

# Detroit Free Press

## Court ruling brings opportunity for 250-plus people sentenced to life without parole at age 18



**Christina Hall** Detroit Free Press

Tuesday January 30, 2024

[View Comments](#)

Jose Burgos knows the importance of a recent Michigan appellate court ruling that allows for a renewed look at the fate of more than 250 people sentenced when they were 18 years old to life in prison without the possibility of parole.

Those on the list are "excited, overjoyed," said Burgos, a former juvenile lifer released in 2018 after serving 27 years in prison for a slaying when he was 16.

"We have people that have been in there for like 30, 40, 50 years ... thinking that they were gonna die in prison ... With the excitement comes humility as well. I've seen so many people who had life without parole while I was in

prison die in prison. So we truly, truly understand that and the gratitude and (are) so grateful for this opportunity."



Thanks to a Jan. 18 Michigan Court of Appeals ruling, Burgos said these folks, with whom he has communicated since the ruling, will have an opportunity to "demonstrate who they are today versus when the crime was committed."

## **Michigan Constitution ban cruel and unusual punishment factors**

The Michigan State Appellate Defender Office said the recent ruling for its client, John Antonio Poole, means the other 250-plus in Michigan sentenced

to life without the possibility of parole as 18-year-olds are entitled to resentencing, regardless of when that sentence was imposed.

The resentences could offer the opportunity for parole, according to the office, which will represent many of these people in resentencing hearings.

The case centered on Poole, now 41, who was less than one month shy of his 19th birthday when he was sentenced in a 2001 slaying in Wayne County.

His attorney, Maya Menlo, said the Michigan Supreme Court in 2022 held that people who were age 18 at the time of the offense could not be sentenced to mandatory life without parole.

It was based on the Michigan Constitution, which she said protects against cruel or unusual punishment. The Michigan State Appellate Defender Office stated in a recent release that "the mandatory sentence of death in prison for an 18-year-old violates the state constitutional prohibition on cruel or unusual punishment."

"We're certainly pleased with the outcome," Menlo said of the ruling in the Poole case. "This would mean a lot for my client and his family. It would mean a lot for him to demonstrate to the court how far he's come and how rehabilitated he is."

[FOR SUBSCRIBERS](#)

# Get the **Your Week in metro Detroit** newsletter in your inbox.

Shining a spotlight on the journalism your subscription makes possible.

Delivery: SUN

Your Email

"More broadly, this would mean a lot for those who were 18 at the time that they were sentenced and are serving mandatory life without parole, and for all of their families," she said, adding "they deserve an opportunity to show how their youth affected their decision-making and how years later, they are different people who have evolved and who may well be ready to rejoin society."

## **State corrections: 258 cases on the list**

The Free Press asked the Wayne County Prosecutor's Office and the Michigan Attorney General's Office last week whether they would appeal the Michigan Court of Appeals' decision regarding the Poole case.

"The matter is being reviewed and a decision has not yet been made," Maria Miller, a spokesperson for the Wayne County Prosecutor's Office, wrote in an email.

"We intend to work in earnest with the Prosecuting Attorneys Association of Michigan and county prosecutors statewide to look at the next steps in responding to the ramifications of this ruling," Danny Wimmer, a spokesperson for the attorney general, said by email.

The Michigan Department of Corrections has kept a list of cases that appear to be affected by this decision and the earlier Michigan Supreme Court decision, spokesperson Kyle Kaminski wrote in an email. Specifically, he stated, these people were age 18 at the time they committed an offense that resulted in a sentence of life without the possibility of parole.



Kaminski stated MDOC is tracking 258 cases that will be subject to resentencing within this group, as of the end of December. The list started with 275 names, he wrote, but MDOC records indicate 15 of the cases were

resentenced by the courts to term-of-year sentences and two people on the initial list are dead.

Wayne County has the highest number of cases in Michigan with 122. That's followed by Genesee County with 30 cases; Oakland County with 23 cases; Saginaw County with 16 cases; Kent County with nine cases; and Macomb County with seven.

