16	40	01/27/1988	02/08/1987	01/25/1988	750316	J	MURDER, FIRST DEGREE	67	ACTIVE
246	195446	ESPREE ANTONIO	02/21/1971	16	40	08/08/1988	12/29/1987	08/05/1988	750316	J	MURDER, FIRST DEGREE	81	ACTIVE
247	196753	THOMAS TERRANCE	09/29/1970	16	40	10/27/1988	04/15/1987	10/24/1988	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
248	196785	MACHACEK CHRISTOPHER	05/31/1970	16	40	10/28/1988	12/30/1986	10/28/1988	750316	J	MURDER, FIRST DEGREE	81	ACTIVE
249	189585	SIMMONS RICHARD ALLEN	08/04/1969	16	41	08/20/1987	04/13/1986	08/17/1987	750316	C	MURDER, FIRST DEGREE	43	ACTIVE
250	189947	BROWN ERIC	10/25/1969	16	41	09/18/1987	07/26/1986	09/11/1987	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
251	182665	BRYANT WILLIAM	08/25/1968	16	42	02/25/1986	10/14/1984	02/11/1986	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
252	165621	JORDAN TIMOTHY	11/30/1967	16	43	08/15/1986	05/02/1984	08/12/1986	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
253	179842	JACKSON MICHAEL TIMOTHY	03/23/1967	16	43	06/06/1985	12/13/1983	05/31/1985	750316	C	MURDER, FIRST DEGREE	73	ACTIVE
254	175566	RICHEY SHANE PATRICK	07/13/1966	16	44	04/05/1984	07/05/1983	04/05/1984	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
255	182117	RATA SCOTT ANDREW	08/23/1966	16	44	01/07/1986	09/10/1982	01/03/1986	750316	C	MURDER, FIRST DEGREE	50	ACTIVE
256	171785	PORTER JAMES DEWEY IV	09/30/1965	16	45	03/15/1983	04/07/1982	03/14/1983	750316	J	MURDER, FIRST DEGREE	74	ACTIVE
257	168550	JACKSON FONZA DAVID	10/26/1964	16	46	03/18/1982	04/22/1981	03/16/1982	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
258	168552	WILLIAMS RONNIE LYNN	09/18/1964	16	46	03/18/1982	04/22/1981	03/16/1982	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
259	159370	JOHNSON DENNIS LEE	05/24/1964	16	46	06/11/1982	07/16/1980	06/03/1982	750316	J	MURDER, FIRST DEGREE	76	ACTIVE
260	166420	DAVIS DONNIE JAY	10/25/1963	16	47	06/15/1981	10/24/1980	06/08/1981	750316	J	MURDER, FIRST DEGREE	75	ACTIVE
261	167106	DANIEL CHARLES EDWARD	01/25/1964	16	47	09/15/1981	09/05/1980	08/18/1981	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
262	169371	HILL HENRY JR	11/16/1963	16	47	06/11/1982	07/16/1980	06/03/1982	750316	J	MURDER, FIRST DEGREE	73	ACTIVE
263	169059	KINCAID TIMOTHY	12/07/1961	16	49	05/07/1982	06/04/1978	05/05/1982	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
264	150202	JOHNSON DARNELL	05/07/1960	16	50	06/20/1977	08/02/1976	06/16/1977	750316	P	MURDER, FIRST DEGREE	RC	ACTIVE
265	149775	FINCH CHARLES D	01/15/1960	16	51	05/11/1977	08/15/1976	05/11/1977	750316	J	MURDER, FIRST DEGREE	38	ACTIVE

offender_no	NAME	DOB	Age at Offense	Current Age	Commitment Date	Offense Date	Sentence Date	Offense	Convicted By	Offense Description	County	Current Status	
265	141234	WILLIAMS KENNETH	09/20/1957	16	53	04/25/1975	09/07/1974	04/22/1975	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
267	592689	MOORE LEECLIFTON JEROME	09/01/1987	17	23	02/22/2006	08/24/2005	02/20/2006	750316	J	MURDER, FIRST DEGREE	41	ACTIVE
268	265390	WILSON ROBERT	06/26/1980	17	30	04/24/1998	08/23/1997	04/20/1998	750316	J	MURDER, FIRST DEGREE	61	ACTIVE
269	260917	DEPALMA ANTHONY ROBERT	05/11/1979	17	31	12/12/1997	05/07/1997	12/08/1997	750316	J	MURDER, FIRST DEGREE	11	ACTIVE
270	252159	LAYTON BENNIE L	11/21/1978	17	32	10/11/1996	01/07/1996	10/04/1996	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
271	244601	HO MING C	09/21/1977	17	33	08/02/1995	10/18/1994	07/31/1995	750316	P	MURDER, FIRST DEGREE	63	ACTIVE
272	234427	NEILLY WILLIAM EDWARD	05/31/1976	17	34	12/02/1993	06/10/1993	11/29/1993	750316	J	MURDER, FIRST DEGREE	39	ACTIVE
273	236945	HUGGINS JAMIE LUIS	06/08/1976	17	34	04/29/1994	12/18/1993	04/28/1994	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
274	238711	WINES GREGORY	04/22/1976	17	34	08/16/1994	11/26/1993	08/02/1994	750316	J	MURDER, FIRST DEGREE	41	ACTIVE
275	239339	WESLEY TAVARES	05/12/1976	17	34	09/27/1994	01/13/1994	09/23/1994	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
276	240859	SCOTT CORTEZ TRAWETS	01/19/1977	17	34	12/22/1994	02/16/1994	12/20/1994	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
277	242223	CLAYTON DAVID LAMAR	01/29/1977	17	34	03/16/1995	08/31/1994	03/13/1995	750316	J	MURDER, FIRST DEGREE	11	ACTIVE
278	243189	CARMICHAEL KARLOS ANTONUO	12/08/1976	17	34	05/08/1995	10/12/1994	05/03/1995	750316	J	MURDER, FIRST DEGREE	73	ACTIVE
279	244440	CARD LAMONT A	09/07/1976	17	34	07/24/1995	02/17/1994	07/20/1995	750316	P	MURDER, FIRST DEGREE	RC	ACTIVE
280	247928	SWORD SEAN	08/31/1976	17	34	02/15/1996	03/16/1994	11/06/1995	750316	P	MURDER, FIRST DEGREE	63	ACTIVE
281	249210	PEREZ JUAN J	09/17/1976	17	34	04/25/1996	05/23/1994	04/15/1996	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
282	231312	TOBAR CHRISTOPHER MICHAEL	08/21/1975	17	35	06/03/1993	01/30/1993	06/01/1993	750316	C	MURDER, FIRST DEGREE	11	ACTIVE
283	291449	RUCKER WILLIAM LAWRENCE	08/16/1975	17	35	06/09/1993	11/27/1992	06/08/1993	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
284	239982	POTTS CLYDE EUGENE	07/29/1975	17	35	11/03/1993	03/02/1993	11/03/1993	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
285	234311	SHARP JENARD	07/02/1975	17	35	11/23/1993	04/18/1993	11/18/1993	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
286	234312	HARRELL LORENZO J	11/13/1975	17	35	11/23/1993	04/18/1993	11/18/1993	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
287	235019	POLK VICTOR LEE	02/27/1976	17	35	01/10/1994	05/10/1993	01/07/1994	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
288	235021	ADAMS STANLEY JAMES	08/15/1975	17	35	01/10/1994	04/24/1993	12/03/1993	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
289	238849	ELLIOT RODERICK	12/31/1975	17	35	04/26/1994	08/01/1993	04/25/1994	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
290	240025	FOWLE STANLEY RICHARD JR.	09/08/1975	17	35	11/02/1994	08/09/1993	11/02/1994	750316	J	MURDER, FIRST DEGREE	38	ACTIVE
291	225000	KELLY KENNETH	11/19/1974	17	36	06/17/1992	11/25/1991	06/12/1992	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
292	225054	JENNINGS ERVIN LEE	10/04/1974	17	36	06/19/1992	01/08/1992	06/17/1992	750316	C	MURDER, FIRST DEGREE	82	ACTIVE
293	225620	PRINCE SERGIO SHAWTNEZ	07/01/1974	17	36	07/17/1992	10/23/1991	07/15/1992	750316	J	MURDER, FIRST DEGREE	82	ACTIVE
294	227632	SPILLER EDDIE DEMOND	07/25/1974	17	36	10/30/1992	02/01/1992	10/29/1992	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
295	185751	BROWN JAMAL	08/01/1973	17	37	07/31/1992	05/17/1991	07/29/1992	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
296	213025	MERRELL GERALD	05/12/1973	17	37	11/16/1990	07/08/1990	11/14/1990	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
297	217805	SERVANT WILLIE	07/30/1973	17	37	07/08/1991	02/17/1991	07/03/1991	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
298	219346	HOLLAND BEKEIBA	04/26/1973	17	37	09/25/1991	04/12/1991	09/18/1991	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
299	220523	LOEPKE JOHN SEELEY	05/01/1973	17	37	11/15/1991	04/01/1991	11/13/1991	750316	J	MURDER, FIRST DEGREE	13	ACTIVE
300	223332	KRAUSE THOMAS EUGENE II	02/26/1974	17	37	03/27/1992	04/01/1991	03/25/1992	750316	J	MURDER, FIRST DEGREE	13	ACTIVE
301	224281	WILLIAMS ANTONIO	12/21/1973	17	37	05/11/1992	05/19/1991	05/07/1992	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
302	208635	PASSENO JOSEPH ANDREW	07/13/1972	17	38	04/25/1990	11/10/1989	04/20/1990	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
303	209476	ATKINS JOHN MARSHALL JR	09/23/1972	17	38	05/30/1990	09/27/1989	05/23/1990	750316	J	MURDER, FIRST DEGREE	63	ACTIVE

