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Press Release

May 17, 2017

**Motion in juvenile life without parole case withdrawn by prosecutors**

[Repeated content from July 21, 2016 press release. New content noted below]

In Michigan, juveniles who commit murder can be tried in adult court for their crime. Michigan's penalty for 1st degree murder is mandatory life in prison without parole. Once convicted of 1st degree murder, a sentencing judge has no discretion and must sentence a defendant to life without parole. While this is the harshest of criminal penalties in our state for all who commit this crime, in Berrien County it has been reserved for some of the most heinous murders by juveniles. There have been a number of juveniles who have committed 1st degree murder, but who, because of the facts of the case and their circumstances, have been offered pleas to lesser offenses. In Berrien County, there have been 36 juveniles since 1980, individuals under the age of 18 years, who were charged with either 1st degree premeditated murder, open murder, or felony-murder, all of which have that mandatory penalty of life without parole. Of those 36, twelve were convicted of 1st degree murder; the other 24 either were found guilty (1), or pled guilty (22) to lesser charges, or the charges were dismissed (1).

In 2012, the United States Supreme Court, in the case of *Miller vs Alabama*, ruled that the mandatory penalty of life without parole for a juvenile is unconstitutional. The remedy is for a judge to have the discretion to sentence to life without parole or some other sentence, such as life with the possibility of parole or a term of years. As a result of the *Miller* decision, there were two Berrien County cases pending appeal at the time of *Miller* that were such juveniles sentenced under the mandatory life without parole sentencing structure: Dakota Eliason and Daquarius Stewart.

The *Miller* decision prompted the Michigan Legislature to enact a law in 2014 that gave sentencing judges in cases on appeal and in the future, in which juveniles were convicted of 1st degree murder, the choice between life without parole or a term of years. This removed the objectionable part of a mandatory sentence deemed unconstitutional in *Miller*. The term of years was required to be a minimum sentence between 25 and 40 years, and a maximum of 60 years. The sentencing judge was required to make that decision based principally on factors extracted from the rationale in *Miller* considering the *incompetencies of youth*. Regarding the Eliason and Stewart cases, the Berrien County Prosecutor's Office sought to maintain the sentence of life without parole in both cases. Eliason's case was heard and decided in 2015. Eliason received a new sentence of 35 to 60 years. He has 6 years of credit against that sentence. Stewart's resentencing hearing is still pending.

In 2016, the United States Supreme Court ruled the *Miller* decision is retroactive in the case of *Montgomery vs Louisiana*. As a result, Berrien County has 10 additional cases directly affected by the *Miller/Montgomery* decisions.

In the 2014 law mentioned above, the Michigan Legislature contemplated the possibility of retroactivity of the *Miller* decision and provided for that contingency by creating a process to deal with older cases in the event of such a decision.

[New content]

The Berrien County Prosecutor filed motions in those 10 cases seeking to continue a sentence of life without parole.

Factors that a judge must consider in a *Miller* resentencing hearing relate to the facts of the case and the inmate's involvement in the crime but also the inmates history as a youth preceding the murder. Those areas of interest would include family history, prior criminal involvement, mental health issues, school history, and generally the relative maturity of the inmate as a youth to appreciate fully the wrongfulness of their actions. Conduct in prison since their sentence will also be relevant, pursuant to the statute. Further, the *Miller* court said this, "Because juveniles have diminished culpability and greater prospects for reform, they are less deserving of the most severe punishments." The court goes on to say children have a lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking; are they are more vulnerable to negative influences, and outside pressure, including from their family and peers; they have limited control over their own environment and lack the ability to extricate themselves from horrific, crime-producing settings. And further they said, a child's character is not as well-formed as an adult's, his traits are less fixed and his actions less likely to be evidence of irretrievable depravity. Later in the opinion the court said, "We reasoned that those findings – of transient rashness, proclivity for risk, and inability to assess consequences - both lessened a child's moral culpability and enhanced the prospect that, as the years go by and neurological development occurs, his deficiencies will be reformed." Hence, the court emphasizes the importance of the prospect of rehabilitation. And finally the Court says this: "Although we do not foreclose a sentencer's (sentencing judge) ability to make that judgment in a homicide case, we require it to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison.

A significant amount of time has been devoted by assistant prosecutors and investigators to research the facts of each homicide, the inmate's social history at and before the commission of the murder, and the inmate's conduct in prison which may contribute to an opinion about rehabilitation.

