

Expert witness and consultant costs of SADO's *Miller*-type juvenile lifer hearings

October 4, 2016

Contact: dvanhoek@sado.org

SADO has conducted two *Miller*-type juvenile lifer hearings in Michigan courts, both involving direct appeals from recent convictions, rather than resentencings pursuant to *Montgomery*. The cost summaries below do not include any costs attributable to assembly of the file, which must be done in older cases involving retroactive application of *Miller*. For a *Montgomery* resentencing, a sentencing mitigation specialist or investigator would commonly be used to assemble the necessary documents, which include school and social services records, institutional and medical history, mental health history, abuse and neglect files, and juvenile court history.

1. Eliason (Berrien County)

At the time of the MSC remand (when the *Miller* portion really began), almost every document was in the defense team's possession and key witnesses already identified. From that point forward the resources needed and devoted were as follows:

Court Proceedings:

- Status Conference
- Motion Hearing (re: Jury Trial and categorical bar)
- Miller Hearing (2 days, 8 defense witnesses – with 2 experts, 1 prosecution witness)
- Oral Argument
- Resentencing

Pleadings:

Defense

- Motion & Brief
- Stipulated Documents (packet of 1000 pages of records)
- Brief after hearing
- Reply Brief
- Sentencing Memo

Prosecution

- Motion to seek JLWOP
- Brief after hearing

Expert Witnesses and consultants: 3 at \$6,755 total cost

- (1) Dr. Carol Holden: Director, Center for Forensic Psychiatry.

Role: Expert in Forensic Psychiatry. Reviewed prison records, met and evaluated Defendant regarding potential for rehabilitation. Testimony addressed 4 *Miller* factors

(2) Dr. Daniel Keating: Professor, Developmental Psychology at UM.

Role: Expert in adolescent cognitive development. Explained brain development and adolescent behavior. Addressed 2 *Miller* factors.

(3) Envision Justice Solutions

Role: Assessed defendant for risk and needs

2. Masalmani (Macomb County)

Estimate of overall time, costs and types of actions for juvenile lifer hearing, exclusive of travel expenses for staff:

Court Proceedings:

- Status Conferences – multiple to discuss scope, briefing and logistics (asked for client to be writted out ahead of hearing so we could meet with him at jail and do final prep). Parties and judge agreed to allow parties to present court with stipulated statement of facts on crimes.
- *Miller* Hearing (3 days, 5 defense witnesses, including 3 experts) - Mr. Masalmani's hearing and the co-defendant's hearing were separate but held on consecutive days. The court considered significant portions of the record we created in Mr. Masalmani's case in its consideration of Mr. Taylor's case.
- Resentencing

Pleadings:

- Stipulated Statement of Facts
- Brief after Hearing/Sentencing Memo

Expert Witnesses (total cost of \$7,000):

- (1) Frank Vandevort testified as an expert on systemic problems with DHS
- (2) Dr. Daniel Keating testified on adolescent brain development
- (3) Dr. Lyle Danuloff testified to client's psychological assessment
- (4) Sunshine Investigation services