	offender_no	NAME	DOB	Age at Offense	Current Age	Commitment Date	Offense Date	Sentence Date	Offense	Convicted By	Offense Description	County	Current Status
304	211805	BIBBS COREY	06/07/1972	17	38	09/21/1990	03/11/1990	09/19/1990	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
305	212651	HENDERSON MARIO	11/23/1972	17	38	10/31/1990	01/25/1990	10/29/1990	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
306	214987	LEWIS MARVIN K	09/23/1972	17	38	02/25/1991	07/30/1990	02/21/1991	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
307	221288	BAKER DARYLE	10/03/1972	17	38	05/03/1994	07/22/1990	05/02/1994	750316	J	MURDER, FIRST DEGREE	39	ACTIVE
308	225614	ANDERSON ROBERT D	10/19/1972	17	38	07/17/1992	08/12/1990	07/10/1992	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
309	201907	JEWELL HENRY DUANE	06/07/1971	17	39	06/21/1989	01/16/1989	06/21/1989	750316	J	MURDER, FIRST DEGREE	61	ACTIVE
310	201967	BUCK NORMAN JR	05/24/1971	17	39	05/23/1989	11/07/1988	06/21/1989	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
311	201967	BUCK NORMAN JR	05/24/1971	17	39	05/23/1989	11/07/1988	06/21/1989	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
312	201982	CAMMON ERIC	11/29/1971	17	39	06/23/1989	12/10/1988	06/21/1989	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
313	202098	SEGO NORMAN WAYNE	09/27/1971	17	39	06/29/1989	11/07/1988	06/28/1989	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
314	204177	YOUNGBLOOD KENDRICK	10/30/1971	17	39	10/09/1989	11/21/1988	10/02/1989	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
315	207286	JACKSON JOHN HENRY	11/18/1971	17	39	02/22/1990	04/27/1989	02/21/1990	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
316	209814	BONELLI ANTHONY J	11/19/1971	17	39	06/13/1990	03/16/1989	06/07/1990	750316		MURDER, FIRST DEGREE	63	ACTIVE
317	209927	HARRIS SHAWN	01/02/1972	17	39	06/20/1990	11/19/1989	06/18/1990	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
318	190660	RICHARDS TOMMY EDWARD	03/25/1970	17	40	11/10/1987	04/20/1987	11/09/1987	750316	J	MURDER, FIRST DEGREE	11	ACTIVE
319	195492	SIMMONS KIMBERLY ANN	06/21/1970	17	40	08/11/1988	02/10/1988	07/14/1988	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
320	190283	YOUNG PAUL	02/15/1970	17	41	10/16/1987	05/02/1987	09/14/1987	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
321	190780	COLSON GERALD RAY	06/25/1969	17	41	11/18/1987	03/18/1987	11/13/1987	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
322	190782	BENJAMIN WILLIE	11/11/1969	17	41	11/18/1987	06/20/1987	11/16/1987	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
323	191260	WILLIAMS RONALD	08/25/1969	17	41	12/16/1987	01/20/1987	12/11/1987	750316	J	MURDER, FIRST DEGREE	82	ACTIVE
324	192009	BANKS MELVIN	05/28/1969	17	41	02/04/1988	05/08/1987	08/03/1992	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
325	195505	WHILBY CRAIG	12/26/1969	17	41	08/11/1988	12/12/1987	08/05/1988	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
326	165630	STEWART DIANGELO	07/02/1968	17	42	12/10/1986	06/28/1986	12/05/1986	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
327	184214	HAMMOND RONALD CLAYTON	06/26/1968	17	42	07/01/1986	12/03/1985	06/30/1986	750316	J	MURDER, FIRST DEGREE	78	ACTIVE
328	184668	ROSS THOMAS EDWARD	07/26/1968	17	42	08/12/1986	01/25/1986	08/08/1986	750316	J	MURDER, FIRST DEGREE	81	ACTIVE
329	185506	MILLER WALTER	03/18/1969	17	42	08/17/1987	08/23/1986	08/14/1987	750316	J	MURDER, FIRST DEGREE	82	ACTIVE
330	186412	TODD DAMION LAVOIAL	02/07/1969	17	42	01/06/1987	08/17/1985	12/30/1986	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
331	186487	ANDERSON KENNETH	07/13/1968	17	42	10/09/1990	05/18/1986	11/02/1990	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
332	189283	MORRIS TERRY	02/12/1969	17	42	07/30/1987	02/08/1987	07/29/1987	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
333	190739	TIPTON JEMAL EDWARD	03/11/1969	17	42	11/13/1987	02/28/1987	11/10/1987	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
334	179886	DAVIS ERNEST	07/29/1967	17	43	06/10/1985	10/12/1984	06/10/1985	750316	J	MURDER, FIRST DEGREE	80	ACTIVE
335	176620	PEARSON MACHELLE Y	08/31/1966	17	44	07/13/1984		07/13/1984	750316	J	MURDER, FIRST DEGREE	81	ACTIVE
336	177717	SIMPSON YOLANDA	05/15/1966	17	44	11/15/1984	03/19/1984	11/14/1984	750316	C	MURDER, FIRST DEGREE	RC	ACTIVE
337	177824	KVAM MICHAEL ALBERT	09/11/1966	17	44	11/28/1984	07/07/1984	11/26/1984	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
338	179512	MCAFFEE DONALD RAY	02/21/1967	17	44	05/06/1985	10/12/1984	05/06/1985	750316	J	MURDER, FIRST DEGREE	80	ACTIVE
339	172682	DENMAN KEVIN MARK	07/08/1965	17	45	06/15/1983	11/07/1982	06/15/1983	750316	J	MURDER, FIRST DEGREE	29	ACTIVE
340	174785	GRANGER BRIAN KELLY	10/17/1965	17	45	01/20/1984	06/21/1983	01/20/1984	750316	C	MURDER, FIRST DEGREE	56	ACTIVE
341	175541	MCCRACKEN MICHAEL JOSEPH	01/28/1966	17	45	04/04/1984	07/26/1983	03/28/1984	750316	J	MURDER, FIRST DEGREE	82	ACTIVE

offender_no	NAME	DOB	Age at Offense	Current Age	Commitment Date	Offense Date	Sentence Date	Offense	Convicted By	Offense Description	County	Current Status	
342	168355	HOWARD JAMES	09/07/1964	17	46	02/25/1982	10/17/1981	02/23/1982	750316	J	MURDER, FIRST DEGREE	82	ACTIVE
343	170197	SAMEL DAVID A	06/04/1964	17	46	09/20/1982	10/26/1981	09/07/1982	750316	C	MURDER, FIRST DEGREE	41	ACTIVE
344	170935	PORTER DAREN	11/02/1964	17	46	12/08/1982	01/06/1982	12/03/1982	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
345	174162	JOHNSON RENARD SAMUEL	03/12/1965	17	46	11/16/1983	11/15/1982	11/14/1983	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
346	168548	TOLBERT RONALD	09/19/1963	17	47	03/18/1982	04/22/1981	03/16/1982	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
347	168924	POWELL CHRISTOPHER	12/06/1963	17	47	08/11/1982	08/10/1981	08/05/1982	750316	C	MURDER, FIRST DEGREE	63	ACTIVE
348	162243	GARRETT ALBERT LEE	11/30/1962	17	48	12/18/1980	08/20/1980	12/17/1980	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
349	163803	WATERS RONNIE C	11/19/1962	17	48	03/13/1981	05/03/1980	03/05/1981	750316	C	MURDER, FIRST DEGREE	63	ACTIVE
350	168007	DUKES ROBERT LOUIS	01/13/1963	17	48	04/21/1981	09/18/1980	04/14/1981	750316	C	MURDER, FIRST DEGREE	61	ACTIVE
351	166300	HOGUE WILLIAM DAVID	10/11/1962	17	48	06/02/1981	07/07/1980	05/15/1981	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
352	254039	CARIGON TIMOTHY RAY	02/17/1963	17	48	01/29/1997	06/22/1980	01/27/1997	750316	J	MURDER, FIRST DEGREE	34	ACTIVE
353	158292	JONES ANTHONY SHAMONT	12/10/1961	17	49	08/16/1979	01/04/1979	08/13/1979	750316	J	MURDER, FIRST DEGREE	39	ACTIVE
354	158315	ANZURES THOMAS	12/02/1961	17	49	08/24/1979		08/21/1979	750316	C	MURDER, FIRST DEGREE	63	ACTIVE
355	155090	WESLEY JOE FRANK	10/16/1960	17	50	08/09/1979	07/01/1978	07/31/1979	750316	J	MURDER, FIRST DEGREE	25	ACTIVE
356	146778	GARRISON WILLIAM LEE	05/28/1959	17	51	10/04/1976		09/30/1976	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
357	148237	HINTON ROGER WILLIAM	07/07/1959	17	51	02/09/1977	08/15/1976	02/09/1977	750316	P	MURDER, FIRST DEGREE	38	ACTIVE
358	149597	CARTER KENNETH RAY	05/07/1959	17	51	04/28/1977	07/29/1976	04/25/1977	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
359	150249	CALVIN MICHAEL	03/19/1960	17	51	02/06/1978		01/31/1978	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
360	150709	LEWIS CHARLES	05/13/1959	17	51	07/29/1977	07/31/1976	07/27/1977	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
361	155318	PETERS GARY	03/05/1960	17	51	09/29/1978	12/12/1977	09/26/1978	750316	J	MURDER, FIRST DEGREE	50	ACTIVE
362	150428	DAWSON MARK S	02/12/1959	17	52	06/30/1977	12/01/1976	06/29/1977	750316	J	MURDER, FIRST DEGREE	78	ACTIVE
363	141545	SANDERS EDWARD	01/08/1958	17	53	02/17/1976	02/21/1975	02/13/1976	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
364	142565	JONES WALTER DAVID	12/05/1957	17	53	09/02/1975	01/21/1975	08/29/1975	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE
365	149099	COOKE WILLIAM RAY	07/17/1957	17	53	10/21/1975	02/17/1975	10/20/1975	750316	C	MURDER, FIRST DEGREE	25	ACTIVE
366	141099	ABDALLA DAVID EDWARD	11/19/1956	17	54	04/15/1975	10/07/1974	04/09/1975	750316	J	MURDER, FIRST DEGREE	50	ACTIVE
367	141233	CLARK TIMOTHY	09/15/1956	17	54	04/25/1975	09/07/1974	04/22/1975	750316	J	MURDER, FIRST DEGREE	63	ACTIVE
368	144373	WALTON DAVID LEE	03/15/1957	17	54	02/17/1976	02/21/1975	02/13/1976	750316	J	MURDER, FIRST DEGREE	RC	ACTIVE