Those three dimensions: facts of the case, social history and conduct in prison all contributed to a decision by the Prosecutor's Office to withdraw the motion in the case of Bobby Griffin. This is not to say that this murder was in some way not significant or was less egregious than others; but rather, the additional analysis the *Miller* case requires does not permit us to reasonably argue the inmate should still be sentenced to life without parole. Griffin has served

nearly 50 years in prison and has a relatively good prison record evidencing his amenability to rehabilitation

A re-sentence date will be set by the court to return inmate Griffin to court for a new sentence.

Investigation of the *Miller* factors noted above is continuing in the remaining 10 cases by the Berrien County Prosecutor's Office.

The Michigan Supreme Court has granted leave on the issue of whether a jury or judge will make the *Miller* sentencing decision. Arguments are expected later this year with a decision likely in early 2018.

Below are notes on each of the 12 cases referenced herein.

### Bobby Gene Griffin

On October 19th, 1967 Bobby Gene Griffin, (dob 11/12/1950), at the age of 16, of Benton Harbor, broke into the home of Minnie Peaples with three others. Ms. Peaples was 84 years old and the widow of a former Benton Harbor police chief. Though the original intent was to rob, Griffin beat Ms. Peaples to death and sexually assaulted her while the others searched her home for valuables. Griffin and the three other individuals came up with the plan to commit a robbery while they were walking home from a pool hall. They chose Ms. Peaples, who lived alone, as their target.



Griffin came up with the plan to gain entry into the home by approaching the homeowner and acting in distress. Griffin knocked on Ms. Peaples door and when she answered the door told her his little brother had been beaten up and needed to call police. Ms. Peaples refused to let Griffin inside her home but offered to call police for him. When Ms. Peaples refused entry, Griffin struck her to the floor and forced his way into her home. After Griffin entered the home the other three young men he was with ran away. The three young men returned a short while later and found Griffin beating Ms. Peaples on the floor. Griffin directed the other three to search the home for valuables and continued to beat Ms. Peaples. Griffin sexually assaulted Ms. Peaples and stabbed her in the face while the others searched the home. When the other three returned from searching the basement, Ms. Peaples was suffering from a multitude of wounds, bleeding profusely, and completely nude with Griffin by her side. Griffin and the other three then left the home with Ms. Peaples' money and jewelry. Ms. Peaples was still alive when they left her home but later bled to death.

Griffin was convicted of 1st degree premeditated murder and two counts of felony-murder for the burglary and robbery. He was sentenced to life without parole.

Minnie Peaples was an 84-years-old widow living alone at the time of her death in the city of Benton Harbor. Her late husband Charles was chief of police in Benton Harbor, from 1930 to 1931 and undersheriff from 1942 to 1946. Ms. Peaples and her late husband were active

members of the First Congressional Church and were well-known figures in the community. Ms. Peoples' known survivors include her two sons, seven grandchildren, and eight great-grandchildren.

### Tommy Edward Richards

Tommy Edward Richards (dob 3/25/1970), age 17, of Benton Harbor, became a suspect in the disappearance and murder of Shimika Hicks, age 10.



On April 21, 1987, Fiona Hicks contacted the Benton Harbor Police Department to report that her 10 year old daughter, Shimika Hicks, had been missing since the evening of April 20, 1987. The child was last seen at 764 East High Street in Benton Harbor, the residence of the child's babysitter. A community wide search was initiated for the child. The body of Shimika Hicks was discovered on May 4, 1987, concealed inside of trash bags which had been disposed of in a vacant lot immediately adjacent to 764 East High.

An autopsy revealed that Shimika had been suffocated shortly after eating dinner on April 20, 1987. The autopsy also revealed that Shimika's front teeth were loose indicating that she had been struck in the face. In addition, the autopsy revealed a tear in the child's vaginal wall indicating that she had been violently raped prior to being suffocated.

The investigation quickly led to Richards, Shimika's neighbor. The investigation revealed that Richards lured Shimika behind his residence located at 800 East High where he brutally raped and killed her. Initially, Richards denied killing Shimika, but admitted to discovering her body and then concealing it in the trash bags. Later, in a subsequent statement, Richards confessed that Shimika died while he was sexually assaulting her. In addition, Richards confessed that he wrapped her in plastic bags and disposed of her body after she died. A jury convicted Tommy Richards of 1st degree felony-murder, and was subsequently sentenced to life without parole.