## **'Emerging adults'**

As of last year, 28 states have banned life without parole for juveniles; five states permit it but have no one serving that sentence; and 22 others, including Michigan, permit that sentence, according to [The Campaign for the Fair Sentencing of Youth](#). A map on the group's website shows Michigan with the nation's highest population of juvenile lifers without parole.

According to [The Sentencing Project](#), most nations don't allow youths who were younger than 18 at the time of their crime to be sentenced to life without the possibility of parole for any crime. Several nations, including Germany and Austria, it states, limit the use of life imprisonment for emerging adults — those in late adolescence or young adulthood and with evidence showing most adolescents "are not fully matured into adulthood until their mid-twenties."

Earlier this month, the Massachusetts Supreme Court ruled 4-3 to raise the minimum age from 18 to 21 at which a person can be sentenced to mandatory life without parole, according to the [Associated Press](#).

The defendant in the Massachusetts case and other "emerging adults" ages 18 to 20 at the time of their crime and sentenced to life without parole before July 25, 2014, will be resentenced to life with the possibility of parole after 15 years.

Massachusetts was one of 10 states that required people ages 18 to 20 convicted of first-degree murder to be sentenced to life without parole, according to court, per the Associated Press story.

In 2021, Washington became the first state to extend the protection against mandatory life without parole to people older than 17, according to [The Sentencing Project](#).

It indicates that the Washington Supreme Court "held that the state's aggravated murder statute, which carries a mandatory LWOP penalty, was unconstitutional as applied to individuals between the ages of 18 and 21 years old, citing a range of neuroscientific findings that there is no meaningful difference in maturity between 17- and 18-year-olds, and that mental development continues into a person's 20s."

These changes in state policies follow a 2012 U.S. Supreme Court ruling that barred automatic life-without-parole sentences for juveniles. That case, Miller v. Alabama, required resentencing hearings for juveniles sentenced before the ruling. In Michigan, minors convicted of first-degree murder get a "Miller hearing," as Ethan Crumbley did last summer in determining he was eligible for life without parole for murdering four students and injuring seven other people at Oxford High School in 2021.

## **'Not a get out of jail free card'**

Burgos, a former reentry specialist at the Michigan State Appellate Defender Office, now serves as Michigan's campaign coordinator at The Campaign for the Fair Sentencing of Youth.





He's the point person in Michigan helping to push for legislation to abolish the life without parole for those 18 and younger. He's optimistic those discussions will happen this year.

If state law changes, he said, Michigan would be the 29th state to abolish that sentence. Burgos said if life without parole is abolished, "it is not a get out of jail free card."

"If they don't do what they have to do to demonstrate that they're safe to be released, they won't be released," he said.

Burgos said the rate of recidivism among juvenile lifers "is the lowest of any other group."

"Hope should not be taken away from children," he said. "For that one bad decision that you made as a child, you shouldn't have to be penalized ... for the entire rest of your life. At some point, you should be given the opportunity to say: 'You know what, man, I'm a different person. ... Yes, I made some mistakes. I paid dearly for that. Let me come home now and contribute back to the society that I took so much from.' "

Burgos said that's why this recent ruling is "so significant." He said after entering prison in 1992 "for me, every single day of my life in there for those 27 years, all I could think about is: 'Am I gonna die (in here)? Am I gonna get out of here and get an opportunity to just experience what life is as an adult?' "

But he said he also understands victims and victims' rights, and that they are not forgotten in this process.

"I know from myself and the vast majority of formerly incarcerated people that I engage with, we have to carry this burden for the rest of our life," he said.

"We don't take the fact that we were involved in the tragic taking of a life ... we don't take that lightly. And I think a lot of us are driven by that. I know I am.

I'm driven by my wrongs and trying to correct those wrongs and to live a productive life and a law-abiding life."

Contact Christina Hall: [chall@freepress.com](mailto:chall@freepress.com). Follow her on X, formerly Twitter: @challreporter.

Support local journalism. Subscribe to the Free Press.