TOTAL: 368

ATTACHMENT B

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF ST. CLAIR

PEOPLE OF THE STATE OF MICHIGAN,

v.

CASE NO: 25-392

JAMES DEWEY PORTER, IV,

DEFENDANT.

VOLUME I

T R I A L

PROCEEDINGS HAD BEFORE THE HONORABLE JAMES T. CORDEN,
(P-12226), JUDGE OF THE THIRTY-FIRST JUDICIAL CIRCUIT OF
MICHIGAN, AND A JURY, COUNTY BUILDING, PORT HURON, MICHIGAN,
COMMENCING ON JANUARY 11, 1983.

APPEARANCES:

MR. ROBERT H. CLELAND
ST. CLAIR COUNTY PROSECUTING ATTORNEY
COUNTY BUILDING
PORT HURON, MI 48060

FOR THE PEOPLE.

MR. DENNIS C. SMITH
ATTORNEY AT LAW
722 HURON AVENUE
PORT HURON, MI 48060

FOR THE DEFENDANT.

BLANCHE V. HOLYCROSS (CSR-2104) OFFICIAL COURT REPORTER

1 BARKED, YOU SAID YOU GOT UP; IS THAT RIGHT?

2 A I GOT UP; YES.

3 Q YOU WENT TO A WINDOW?

4 A YES, SIR.

5 Q WHICH WINDOW DID YOU GO TO?

6 A TO THE EAST WINDOW?

7 Q THE KITCHEN WINDOW, SIR?

8 A YES, SIR.

9 Q WHEN YOU LOOK OUT OF THE EAST WINDOW OF YOUR HOUSE, WHAT

10 ARE YOU LOOKING AT? YOU'RE LOOKING AT SOME PROPERTY OF

11 YOURS, AND THEN WHAT CAN YOU SEE BEYOND YOUR PROPERTY?

12 A WELL, THERE'S A ROAD RIGHT THERE GOES BY.

13 Q WHICH ROAD IS THAT, NOW?

14 A YALE ROAD.

15 Q YALE ROAD, OKAY. YOU HAVE A VIEW OF YALE ROAD FROM YOUR

16 KITCHEN WINDOW?

17 A YES, SIR.

18 Q WHEN YOU LOOKED OUT ONTO YALE ROAD ON THIS PARTICULAR

19 MORNING WHAT DID YOU SEE?

20 A I SEE JIM PORTER GOING BY ON THE BICYCLE.

21 Q WHICH WAY WAS HE HEADING, MR. LEACH?

22 A WEST.

23 Q FROM EAST TO WEST?

24 A WEST.

25 Q FROM ---

- 1 A YES.
- 2 Q FROM THE EAST?
- 3 A EAST GOING WEST.
- 4 Q TO THE WEST, OKAY. WAS THERE ANYTHING OUT OF THE ORDIN-
5 ARY ABOUT YOU SEEING JIM PORTER RIDING A BICYCLE NEAR YOUR
6 PROPERTY?
- 7 A NO, I'VE SEEN HIM GO BY BEFORE.
- 8 Q HE'S RIDDEN BY BEFORE?
- 9 A YES.
- 10 Q NOTHING PARTICULARLY STRANGE ABOUT THAT?
- 11 A NO.
- 12 Q FROM WHAT YOU WERE ABLE TO SEE, MR. LEACH, DID JIM PORTER
13 HAVE ANYTHING WITH HIM IN ADDITION TO THE BICYCLE?
- 14 A WELL, HE HAD A GUN CASE. THAT'S ALL I KNOW.
- 15 Q IS THERE ANY WAY FOR YOU TO DESCRIBE THIS GUN CASE?
- 16 A NOPE. I COULDN'T TELL YOU. I JUST LOOKED OUT AND SEEN
17 IT WAS A GUN CASE. THAT'S ALL I KNOW.
- 18 Q OKAY. NOW, FROM WHAT YOU WERE ABLE TO SEE, MR. LEACH,
19 HOW COULD JIM PORTER RIDE THE BICYCLE AND HAVE A GUN CASE
20 AT THE SAME TIME? HOW WAS THIS GUN CASE, IN OTHER WORDS,
21 BEING CARRIED?
- 22 A WELL, THE FRONT OF IT WAS LAYING OVER THE TOP OF THE
23 HANDLE BARS.
- 24 Q SLOW DOWN AND SPEAK UP JUST A LITTLE BIT, PLEASE.
- 25 A I SAID THE BARREL OF IT LOOKED LIKE IT WAS HANDLED WITH THE

- 1 HANDLE BARS AND THE STOCK BACK UNDER HIS ARM.
- 2 Q UNDER AN ARM?
- 3 A YES.
- 4 Q WOULD THAT BE TUCKED UP UNDER THE ARM?
- 5 A YES.
- 6 Q DID HIS HANDS LOOK LIKE THEY WERE ON THE HANDLE BARS?
- 7 A UM HUM.
- 8 Q SO, THE BARREL END OF -- SLOW UP JUST A SECOND MYSELF.
- 9 IT WAS A GUN CASE AND YOU DIDN'T SEE INSIDE THE GUN CASE?
- 10 A I DIDN'T SEE INSIDE OF THE CASE.
- 11 Q YOU DON'T HAVE X-RAY VISION, DO YOU, MR. LEACH?
- 12 A NO.
- 13 Q YOU COULDN'T SEE INSIDE THE GUN CASE BUT FROM WHAT YOU
- 14 WERE ABLE TO OBSERVE DID THERE APPEAR -- WOULD IT HAVE
- 15 THE APPEARANCE OF BEING SOMETHING IN THE GUN CASE OR NOT?
- 16 A I COULDN'T SAY. I COULDN'T SAY.
- 17 Q IF THIS WERE A CLOTH GUN CASE, MR. LEACH, IF IT WERE A
- 18 LIMP FABRIC, CANVAS-TYPE OF GUN CASE, IF THAT WERE THE
- 19 CASE, WOULD IT HAVE HAD --- WOULD IT HAVE APPEARED TO HAVE
- 20 SOMETHING IN IT?
- 21 A YES, IT WAS LOOSE LIKE THAT, YES.
- 22 Q OKAY. AND IF WHAT WAS IN IT WERE A RIFLE CARRIED IN THE
- 23 ORDINARY WAY, YOU'RE DESCRIBING THE BARREL END AS POINTING
- 24 OUT OVER THE HANDLE BARS?
- 25 A UM HUM.

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF ST. CLAIR

THE PEOPLE OF THE STATE OF MICHIGAN,

v.

CASE NO: 25-392

JAMES DEWEY PORTER IV,

DEFENDANT.

VOLUME II

T R I A L

PROCEEDINGS HAD BEFORE THE HONORABLE JAMES T. CORDEN,
(P-12226), JUDGE OF THE THIRTY-FIRST JUDICIAL CIRCUIT OF
MICHIGAN, COUNTY BUILDING, PORT HURON, MICHIGAN, COMMENCING ON
JANUARY 11, 1983.

APPEARANCES:

MR. ROBERT H. CLELAND
ST. CLAIR COUNTY PROSECUTING ATTORNEY
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PORT HURON, MI 48060

FOR THE PEOPLE.

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722 HURON AVENUE
PORT HURON, MI 48060

FOR THE DEFENDANT.

BLANCHE V. HOLYCROSS (SCR-2104) OFFICIAL COURT REPORTER

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OFFICIAL CIRCUIT COURT REPORTERS
31ST JUDICIAL CIRCUIT
COUNTY BUILDING
PORT HURON, MICHIGAN 48060

COURT OF APPEALS
LANSING

1 WERE YOU ACQUAINTED WITH HIM?

2 A YES, SIR.

3 Q AND IS THE PERSON THAT YOU KNEW AS JAMES OR JIM PORTER,
4 THE DEFENDANT HERE, SITTING WITH HIS ATTORNEY, MR. SMITH?

5 A YES, SIR.

6 Q HOW LONG, MR. GIULIANI, DID YOU KNOW OR WERE YOU ACQUAINTED
7 WITH ANY MEMBERS OF THE PORTER FAMILY?

8 A WELL, I HAD KNOW JIMMY -- HE STARTED COMING OVER WHEN --
9 PROBABLY FOR SIX OR EIGHT YEARS. I HAD KNOWN HIS YOUNGER
10 BROTHER, JEFFY, USED TO PLAY, COME OVER AND PLAY WITH
11 DEANO. I KNEW JIMMY'S MOTHER WHEN SHE USED TO COME OVER
12 AND PICK JEFF UP AND I HAD TALKED ONCE OR TWICE WITH HIS
13 FATHER.