Shimika Hicks was 10 years old at the time of her death and lived on East High Street in Benton Harbor with her mother, Fiona Hicks, her father, Robert Lucas and two sisters, age 8 and 7 at the time. She was a student at Hull School.

### Efran Paredes, Jr.

On March 8, 1989, Efren Paredes, Jr., (dob 4/4/1973), age of 15, of Lincoln Township, laid in wait in a back room of the grocery store where he worked and executed a plan to murder a co-worker, assistant manager Rick Tetzlaff. Rick Tetzlaff was shot 4 times. One bullet entered the back of the head penetrating his brain stem; another went through his heart, another through both of his lungs, and the fourth through an arm. Any of the first three wounds alone would have resulted in his death. Two co-defendants helped get Paredes a gun at the store and assisted in his leaving the scene. Some witnesses testified at trial Paredes seemed to have a fascination with death. Paredes also robbed the store of cash and checks.



Paredes was convicted of 1st degree premeditated murder and sentenced to life without parole. His commutation request was denied by Governor Jennifer Granholm in 2010 after a commutation hearing

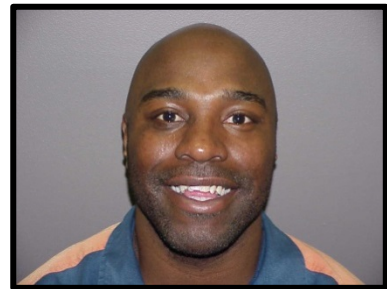
At his sentencing hearing a child psychiatrist rendered an opinion that Paredes was of above average intelligence and suffered from no mental illness. He testified there was an obvious lack of sadness or remorse on the part of Paredes, nor did Paredes express any anger for the situation he found himself in, which was considered unusual given that he denied the crimes. He concluded that there was no potential for treatment and that in the interest of the public's welfare and protection Paredes should be confined in a closed setting.

Paredes' two co-defendants received 17 year minimum sentences for their part in the murder.

Richard Tetzlaff was married and the father of 1 child at the time of his death. He and his wife Tina lived in Stevensville. Rick was an assistant manager at Vineland Foodland, then located on Vineland Road in St. Joseph Township. Unbeknownst to Richard, Tina was pregnant with their second child. Rick was survived also by his parents, a brother and a sister.

### Leonard Dee Williams

On December 10, 1990, Leonard Dee Williams, (dob 12/6/1974), age 16, of Benton Harbor, was a member of a gang that was in a stand-off with another gang walking through neighborhoods in Benton Harbor. Williams and 2 others shot guns at each other killing a bystander, Tamika Swanson, age 15. Swanson was killed with a bullet from Williams' .22 caliber pistol.



Williams and his fellow gang members were in a verbal altercation with a rival gang while attending a basketball game at McCord Junior High. Both gangs eventually left the school, walking, and were told not to return. Shortly thereafter, Williams heard several gunshots, presumably from a member of the rival gang. As a result, he and several friends left to retrieve guns of their own – a .38 caliber handgun, a .32 caliber handgun, and a .22 caliber handgun carried by Williams. Upon their return, Williams and his friends hid behind a house near the intersection of Clay and Ogden until members of the rival gang walked by, then jumped out and proceeded to fire numerous shots into

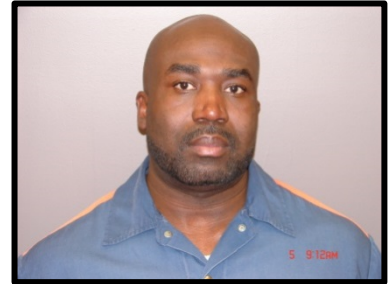
the crowd. Tamika Swanson, a 15 year old who had left the game and was walking with a group of friends -- including several members of the rival gang -- was struck once in the head with a .22 caliber bullet. Ms. Swanson died as a result of her wound.

After the shooting, Williams and his friends ran to a girlfriend's house and hid their guns under a bedroom mattress. In a statement to police after his arrest, Williams admitted that he and his friends had intended to shoot members of the rival gang.

Williams was convicted of 1st degree murder and sentenced to life without parole. One of William's co-defendants pled guilty to 2nd degree murder and was sentenced to a minimum of 25 years in prison. A second co-defendant went to trial and was convicted of 1st degree murder. Tamika Swanson was a ninth grader at McCord Junior High School. She lived with her mother Earnestine Swanson and several siblings at 825 E. Vineyard in Benton Harbor.

### Christopher Michael Tobar

On January 30, 1993, Christopher Michael Tobar, (dob 8/21/1975), age 17, of Benton Harbor, was one of several subjects in a vehicle who targeted Paries Cummings with the intent to rob her. Paries Cummings was visibly intoxicated and walking alone at around 2:30 am along Clay Street in Benton Harbor. Christopher Tobar and another individual exited the vehicle with sawed off shotguns. They ordered Paries to lay face down on the ground, and Christopher Tobar aimed his shotgun at her back. When a passerby came upon them, the other individual pointed his gun at him. Each of them fired their shotguns; Christopher Tobar delivered a fatal shot to Paries Cummings who was still laying face-down on the ground, while his co-defendant's shot missed the passer-by.



Paries Cummings, age 33, was found lying in a tree lawn in the 500 block of Clay Street. She was still breathing when officers arrived; they observed a shotgun blast to her back with no exit wound. She was transported to the emergency room, but died shortly thereafter. At the time of this offense, Christopher Tobar was under the jurisdiction of the Berrien County Juvenile Court for a previous weapons offense.

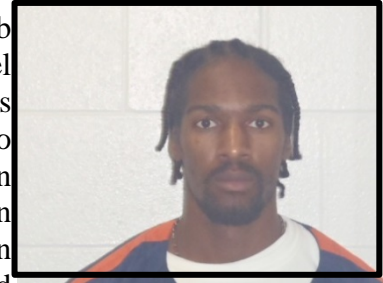
Tobar was convicted of 1st degree felony-murder; a co-defendant was also convicted of 1st degree murder, and another co-defendant pled guilty to assault with intent to rob while armed and received a 10 year minimum sentence.

Paries Cummings was survived by her mother, Mary Cummings, who described Paries as someone who would not do anything to hurt another person. She was a somewhat limited individual who received Social Security for a developmental disability. Because of her disability, she was very close to her mother with whom she lived on Columbus in Benton Harbor. The night she was killed, she was only one to two blocks from her home.

### David Lamar Clayton



On the night of August 31, 1994, David Lamar Clayton (dob 1/29/1977), 17 years old, of Niles, shot and killed Samuel Merriweather on East May Street in Benton Harbor. Clayton and his co-defendant, Andre Williams, confronted Merriweather and his two friends, Corey Hall and David Gill, while they were walking down the sidewalk. Merriweather, Hall, and Gill were walking west on May Street when Clayton and Williams rode past the group on bicycles. Clayton and Williams turned their bicycles around and rode back to the three boys. Both Clayton and Williams pulled out handguns and pointed them at Merriweather. Williams asked, "Is that Sam?" As Merriweather looked up Williams stated "That is Sam. Kill him." Williams and Clayton began firing their pistols at Merriweather. Merriweather screamed and fell to the ground while Hall and Gill ran away. When Benton Harbor police officers arrived on scene Merriweather was having difficulty breathing and was screaming in pain. Officers observed a bullet wound in his upper left chest. Officers asked Merriweather who shot him and he identified Clayton as one of the shooters. Merriweather lived for about eight days after being shot but eventually succumbed to complications caused by the bullet tearing a major vein near his heart. Hall and Gill escaped with no injuries.



Clayton was convicted by jury 1st degree murder, two counts of assault with a dangerous weapon, and felony firearm. He was sentenced to life without parole. His accomplice, Williams, 18, was also convicted of first degree murder and sentenced to life without parole.

Samuel David Merriweather, Jr. was 16 years old when he was murdered by David Clayton. Sam lived in Benton Harbor with his mother Lynn Harris and his two younger brothers and his cousin, David Gill. Sam attended Benton Harbor High School and had just completed the third day of his junior year when he was killed. He maintained a 4.0 grade-point average but his grades began to slide when David Clayton and Andre Williams began harassing him. Sam worked as a cashier and cook at Hot N' Now, then a hamburger drive-thru restaurant, after school.

Terrific

Allan Gene-Reeder Martin, Jr.