14 Q THIS GOES BACK OVER A PERIOD OF YEARS THEN; IS THAT RIGHT,
15 SIR?

16 A YES, SIR.

17 Q WITH WHAT MEMBER OR MEMBERS OF YOUR FAMILY WAS THE OLDEST
18 BOY, JAMES, MOST CLOSELY ACQUAINTED WITH?

19 A WELL, IT WOULD BE WITH JIMMY.

20 Q ALL RIGHT, JIM PORTER WAS CONNECTED, THEN, MOST CLOSELY
21 WITH WHO IN YOUR FAMILY?

22 A WITH RICK.

23 Q WITH RICK, YOUR OLDEST BOY?

24 A YES, SIR.

25 Q CAN YOU DESCRIBE THE RELATIONSHIP BETWEEN -- CAN YOU IN

1 JUST A FEW SENTENCES DESCRIBE THE RELATIONSHIP BETWEEN, AS
2 YOU KNEW IT, BETWEEN YOUR SON, RICK, AND THE DEFENDANT
3 HERE, JIM PORTER?

4 A WELL, THEY USED TO BE FRIENDS. THEY WOULD -- THEY HUNTED
5 TOGETHER, FISHED TOGETHER, TRAPPED TOGETHER. THEY WERE
6 A LOT CLOSER IN THE EARLIER YEARS THAN THEY WERE LATER ON
7 BECAUSE JIMMY'S A COUPLE OF YEARS YOUNGER THAN RICK, AND
8 RICK HAD GRADUATED AND HE WAS MAKING NEW FRIENDS AND DOING
9 DIFFERENT THINGS, AND SO THEY KIND OF SPLIT UP A LITTLE
10 BIT.

11 Q BUT ONCE AGAIN, FROM YOUR OWN KNOWLEDGE, THIS ACQUAINTANCE-
12 SHIP AND FRIENDSHIP HAD LASTED FOR A NUMBER OF YEARS; IS
13 THAT RIGHT?

14 A YES, SIR.

15 Q WAS JAMES PORTER EVER IN YOUR HOUSE AT CARSON ROAD?

16 A VERY OFTEN.

17 Q WOULD IT BE FAIR TO SAY THAT HE WAS A FREQUENT VISITOR TO
18 YOUR HOUSE?

19 A YES, SIR.

20 Q MANY TIMES WE KNOW THAT PEOPLE WHO ARE FRIENDS OF THE KIDS
21 IN THE FAMILY, THE CHILDREN WILL GET FAMILIAR WITH THE
22 HABITS OF THE FAMILY, SOMETIMES BEING ABLE TO JUST SORT OF
23 COME IN WITHOUT EVEN KNOCKING ON THE DOOR. I WONDER, CAN
24 YOU DESCRIBE JAMES PORTER'S RELATIONSHIP WITH YOUR FAMILY
25 IN ANY OF THOSE TERMS?

1 PROFFERED STATEMENT IS HEARSAY AND DOES NOT COME WITHIN THE
2 EXCEPTION OF THE EXCITED UTTERANCE.

3 ANYTHING ELSE, MR. SMITH?

4 MR. SMITH: NOT AT THIS TIME, YOUR HONOR.

5 (AT ABOUT 9:41 A.M. - JURY RETURNED TO COURTROOM)

6 (THE FOLLOWING HAD IN THE PRESENCE OF THE JURY)

7 MR. SMITH: YOUR HONOR, I'M SORRY TO OBJECT.

8 MR. CLELAND AND I HAVE JUST HAD A DISCUSSION THAT I THINK,
9 WITH APOLOGIES TO THE COURT, WE MIGHT AS WELL BRING UP
10 OUTSIDE OF THEIR PRESENCE, AND I KNOW THEY WENT OUT AND
11 THEY JUST CAME BACK, BUT THEN MR. CLELAND --

12 THE COURT: WHAT'S IT RELATE TO?

13 MR. SMITH: IT RELATES TO WHAT MR. CLELAND
14 INDICATED TO ME HE WILL NOW BE ELICITING FROM THE WITNESS.

15 THE COURT: LET'S HAVE HIM ELICIT IT WHATEVER
16 IT IS AND YOU MAKE YOUR OBJECTION AND I'LL RULE ON IT.

17 MR. SMITH: THANK YOU, YOUR HONOR.

18 DIRECT EXAMINATION CONTINUING

19 BY MR. CLELAND:

20 Q MR. GIULIANI, AFTER YOU BEGAN TO LOCK THE HOUSE, THEN, IN
21 THE FALL, LATE SUMMER OR FALL OF 1981, DID YOU BECOME
22 AWARE AT ANY TIME THAT THERE HAD BEEN ANY DAMAGE DONE TO
23 YOUR HOUSE THAT REQUIRED YOUR ATTENTION?

24 A THERE WAS A BREAK-IN IN SEPTEMBER ON THE BACK DOOR.

25 Q NOW, WHICH BACK DOOR WOULD THIS BE?

1 A THAT WOULD BE THE BACK DOOR COMING IN TO THE UTILITY ROOM.

2 Q AND WOULD THAT DOOR BE IN THIS AREA OF THE HOUSE THAT IS
3 LABELLED LAUNDRY?

4 A YES, SIR.

5 Q THERE IS A DOOR IN THIS AREA; IS THAT CORRECT, SIR?

6 A YES, SIR.

7 Q THAT LEADS DIRECTLY TO THE OUTSIDE?

8 A YES, SIR.

9 Q AND THEN THIS WOULD BE A REAR ENTRANCE AREA; IS THAT
10 CORRECT?

11 A YES, SIR.

12 Q WHAT HAPPENED AS YOU OBSERVED IT TO THAT DOOR?

13 A WELL, WHEN I CAME HOME WE FOUND THE DOOR -- THE DOOR JAMB
14 WAS BROKEN AT -- THE WIFE SAID THAT THAT WEDNESDAY THAT
15 SOMEBODY HAD BROKE INTO THE DOOR THAT WAS -- THE DOOR WAS
16 LOCKED AND SOMEBODY BROKE IN.

17 Q NOW, AT THIS TIME DID YOU HAVE THE OPPORTUNITY TO LOOK
18 THROUGH THE HOUSE TO OBSERVE ITS CONDITION, SIMILAR TO
19 ANY OTHER OCCASIONS THAT YOU MAY HAVE HAD TO CHECK THE
20 HOUSE, IN TERMS OF WHETHER THERE WAS ANY EVIDENCE TO YOU
21 OF RANSACK OR RUMMAGING THROUGH, OR EVIDENCE OF THEFT,
22 THAT YOU WERE ABLE TO FIND?

23 A NO, THERE WAS NOTHING RANSACKED. THERE WAS NOTHING TOUCHED.
24 THERE WAS NOTHING BOTHERED AT ALL AND WE COULDN'T UNDER-
25 STAND IT, WHY SOMEONE WOULD BREAK INTO THE HOME AND NOT

- 1 TAKE ANYTHING. AND THEN, WHILE WE HAD TO WAIT UNTIL
2 RICKY COME HOME, AND WHEN HE WENT AND CHECKED WHERE UHE
3 USED TO KEEP HIS MONEY OR HIDE HIS MONEY, THAT --
4 Q WHAT DID HE -- NOW, THIS IS HIM COMING HOME THIS VERY DAY--
5 A THAT SAME DAY.
6 Q -- THE DOOR WAS BROKEN?
7 A WHEN HE CAME HOME FROM WORK, YOU KNOW, WE TOLD HIM SOMEBODY
8 HAD BROKE IN. THERE WAS NOTHING TAKEN,
9 Q AND THEN WHAT DID HE DO?
10 A HE WENT TO HIS ROOM AND CHECKED OUT WHERE HE USED TO KEEP
11 HIS MONEY.
12 Q AND AT THAT MOMENT WHAT HAPPENED?
13 A HE -- OF COURSE, HE WAS QUITE ANGRY. SOMEBODY HAD TAKEN
14 HIS MONEY.
15 Q DID HE REPORT THAT TO YOU AT THAT TIME?
16 A YES, HE DID, AND WE CALLED THE POLICE AND WE MADE A POLICE
17 REPORT.
18 Q ALL RIGHT, BUT NOTHING RANSACKED?
19 A NOTHING TOUCHED.
20 Q NOTHING DISTURBED THAT YOU COULD TELL?
21 A NOTHING DISTURBED.
22 Q DID YOU HAVE TO REPAIR THAT REAR DOOR AREA?
23 A YES, SIR, I DID REPAIR THE REAR DOOR.
24 Q PUT IT BACK INTO WORKABLE SHAPE; IS THAT RIGHT?
25 A YES, SIR.

1 COULDN'T PUT A HANDLE IN THERE. THAT WHOLE SECTION WAS
2 BROKE OUT OF IT.

3 Q OF THE DOOR ITSELF, THAT IS?

4 A OF THE DOOR ITSELF, YES.

5 Q THE WOOD WAS BROKEN AWAY?

6 A WELL, YES, WHERE THE HANDLE -- WHERE THE BRASS PART OR THE
7 DOOR KNOB GOES INTO THE DOOR, THAT PART WAS COMPLETELY
8 KNOCKED OUT.

9 Q ALL RIGHT. NOW, DID YOU TAKE IT UPON YOURSELF ONCE AGAIN
10 TO LOOK THROUGH THE HOUSE TO DETERMINE WHETHER THERE WAS
11 ANY INDICATION OF RANSACKING OR DISTURBANCE OR RUMMAGING
12 THROUGH THINGS, THE THINGS THAT AN ORDINARY PERSON MIGHT
13 ASSOCIATE WITH A BURGLARY OR A BREAK-IN?

14 A YES, SIR. AGAIN, THERE WAS NOTHING TOUCHED. THERE WAS
15 NOTHING DAMAGED. THERE WAS NOTHING BOTHERED. WHEN RICK
16 CAME HOME, WHY, HE -- WHY, HE WAS HOME THAT PARTICULAR DAY.
17 HE GOT HOME BEFORE WE DID BECAUSE HE GOT OUT OF SCHOOL
18 EARLIER THAN WHAT WE GOT HOME, AND NOTHING EVEN OF HIS OWN
19 WAS TAKEN TO HIS KNOWLEDGE.

20 Q ALL RIGHT. ONCE AGAIN, THESE ARE STATEMENTS MADE THE DAY
21 THAT THAT HAPPENED BY --

22 A YES. WE AGAIN MADE A POLICE REPORT AND I WAITED FOR QUITE
23 A WHILE AND I HAD -- I HAD TO GO UP TO THE STOCKYARD IN
24 CROSWELL, SO I LEFT, AND IN BETWEEN THE TIME I HAD LEFT AND
25 CAME BACK, WHY, THE SHERIFF DEPARTMENT WAS THERE AND THEY

- 1 SCHOOL? WHAT WERE YOUR PLANS, YOU AND YOUR MOTHER?
- 2 A TO GO BOWLING WITH THEM IN PORT HURON.
- 3 Q WITH THE GIULIANIS'?
- 4 A YES.
- 5 Q AND WOULD THAT BE WITH MRS. GIULIANI AND WITH CINDY?
- 6 A YES.
- 7 Q CINDY WAS YOUR SAME AGE?
- 8 A YES.
- 9 Q NOW, TO GO AHEAD AND TO MAKE THE PLANS TO GO BOWLING DID
10 YOU SOMETIME THAT MORNING GO WITH YOUR MOTHER TO THE
11 GIULIANIS' HOUSE?
- 12 A YES.
- 13 Q AND YOU REMEMBER GOING THERE AND THE THINGS THAT HAPPENED
14 AFTER THAT?
- 15 A YES.
- 16 Q WHO WAS IT THAT GOT OUT OF THE CAR FIRST, YOU OR YOUR
17 MOTHER, WHEN YOU GOT TO THE GIULIANIS' HOUSE?
- 18 A MYSELF.
- 19 Q WAS THERE ANYBODY ELSE ANYWHERE AROUND, ANY OF THE
20 GIULIANIS OR ANY OTHER PEOPLE OF ANY KIND OUTSIDE THE
21 HOUSE WHEN YOU PULLED UP IN THE DRIVEWAY?
- 22 A NO.
- 23 Q NOBODY ELSE AROUND AT ALL?
- 24 A NO.
- 25 Q NOBODY ON THE ROAD THAT YOU REMEMBER OR ANYTHING LIKE

1 Q TO THE BEST OF YOUR KNOWLEDGE?

2 A YES.

3 Q YOU, OF COURSE, WERE CONCERNED ABOUT WHAT YOU WERE DOING?

4 A THAT'S RIGHT.

5 Q YOU WERE THEN WITH DETECTIVE HERPEL?

6 A YES.

7 Q SO, AS YOU DESCRIBED TO US HOW YOU WENT THROUGH THE HOUSE,
8 WAS DETECTIVE HERPEL ACCOMPANYING YOU AS YOU WERE DOING
9 THIS?

10 A YES, HE WAS RIGHT WITH ME.

11 Q AND DID I UNDERSTAND CORRECTLY THAT YOU, IN ESSENCE, WENT
12 DOWN THE HALLWAY CHECKING OUT THE VARIOUS ROOMS AND THEN
13 YOU RETURNED BACK TO THE NORTH PART OF THE HOME?

14 A THAT'S TRUE.

15 Q IF I UNDERSTAND THAT YOU -- STRIKE THAT. WHERE DID YOU
16 SEE THESE CASINGS, BULLET CASINGS, THAT YOU FIRST OBSERVED?

17 A THERE WAS -- I'VE SEEN BULLET CASINGS IN THE HALLWAY AND
18 EVERYWHERE I WENT.

19 Q I THINK YOU SAID IN THE AREA OF THE LAUNDRY OR UTILITY ROOM
20 THERE WERE BULLET CASINGS?

21 A YES. I BELIEVE RIGHT IN FRONT OF THE DOOR LEADING INTO
22 THE SMALL BATHROOM AND ALSO INSIDE OF THE BATHROOM WAS
23 CASINGS.

24 Q IF YOU CAN RECALL, THEN, THERE WAS ONE CASING OUTSIDE OF
25 THE BATHROOM DOOR, THEN, AND ONE INSIDE?

1 I RECALL CORRECTLY?

2 A YES, SIR. WE HAD COMPLETED THE INVESTIGATION ABOUT TWELVE
3 THIRTY AT THE HOSPITAL AND WE HAD MR. AND MRS. MC CORMICK
4 AT MY OFFICE AT ONE THIRTY TO IDENTIFY THE PHOTOGRAPH OF
5 THE VICTIMES.

6 Q ALL RIGHT. DOCTOR KOPP, THE INDIVIDUALS WHO ARE CONCERNED
7 IN THIS MATTER ARE REPORTED AS BEING AN ELIZABETH GIULIANI,
8 AGE FIFTY; KATHLEEN GIULIANI, AGE SIXTEEN; CYNTHIA
9 GIULIANI, AGE THIRTEEN; ERIC GIULIANI, AGE EIGHTEEN; AND
10 DEAN GIULIANI, AGE TEN. WERE THE BODIES UPON WHICH YOU
11 PERFORMED AUTOPSIES CORRESPONDINGLY MALE AND FEMALE AND OF
12 CORRESPONDING AGES?

13 A YES, SIR.

14 Q THE BODY THAT WAS IDENTIFIED TO YOU AS ELIZABETH GIULIANI,
15 I WILL ASK YOU TO TURN TO THAT, TO TURN YOUR ATTENTION TO
16 THAT AUTOPSY AND I WILL ASK IF YOUR INVESTIGATION DISCLOSED
17 MARKS OF VIOLENCE ON AN OUTWARD EXAMINATION OF THE BODY?

18 A YES, SIR.

19 Q WILL YOU DETAIL THOSE, PLEASE, FOR THE JURY?

20 A EXTERNAL MARKS OF VIOLENCE ARE DESCRIBED IN MY AUTOPSY
21 REPORT AS THERE BEING TWO, AND THEY ARE BOTH BULLET HOLES,
22 BULLET ENTRY HOLES, ONE ABOVE THE RIGHT EYE AND THE EYE-
23 BROW AND ASSOCIATED WITH LOSS OF THE RIGHT EYE, AND THE
24 SECOND BULLET HOLE ABOVE THE LEFT EAR.

25 Q FROM THE EXAMINATION THAT YOU DID, DOCTOR, WERE EITHER OF

1 THESE WOUNDS NON-FATAL OR WOULD YOU ON THE OTHER HAND
2 CHARACTERIZE EITHER OF THE WOUNDS AS BEING FATAL?

3 A I WOULD FEEL THAT EITHER ONE WAS FATAL.

4 Q I'D LIKE YOU TO BE SPECIFIC AND POINT OUT, IF YOU COULD,
5 PLEASE, FOR THE JURY THE ORIGIN OR THE ENTRY POINT OF THE
6 FIRST OF THOSE WOUNDS THAT YOU MENTIONED AND DESCRIBED,
7 AS YOU WERE ABLE TO FURTHER EXAMINE, I THINK THROUGH X-RAYS,
8 THE PATH THAT THAT SHOT TOOK, AND WHETHER, IF AT ALL, YOU
9 WERE ABLE TO SEE ANY KIND OF X-RAY SHADOW OF LEAD OR METAL
10 OBJECT INSIDE THE SKULL?

11 A IN THE FIRST BULLET HOLE, WHICH IS THE ENTRY WOUND ABOVE
12 THE RIGHT EYE, WAS FOLLOWED BY X-RAY WITH FRAGMENTS OF METAL
13 SO AS TO TAKE ITS COURSE THROUGH BRAIN SUBSTANCE BEHIND
14 THE RIGHT ORBIT, AND THEN ENDING UP IN THE LEFT MAXILLA
15 AND THE LEFT UPPER FACIAL BONE HERE. THE SECOND ONE,
16 WHICH WAS LOCATED ABOVE THE LEFT EAR --

17 Q NOW, THIS IS THE OPPOSITE SIDE OF THIS WOMAN'S HEAD; IS
18 THAT CORRECT?

19 A YES, SIR.

20 Q ABOVE THE LEFT EAR. COULD YOU POINT APPROXIMATELY ON YOUR
21 OWN SKULL TO THE LOCATION?

22 A ABOUT UP HERE (INDICATING).

23 Q ALL RIGHT.

24 A AND THIS BULLET IS RECOGNIZED UNDER THE SCALP OVERLYING
25 THE RIGHT PARIETAL BONE ON THE OTHER SIDE OF THE HEAD

1 Q AND WILL YOU STATE, PLEASE, ANY OUTWARD SIGNS OF VIOLENCE
2 THAT YOU WERE ABLE TO OBSERVE ON THIS PERSON'S BODY?

3 A EXTERNAL MARKS OF VIOLENCE IN THIS INDIVIDUAL INCLUDED A
4 GUNSHOT WOUND, ENTRY WOUND IN THE LEFT TEMPLE AT THE LEVEL
5 OF THE LEFT EYEBROW.