On November 11, 1996, Allan Gene-Reeder Martin, Jr., (dob 3/24/1979), of Benton Harbor at age 17, entered a gun/second hand store with an accomplice to rob the store. The owner, Darrell Piedt, was confronted by the two robbers. Mr. Piedt made a motion to what Defendant thought was the phone. Defendant took his gun from behind his back, placed it to Mr. Piedt's head, and fired. As Mr. Piedt lay dying on the floor, Martin and his co-defendant took several firearms and left Mr. Piedt to die. The co-defendant pled guilty to armed robbery and received a 20 year minimum. Martin was convicted of 1st degree felony-murder and sentenced to life without parole.



Darrell John Piedt was born on May 31, 1921. He was 75 years old when he was murdered. He left behind his spouse of 53 years, along with a son and a daughter. Mr. Piedt owned John E.

Piedt & Sons gun shop and farm supply store at the corner of M-139 and Nickerson Avenue in Benton Township.

### Anthony Jovan Givens

On December 2, 1996, Anthony Jovan Givens, (dob 4/11/1979), of Union Pier, age 17, and a probationer entered a home through a window to steal but killed victim Elizabeth Olsen by hitting her with a TV. Olsen's partner Joy Goldsmith came home during the robbery. Givens beat Goldsmith with a TV also but she survived. Olsen had been sexually assaulted. Givens was convicted of 1st degree felony-murder and sentenced to life without parole.



Givens was born in Chicago but was sent to live with his grandmother on Locke Road in Union Pier in order to get away from the gang activity in Chicago. Givens was attending New Buffalo High School at the time of this offense. His attendance was sporadic at school.

He had juvenile adjudications from Ingham County in 1995 for unlawfully driving away an automobile and home invasion 2nd degree.

Givens pleaded guilty to a charge of unlawful use of an automobile in 1996 in Berrien County and was sentenced to a 3 year term of probation that included 90 days tether. Givens was on tether on the date of this murder.

The deceased Elizabeth Olsen was known as Liza. She and the surviving victim, Joy Goldsmith lived together on Raz Road, New Buffalo.

Givens broke into the home through a window. Givens encountered Liza sleeping in her bedroom. Liza woke up and Givens took a television set in the room and hit Liza three times with it over the head.

Goldsmith then arrived back home while Givens was still in the house. Givens hit her, wrestled her to the back bedroom, and made her lay face down on the floor. Givens then hit her in the back of the head with the television set. Goldsmith sustained a fracture to the back of her skull from the blow. Givens stole some items from the home before he left.

The autopsy of Olsen showed she sustained a number of abrasions and bruising about her forehead and face. She displayed a deep laceration near her right eye and cheek. A very forceful blow with a blunt object was found to be the cause of her death. DNA evidence established Liza had been sexually assaulted by Givens.

Givens was interviewed and confessed to the crime. During the interview, the defendant stated to detectives, "I knew it was just a matter of time before you guys would catch me because I probably would have done this again."

Givens was convicted at trial of 1st degree premeditated murder, assault with Intent to murder, and two counts of criminal sexual conduct in the 1st degree.

Givens had additional criminal charges filed against him for an incident that took place a few weeks prior to the homicide. Givens broke into the home of a woman that lived on his street. The woman was still sexually assaulted by Givens. Givens told the woman to "shut-up or I'll kill you." He was armed with a knife and struggle with the victim over the knife. He



then hit the victim over the back of the head with a bottle. Givens confessed to the assault when he was interviewed by the police. This case was dismissed after Givens was convicted of the murder charge.

Elizabeth Olsen, “Liza,” 44 at the time of her death, was an image consultant and sold beauty products. She had previously been married and had a son and step-daughter. Joy Goldsmith, Olsen’s partner for 15 years, told the court at sentencing: “I hold him no animosity or anger; however, because of the violence of this crime, Givens needs to be removed from the streets forever.”

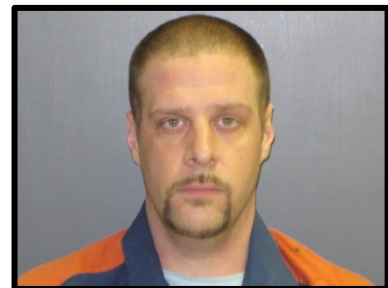
### Mark Anthony Abbatooy

On May 7, 1997, Mark Anthony Abbatooy, (dob 10/25/1979), age 17, of Bridgman, planned with co-defendant Anthony DePalma to steal DePalma’s mother’s car and travel to California. In order to give themselves time to steal the car and allow time to get out of Michigan, their plan was to hit Connie DePalma with a shovel. Abbatooy hit her and killed her with the cooperation and planning of her son, Anthony DePalma.