6 Q YOU'RE POINTING NOW ON YOUR FACE TO THE SIDE -- IN THE
7 TEMPLE ON THE LEFT SIDE OF YOUR FACE; IS THAT CORRECT?

8 A YES, SIR.

9 Q AND THAT IS THE APPROXIMATE LOCATION OF THE GUNSHOT WOUND
10 THAT YOU OBSERVED?

11 A YES, SIR. ABOUT ONE AND A HALF INCHES Laterally TO THE
12 SIDE OF THE EXTERNAL CANTHUS. THAT'S THE EXTERNAL CORNER
13 HERE OF THE EYE ITSELF.

14 Q THROUGH X-RAY OR ANY OTHER EXAMINATION WERE YOU ABLE TO
15 TRACK THE PATH OF THAT BULLET?

16 A YES, SIR. X-RAY DEMONSTRATED A METAL OBJECT ABOUT SIX
17 CENTIMETERS BEHIND, THAT'S ABOUT SLIGHTLY MORE THAN TWO
18 INCHES, AND ONE INCH BELOW THE RIGHT EAR.

19 Q THAT'S ENTIRELY ACROSS THE OTHER SIDE OF THE HEAD; IS THAT
20 RIGHT, SIR?

21 A AGAIN, ON THE OTHER SIDE OF THE HEAD.

22 Q AND THAT WOULD ALSO BE SOMEWHAT OF A DOWNWARD PATH IF --
23 ASSUMING THAT THE PERSON'S HEAD WERE LEVEL, STRAIGHT UP AND
24 DOWN, VERTICAL, THE PATH OF THE BULLET THEN WOULD BE IN A
25 SOMEWHAT DOWN -- ACROSS AND DOWNWARD POSITION, SIR?

1 WENT RIGHT ACROSS THROUGH THE BRAIN TISSUE AND WAS IDENTI-
2 FIED AS DISTORTED AND FRAGMENTED BULLET ON THE LEFT
3 PARIETAL BONE ON THE OTHER SIDE OF THE HEAD.

4 Q WOULD IT BE ACCURATE TO STATE, DOCTOR, THEN, THAT THESE
5 TWO BULLET WOUNDS WHICH WERE, I THINK YOU SAID, SOME SIX
6 OR SO CENTIMETERS APART -- IS THAT ABOUT RIGHT?

7 A YES, SIR.

8 Q ROUGHLY TWO OR SO INCHES?

9 A ONE -- ONE IS ABOUT SIX CENTIMETERS BEHIND THE FIRST
10 BULLET. THE FIRST BULLET IS DIRECTLY ABOVE THE RIGHT EAR,
11 SO THE OTHER ONE IS ABOUT TWO AND A HALF INCHES BEHIND.

12 Q SO, THESE ARE TO THE REAR OF THE PERSON, OF THIS YOUNG
13 WOMAN'S HEAD; IS THAT BASICALLY CORRECT?

14 A YES.

15 Q AND THE PATH THAT THESE BULLETS TOOK WAS ESSENTIALLY ACROSS
16 AND SOMEWHAT FORWARD IN TERMS OF THE ORIENTATION OF HER
17 HEAD; IS THAT RIGHT?

18 A YES.

19 Q AND BOTH OF THESE SLUGS, IF I CAN CALL THEM THAT, METAL
20 OBJECTS CORRESPONDING TO THESE WERE LOCATED BY X-RAY AND
21 THEY WERE LEFT THERE?

22 A YES.

23 Q THIS PERSON THEN WAS SHOT THREE TIMES, DOCTOR; IS THAT
24 CORRECT?

25 A THAT'S CORRECT.

1 AUTOPSY OF CYNTHIA GIULIANI WERE THERE ANY OTHER EXTERNAL
2 OR INTERNAL MARKS OF VIOLENCE?

3 A THERE WERE NO OTHER EVIDENCE OF VIOLENCE.

4 Q THANK YOU, DOCTOR. NOW, TURN YOUR ATTENTION, PLEASE TO
5 THE AUTOPSY DONE ON THE BODY THAT WAS IDENTIFIED TO YOU AS
6 ERIC JOHN GIULIANI, AGE EIGHTEEN. DID YOU EXAMINE A BODY
7 WHICH, IN FACT, WAS IDENTIFIED AS SUCH AND WHICH APPEARED
8 TO BE A MALE OF THE STATED AGE?

9 A YES, SIR.

10 Q WILL YOU STATE, PLEASE, WHAT EXTERNAL MARKS OF VIOLENCE
11 YOU OBSERVED ON THIS PERSON'S BODY?

12 A THERE WERE, AGAIN, THREE BULLET WOUNDS, TWO ON THE RIGHT
13 SIDE OF THE HEAD, AND ONE AT THE CHIN. THE TWO HEAD
14 WOUNDS WERE FOLLOWED BY X-RAY WITH FRAGMENTS THROUGHOUT
15 THE BRAIN GOING FROM THE RIGHT TO THE LEFT. THE TRACKS
16 WERE RUNNING FAIRLY PARALLEL ONE TO THE OTHER, AND IT IS
17 TERMINATED WITH DISTORTED BULLET SHADOWS AT THE LEFT SIDE
18 OF THE SKULL. THE ONE IN THE CHIN CAUSED AN OVAL SHAPED
19 INJURY BECAUSE IT WENT IN A TANGENTIAL FASHION, A SLANTED
20 WAY.

21 Q WHEN YOU SAY A TANGENTIAL FASHION, HOW CAN YOU EXPLAIN THAT
22 IN A DIFFERENT WORD?

23 A IT'S A SLANT. IT'S NOT A DIRECT PENETRATING WOUND STRAIGHT
24 ON, GOES IN IN A SLANT, SO THE INJURY IS -- OR YOU'RE
25 LOOKING AT AFTERWARDS, IS OVAL SHAPED. IT'S MUCH LONGER,

1 TESTIFIED ABOUT, WOULD EITHER OF THOSE HAVE BEEN MORE DAMAG-
2 ING THAN THE OTHER OR, ON THE OTHER HAND, WOULD EITHER ONE
3 OF THEM HAVE BEEN FATAL?

4 A EITHER ONE OF THEM WOULD HAVE BEEN FATAL.

5 Q DOCTOR, I'D LIKE YOU TO TURN YOUR ATTENTION NOW TO THE
6 FINAL AUTOPSY REPORT, NUMBER 461, AND I WILL ASK YOU WHETHER
7 YOU ON THE SAME DAY HAD THE RESPONSIBILITY OF INVESTIGATING
8 THE DEATH OF A YOUNG PERSON IDENTIFIED TO YOU AS DEAN
9 DOMINIC GIULIANI?

10 A I DID.

11 Q IDENTIFIED AS BEING AGED TEN. DID YOU HAVE THE RESPONSI-
12 BILITY OF EXAMINING A BODY OF A MALE AT ABOUT THAT STATED
13 AGE?

14 A YES, SIR.

15 Q WILL YOU STATE FOR THE JURY, PLEASE, WHAT EXTERNAL MARK
16 OF VIOLENCE YOU FOUND ON THIS PERSON?

17 A THERE WERE TWO BULLET ENTRY WOUNDS: ONE WAS IN THE FACE
18 SLIGHTLY TO THE RIGHT SIDE OF THE NOSE, AND THIS WAS DIFFER-
19 ENT FROM THE OTHERS IN SO FAR AS IT HAD RAGGED EDGES, AND
20 THERE WAS A GOOD DEAL OF POWDER DEPOSIT, POWDER TATTOO
21 AROUND THE ENTRY WOUND ITSELF, THE DIAMETER OF THE DIREC-
22 TION OF THE POWDER BEING ABOUT TWO AND A HALF INCHES, LEAD-
23 ING ME TO BELIEVE THAT THIS WAS A FAIRLY CLOSE RANGE SHOT
24 IN THE FACE.

25 AND THE SECOND ENTRY WOUND WAS IN THE LEFT TEMPLE

1 CLELAND.

2 MR. CLELAND: THANK YOU, YOUR HONOR.

3 BY MR. CLELAND:

4 Q SERGEANT, I'D LIKE YOU TO TURN YOUR ATTENTION IN THIS DES-
5 CRIPTION, PLEASE, TO THE BODY IDENTIFIED AS THAT OF ELIZA-
6 BETH GIULIANI LAYING IN THE HALLWAY NORTH-MOST, IN OTHER
7 WORDS NEAREST THE KITCHEN AREA, IN THE BEDROOM OR HALLWAY
8 AREA OF THE HOUSE. CAN YOU RECOLLECT AND DESCRIBE TO THE
9 JURY, PLEASE, THE POSITION OF THE BODY OF THAT VICTIM AS
10 YOU OBSERVED HER, PLEASE?

11 A YES.

12 Q JUST DESCRIBE THAT, PLEASE, FOR THE JURY.

13 A THAT WAS TO THE NORTH. YES, THE FACE WAS DIRECTED TO
14 THE SOUTHWEST, IN OTHER WORDS, TO THE RIGHT, FACING THIS
15 WAY HERE.

16 Q FACING THE WALL?

17 A YES, BASICALLY, RIGHT.

18 Q BASICALLY, ALL RIGHT.

19 A THE LEGS WERE BENT AT THE KNEES AND DID ENTER A PORTION OF
20 THE BATHROOM.

21 Q PART OF HER LEGS WERE IN THE BATHROOM?

22 A YES, THAT'S CORRECT.

23 Q ALL RIGHT. AND A PAIR OF SLIPPERS LAY AT HER FEET IN
24 THE BATHROOM BUT OFF OF HER FEET. NOW, HER RIGHT ARM WAS
25 ALONGSIDE OF HER BODY. THIS IS ACTUALLY HER RIGHT ARM.

1 A SLIGHTLY FACING TOWARDS THIS BOYS' BEDROOM OVER HERE,
2 FACING IN A SLIGHT DIRECTION.

3 Q ALL RIGHT. HOW CLOSE WAS SHE TO THE BODY OF ELIZABETH
4 GIULIANI AT ANY POINT?

5 A WELL, ACTUALLY HER RIGHT LEG WAS POINTING NORTH AND TOUCHED
6 BETTY GIULIANI'S RIGHT ARM AT THE BEND OF THE ELBOW.

7 Q THAT'S NOT BEEN REPRESENTED ON THE LARGE DIAGRAM HERE?

8 A YES.

9 Q DOESN'T APPEAR TO BE THAT CLOSE, BUT, IN FACT, IT WAS
10 CLOSER THAN THAT IN FACT?

11 A YES. I DON'T KNOW WHETHER YOU WANT TO TALK CLOSENESS OR
12 JUST THE RELATIVE SIZE OF THE INDIVIDUALS THERE, BUT THE
13 RIGHT TOE DID TOUCH THE ELBOW, THE RIGHT ELBOW OF BETTY
14 GIULIANI.

15 Q ALL RIGHT. NOW, WAS THERE ANY PARTICULAR QUANTITY OF
16 BLOOD ASSOCIATED WITH -- AS YOU OBSERVED IT, WITH THE BODY
17 OF KATHLEEN GIULIANI?

18 A ESSENTIALLY THERE WAS A QUANTITY OF BLOOD ON THE CARPET
19 BENEATH HER HEAD.

20 Q AND THAT WOULD BE ALL?

21 A THAT'S ALL THAT I RECALL HAVING OBSERVED.

22 Q ALL RIGHT. INSIDE THE BATHROOM THE BODY THAT WAS IDENTI-
23 FIED AS THAT OF CYNTHIA JO GIULIANI WAS OBSERVED AND YOU
24 RECORDED IT IN YOUR SKETCH, ALONG WITH ON THE BOARD HERE.
25 CAN YOU DESCRIBE THE POSITION OF THAT YOUNG LADY, PLEASE?

1 A YES, SHE WAS LYING WHAT WE CALL PRONE OR ON HER FACE, 50
2 WHAT WE SEE HERE IS HER BACK AND THE BACK OF HER HEAD.

3 Q LOOKING DOWN ON HER BACK, IN OTHER WORDS?

4 A YES, RIGHT, AND SHE WAS CLOTHED. SHE HAD A BLUE BLOUSE
5 AND BLUE JEANS AND SOCKS ON. BOTH ARMS WERE TUCKED UNDER
6 HER CHEST.

7 Q BOTH -- REPEAT THAT, BOTH ARMS, HER RIGHT AND LEFT ARM,
8 BOTH WHERE?

9 A WERE TUCKED UNDER HER CHEST.

10 Q YOU'RE INDICATING WITH YOUR BODY NOW KIND OF A FOLDING
11 ACTION?

12 A YES, UNDER. IN OTHER WORDS, I COULD SEE THE TIPS OF THE
13 ELBOWS AND A PORTION OF THE FOREARMS, BUT WHETHER THE HANDS
14 WERE CLASPED OR WHATEVER LIKE THAT, ON THAT OBSERVATION
15 YOU COULD NOT SEE THAT. ALL I COULD SEE IS THAT THE ARMS
16 WERE UNDER THE TORSO.

17 Q OKAY. HOW CLOSE WAS SHE TO THE WALL. IT'S INDICATED IN
18 OUR LARGE DIAGRAM HERE ALMOST IF NOT TOUCHING?

19 A OKAY. HER -- OKAY, HER HEAD WAS AGAINST THE SOUTH WALL
20 OF THE BATHROOM, AND THEN HER SHOULDERS, AND IN PROXIMITY
21 TO THE DOOR --

22 Q ALL RIGHT.

23 A -- WAS HER HAND.

24 Q NOW, WOULD IT BE ACCURATE, SERGEANT, THAT THE RIGHT SIDE
25 OF HER HEAD WAS EXPOSED, IN OTHER WORDS, OR UNCOVERED?

- 1 A SHE WAS DRESSED IN PYJAMAS.
- 2 Q MOVING, THEN, TO THE SOUTHWEST BEDROOM, IT'S LABELLED HERE
- 3 BOYS' BEDROOM ON OUR LARGE DIAGRAM. THE VICTIM SEEN IN
- 4 THIS AREA WAS IDENTIFIED AS ERIC JOHN GIULIANI, AND I WOULD
- 5 ASK, FIRSTLY, HOW WAS HE CLAD? HOW WAS HE DRESSED?
- 6 A HE HAD ON WHITE UNDERPANTS.
- 7 Q AND THAT WAS ALL?
- 8 A THAT'S ALL.
- 9 Q WILL YOU DESCRIBE THE POSITION OF THAT BODY AND EXPLAIN IT
- 10 CLEARLY FROM YOUR NOTES OR FROM YOUR RECOLLECTION, PLEASE?
- 11 A YES, HE WAS LYING ON HIS BACK NORTH OF THE BED, IN THE
- 12 NORTHEAST CORNER OF THE BED.
- 13 Q HOW CLOSE TO THE BED?
- 14 A I'D SAY RELATIVELY CLOSE BUT NOT NECESSARILY TOUCHING.
- 15 Q ALL RIGHT. AND HOW FAR WERE HIS FEET FROM THE DOORWAY
- 16 AND HALL AREA?
- 17 A PERHAPS A FOOT OR TWO.
- 18 Q ALL RIGHT. WHAT ABOUT THAT ROOM AND THAT BODY, CAN YOU
- 19 RECOLLECT FOR THE JURY IN TERMS OF DEPOSIT OF BLOOD?
- 20 A OKAY. THE BLOOD WAS OBSERVED IN THE HEAD AREA, BOTH THE
- 21 LEFT SHOULDER AND THE ARM AREA, THE RIGHT HAND AND ON THE
- 22 LEFT THIGH.
- 23 Q CAN YOU RECOLLECT OR DO YOUR NOTES REFLECT DEPOSIT OF BLOOD
- 24 ON THE FLOOR?
- 25 A I DO RECALL THAT THERE WAS BLOOD UNDER THE HEAD AREA.

- 1 Q NOW, THE FINAL BODY REMAINING IN THIS DIAGRAM IS THAT
2 IDENTIFIED AS DEAN DOMINIC GIULIANI IN THE SMALL BATHROOM
3 TOWARDS THE NORTH OF THE HOUSE. HOW WAS THAT BODY OBSERVED
4 AND WILL YOU DESCRIBE THE CONDITION, PLEASE?
- 5 A YES. THE BODY WAS LOCATED IN A SHOWER STALL, AND THIS
6 SUBJECT WAS CLAD, FULLY CLOTHED LESS THE SHOES. THERE WERE
7 NO SHOES ON.
- 8 Q NO SHOES?
- 9 A RIGHT. AND LYING ON HIS BACK, THE HEAD AS YOU SEE IT
10 DIRECTED TO THE NORTH, THE LEFT SIDE OF HIS BODY ALONG THE
11 WESTERN EDGE OF THE SHOWER STALL, LEGS BENT AND KNEES
12 APART. I THINK I SHOULD CORRECT THAT. SAYS THE LEFT
13 SIDE OF THE BODY. IT'S THE RIGHT SIDE SINCE HE WAS ON HIS
14 BACK.
- 15 Q HE WAS ON HIS BACK?
- 16 A I HAVE TO MAKE A CORRECTION.
- 17 Q ALL RIGHT. HE WAS ON HIS BACK IN THE SHOWER, THOUGH?
- 18 A YES, RIGHT.
- 19 Q WITH HIS HEAD TOWARDS THE NORTH OF THE SHOWER?
- 20 A YES, RIGHT.
- 21 Q FEET TOWARDS THE SOUTH?
- 22 A RIGHT.
- 23 Q AS INDICATED ON THE DIAGRAM?
- 24 A YES.
- 25 Q FULLY WITHIN THE SHOWER STALL ITSELF?