### Anthony Robert DePalma

Anthony DePalma, (5/11/1979) also 17 and also of Bridgman, had been incorrigible for some time. Connie DePalma had recently given her son an ultimatum as he neared his 18th birthday: stay in school or move out after he turned 18. At that juncture, Connie DePalma prohibited her son from using her car. Abbatooy, with Anthony DePalma’s cooperation and planning, hit Connie DePalma multiple times with the shovel, killing her. She was first attacked in her garage. After she retreated into her home from the garage, Abbatooy followed her, attacking her again. While Abbatooy and DePalma agree that Abbatooy struck Connie DePalma both in the garage and inside the house, their stories differ with regard to DePalma’s involvement inside the house. DePalma denies striking his mother at all, while Abbatooy maintains that DePalma delivered some blows once Abbatooy finished and left the room.



The autopsy revealed that Connie DePalma had suffered at least 10 blows to the head, 3 of which would have been fatal. Nine pieces of skull were removed from deep lacerations within her brain. Additionally, she suffered numerous injuries to her upper extremities and abdomen. DePalma and Abbatooy were both convicted by jury of 1st degree felony- murder and sentenced to life in prison without parole. Abbatooy and DePalma had been adjudicated as juveniles in 1995 for stealing a car.

Connie Sue DePalma was 48 years old when she was murdered. Prior to her death, Connie lived on Beechnut in Bridgman. She was divorced from the father of her four children. Her youngest son, Anthony, was still living with her at the time of her death as he was a junior in

high school. Connie also had three other children, a daughter, Robin, and twin sons, Mike and Jonathan, who were adults at the time Connie was killed. Connie worked for the Department of Social Services while raising her 4 children. She was described as an excellent worker, but a very private person. At the time of her death, she owned a 1994 Ford Thunderbird, which was stolen by her killers, Anthony DePalma and Mark Abbatoy.

### Dakotah Wolfgang Eliason

On March 7, 2010, Dakotah Wolfgang Eliason, (dob 9/23/1995), age 14, of Niles, was a 9th grader at Niles Senior High School. In the early morning hours, after considering suicide and contemplating killing, he killed his grandfather, Jesse Miles, by shooting him in the head while he was sleeping on a couch in the living room.

Eliason was convicted of 1st degree premeditated murder and sentenced to life without parole.

The victim, Jessie Miles, age 69, was Eliason's step-grandfather. He lived on Niles-Buchanan Road with his wife, Jean Miles. Jessie was retired and was an avid hunter. Jessie and Jean often had Eliason stay at their house on the week-ends. There was no suggestion there was ill-will between Eliason and his grandfather.

At a resentencing hearing in 2015, Eliason was sentenced pursuant to *Miller* to a term of 35 to 60 years.



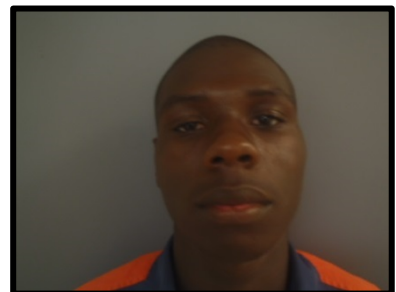
### Dequarius Devontae Stewart

On October 24, 2010, Dequarius Devonta Stewart, (dob 8/26/1993), age 17, of Benton Harbor, laid in wait while the victim, Steven Kruslak, purchased items in a convenience store. Upon leaving the store, Stewart then beat Kruslak with a pipe wrench to rob him. The murder was recorded on an outside store surveillance video. The video shows Stewart beating Kruslak to the ground with the wrench, then striking him two more times in the head, killing him.

Two accomplices pled guilty to armed robbery and received 9 and 15 year minimums. Stewart was convicted by a jury of 1st degree felony-murder and sentenced to life without parole.

Stewart's case was within the appellate time frame of the *Miller* decision and his resentencing hearing is still pending.

Steven Kruslak was born June 11, 1962. He was 48 years old at the time he was murdered. He left behind a sister. Mr. Kruslak lived in an apartment on Martin St. in Benton Harbor.



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<http://www.berriencounty.org/ProsecutingAttorney/pressreleases>