- 1 A YES.
- 2 Q WHAT PART OF THE COUNTY BUILDING DID YOU VISIT?
- 3 A SECOND LEVEL.
- 4 Q AND FOR THE PURPOSE OF TAKING THIS TRAFFIC, OR LEARNING
5 ABOUT THIS TRAFFIC TICKET --
- 6 A YES.
- 7 Q IS THAT RIGHT? OKAY. DID YOU GO WITH MR. PORTER TO THE
8 OFFICE --
- 9 A YES.
- 10 Q -- THAT TAKES CARE OF THOSE THINGS? HOW LONG DID THE
11 VISIT OR WHATEVER IT WAS THAT HAPPENED THERE, HOW LONG
12 DID THAT TAKE?
- 13 A MAYBE FIVE, TEN MINUTES.
- 14 Q OKAY, AND THEN DID YOU LEAVE THE COUNTY BUILDING AFTER
15 THAT?
- 16 A YES.
- 17 Q ALL RIGHT. DIDN'T HAVE TO GO IN -- DID YOU HAVE TO GO IN
18 TO COURT WITH HIM OR NOT?
- 19 A NO.
- 20 Q JUST INTO AN OFFICE?
- 21 A YES.
- 22 Q ALL RIGHT. DID THE SITUATION GET TAKEN CARE OF THERE,
23 THE, WHATEVER IT WAS, THE CITATION?
- 24 A NO.
- 25 Q WHAT HAPPENED WITH IT?

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF ST. CLAIR

THE PEOPLE OF THE STATE OF MICHIGAN

v.

CASE NO: 25-392

VOLUME III

JAMES DEWEY PORTER, IV,
DEFENDANT.

TRIAL

PROCEEDINGS HAD BEFORE THE HONORABLE JAMES T. CORDEN
(P-12226), CIRCUIT JUDGE OF THE THIRTY-FIRST JUDICIAL CIRCUIT,
AND A JURY, COUNTY BUILDING, PORT HURON, MICHIGAN, COMMENCING
ON JANUARY 11, 1983.

APPEARANCES:

MR. ROBERT H. CLELAND
ST. CLAIR COUNTY PROSECUTING ATTORNEY
COUNTY BUILDING
PORT HURON, MI 48060

FOR THE PEOPLE.

MR. DENNIS C. SMITH
ATTORNEY AT LAW
722 HURON AVENUE
PORT HURON, MI 48060

FOR THE DEFENDANT.

BLANCHE V. HOLYCROSS (CSR-2104) OFFICIAL COURT REPORTER

- 1 A THEY SAID HE HAS TEN DAYS TO FIX IT.
- 2 Q WHAT WAS IT, LIKE AN EQUIPMENT PROBLEM?
- 3 A YES.
- 4 Q OKAY. SO, SPENT YOUR TIME, TEN MINUTES OR SO HERE, AND
5 THEN DID YOU GO BACK OUT AND GET IN YOUR CAR?
- 6 A YES.
- 7 Q AND WHAT HAPPENED THEN?
- 8 A WENT TO A FEW STORES.
- 9 Q SO, WE'RE TALKING ABOUT THREE OR THREE THIRTY NOW, ARE WE?
- 10 A YES.
- 11 Q OKAY. WHAT KIND OF STORES DID YOU GO TO, IF YOU CAN
12 REMEMBER?
- 13 A NEAL'S AUDIOLAND, K-MARTS, TACO BELL.
- 14 Q GOT SOMETHING -- IS THIS THE FIRST LUNCH -- NO, YOU ALREADY
15 HAD LUNCH, DIDN'T YOU, AT THE MEDICAL CENTER.
- 16 A YES.
- 17 Q SO, YOU WERE JUST GETTING SOMETHING EXTRA TO EAT HERE IN
18 THE AFTERNOON?
- 19 A YES.
- 20 Q TACO BELL, NEAL'S AUDIOLAND -- THAT'S A STEREO AND RADIO
21 TYPE STORE?
- 22 A YES.
- 23 Q AND THAT'S UP IN THE NORTH END OF PORT HURON, ISN'T IT,
24 SIR?
- 25 A YES.

1 BAD LANGUAGE, YELLING?

2 A HE WAS, YES.

3 Q DID HE SOUND, IN FACT, QUITE ANGRY ABOUT IT?

4 A YEAH.

5 Q COMING DOWN THE DRIVEWAY YELLING THESE THINGS AT JIM
6 PORTER; IS THAT RIGHT?

7 A YEAH.

8 Q AND I THINK THAT YOU SAID THEY STARTED SWINGING, OR CAN YOU
9 DESCRIBE THAT, PLEASE?

10 A YEAH.

11 Q HOW DID IT PROGRESS FROM YOUR POINT OF VIEW?

12 A I DON'T KNOW. RICKY WAS YELLING AND STUFF AND GOT REALLY
13 CLOSE TO JIM AND ASKED HIM IF HE WANTED HIM TO PUNCH HIM,
14 OR SOMETHING.

15 Q SLOW DOWN AND TELL ME, ERIC GIULIANI GOT REAL CLOSE TO JIM
16 PORTER?

17 A YES.

18 Q AND SAID WHAT?

19 A STANDING UP AGAINST EACH OTHER HE GOES, I'M SICK AND TIRED
20 OF MY HOUSE BEING BROKE INTO ALL THE TIME AND I KNOW IT
21 WAS YOU, AND JIMMY SAID HE DIDN'T KNOW NOTHING ABOUT IT,
22 AND RICK, I DON'T KNOW, JUST STARTED -- RICK ASKED HIM IF
23 HE WANTED TO PUNCH HIM, AND RICK SAID GO AHEAD, OR SOME-
24 THING, AND THEY STARTED SWINGING AT EACH OTHER.

25 Q OKAY. NOW, AFTER THIS STAGE, THE YELLING AND ACCUSATIONS

1 AND SO FORTH, THERE STARTED TO BE SOME SWINGING AND SOME
2 PUNCHES BEING THROWN?

3 A YEAH.

4 Q AND HOW DID THAT APPEAR TO YOU? WHAT -- WAS THIS A
5 SERIOUS -- WHAT YOU WERE ABLE TO SEE WAS THIS A SERIOUS
6 FIGHT OR NOT TOO SERIOUS?

7 A THEY WAS PRETTY MAD, YEAH. RICK WAS MADE AND JIMMY WAS
8 GETTING MAD, AND THEY STARTED SWINGING.

9 Q HOW LONG DID THIS GO ON?

10 A I DON'T KNOW. THEY ARGUED, AND THEN PUNCHED FOR A WHILE.
11 THEN HIS DAD WOULD TRY -- TELL HIM NO, KNOCK IT OFF. THEN
12 THEY WOULD START TALKING AGAIN. PROBABLY ABOUT FIFTEEN
13 MINUTES FOR THE WHOLE THING.

14 Q ALL RIGHT. SO, DO I UNDERSTAND YOU CORRECTLY THAT THEY --
15 WAS THE -- STRIKE THAT. WAS THE ENTIRE TIME PRETTY ANGRY
16 CONFRONTATION OR WERE THERE SOME TIMES WHEN IT WASN'T SO
17 ANGRY? I'M NOT TALKING ABOUT SWINGING OR NOT SWINGING,
18 BUT THE MOOD OF THE THING, WAS IT ALL PRETTY ANGRY OR
19 OTHERWISE?

20 A YEAH, THEY WAS MAD. THEY -- RICKY WAS MAD, SO WAS JIMMY
21 ALL THE TIME THAT WE WAS THERE.

22 Q ALL RIGHT. BUT THERE WERE TIMES WHEN THEY WERE SWINGING
23 AT EACH OTHER AND FIGHTING AND, APPARENTLY, THERE WERE SOME
24 OTHER TIMES WHEN THEY WEREN'T SWINGING?

25 A YEAH, THEY JUST ARGUED, YELLED BACK AND FORTH.

1 Q YELLING BACK AND FORTH, OKAY. AND PERHAPS ABOUT FIFTEEN
2 MINUTES THIS WHOLE THING WENT ON; IS THAT RIGHT?

3 A YEAH.

4 Q HOW DID IT STOP? WAS THERE ANYTHING IN PARTICULAR THAT
5 STOPPED IT OR NOT?

6 A I DON'T KNOW. RICKY'S DAD JUST TOLD HIM TO -- KEPT TELLING
7 THEM TO COOL OFF AND STUFF, AND FINALLY WE JUST -- I DON'T
8 KNOW, WE STARTED TO LEAVE AND RICKY TOLD HIM HE'D GET EVEN
9 WITH HIM, AND WE GOT IN THE CAR AND LEFT. AND JIMMY SAID
10 HE WOULD, TOO, OR SOMETHING, AND HE GOT IN THE CAR AND LEFT.

11 Q ERIC GIULIANI SAID I'LL GET -- SOMETHING LIKE I'LL GET
12 EVEN WITH YOU?

13 A YES.

14 Q AND JIM PORTER SAID WHAT?

15 A SAID YEAH, YOU KNOW, I'LL GET EVEN WITH YOU, TOO, YES. YOU
16 KNOW, THEY WERE JUST YELLING A BUNCH OF STUFF BACK AND
17 FORTH.

18 Q OKAY. WAS THIS SOME OF THE LAST WORDS THAT THEY HAD WITH
19 EACH OTHER WHEN YOU WERE THERE?

20 A YEAH. I THINK THE LAST THING BEFORE WE GOT IN THE CAR WAS
21 WHEN RICK SAID HE'D GET EVEN WITH HIM. WE GOT IN THE CAR
22 AND LEFT.

23 Q OKAY. NOW, WHERE DID YOU GO WHEN YOU GOT IN THE CAR AND
24 LEFT?

25 A STARTED GO BACK TO TOWN. WE GOT HALFWAY AND WE TURNED