

STATE OF MICHIGAN
IN THE SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN
Plaintiff Appellee

SC: 160034
COA: 345268
Saginaw CC: 84-000570 PC

-V5-

Henry Lee Hurt El
Defendant Appellant /

Brief In Support
Of Permission For Amicus Curiae

NOW COMES the defendant-appellant, Henry Lee Hurt El, through and by proceeding in pro se and moves this court to consider his scenario as a juvenile along side the Nanning case where state authorities lacked both the authority and power to adjudicate this case and found him guilty as an adult when he was a juvenile and he states the following in support.

On or about June of 1979 the state arrested Hurt El for conspiracy to commit murder and for first degree murder soon after he was taken before a magistrate and informed of the charges. The state at that point failed to move for petition in the probate court for waiver to try Hurt El as an adult. Hurt El using a warrant of the state and on escape from the Adrian training school was tried as a juvenile even at the age of 13 MCL 803.301

In some cases using a juvenile at the age of 13 is governed by the laws of the state and may not be infringing.

In the case of Nanning the Miller case governs his scenario and the language of Miller includes 13-year olds as juveniles even though that Court did not specifically announce it. The testimony

of Dr. Steinberg is conclusive where he testified that he is absolutely certain that the scientific conclusions concerning juveniles also applies to 14-year olds. 14 at 70-71.

Our higher court has decided that 14-year olds are juveniles and have rendered several cases with respect to the 6th Cir. court ordering that court consider raising the Miller case to 14 in those particular cases, and presumably are still pending. In re Lambert, 2011 U.S. App. LEXIS 25332 (5th Cir. 2011); In re Gordon, 2011 U.S. App. LEXIS 1315 (5th Cir. 2010) and In re Watkins, 810 F.3d 375-379 (5th Cir. 2015).

In the case at bar, the defendant-appellant asks that the trial court produce its authority and power to have exercised judicial authority to adjudicate the case constitutionally were he had been sent to a state institution at the age of 16 and incurred convictions of conspiracy to commit murder and of murder in the first degree, unequivocally was a juvenile under state laws at the age of 14.

The necessity of action of the district court does support appellant's argument in that there is no record that the state petitioned the probate court for a waiver therefore the preliminary examination procedure and all of the proceedings at the circuit court level is absolutely void. In re McDonald, 1061 U.S. Dist. LEXIS 69 at 4830. In violation of the 14th Amend. This led to he being sentenced as an adult without the possibility of parole violating the 8th Amend. right of the defendant-appellant. Miller v. Alabama, 567 U.S. 460, 132 S.Ct. 2455, 136 L.Ed.2d 407 (2012).

where the authority and power of any court is not met and where the 14th and 15th Amend rights are violated the due process and cruel and unusual punishment amendments must be addressed and corrected by evidentiary hearing

In the case of our United States Supreme Court's ruling in *McDonald* the Court held;

A void judgment may be treated as no judgment at all and every judgment is void which clearly appears on its face to have been pronounced by a court having no jurisdiction or authority over the subject matter. For instance, if a federal court should convict and sentence a citizen for libel, or if a state court having no jurisdiction except in civil pleas, should try an indictment for a crime and convict the party, in those cases the judgments would be wholly void. If the petitioner can bring himself within this principle then there is no judgment against him; he is wrongfully imprisoned and we must order him to be brought out and discharged. 111 W. 2d 30; 1861 U.S. Dist. LEXIS 59

that a jurisdictional defect amounts to a direct affront to our 14th Amendment. Fox v. Board of Regents, 375 Mich. 238, 134 N.W.2d 146, 1955 Mich. LEXIS 155, McCoy v. United States, 266 F.2d 1245, 63-1 (2001).

In Miller v. Alabama, 567 U.S. 460, 132 S.Ct. 2455, 103 L.Ed.2d 407 (2012) the Court ruled that the unconstitutionality of sentencing a juvenile to life imprisonment without the possibility of parole and the judgment of sentence at the circuit court level is therefore unconstitutional because hurtful at the time of his arrest as the age of 17 was a juvenile having ascended from a state institution at a young of age (Exhibit H). The Court held that the credibility of Dr. Streubing is not credible and he gave

his expert testimony;

As noted by the scientific evidence discussed in this ruling the evidence of continued development is stronger for 13-year olds than it is for 13 year olds. See Steinberg et al 70 71, (indicating that he is [a]bsolutely certain that the scientific conclusions concerning juveniles also apply to 13-year-olds, but not as confident about 21 year-olds)

therefore, it stands to reason that Hurt-El was a clear juvenile and remained so until his 18th birthday. Our legislative branch of government issued its decree in MCL 803.301 et seq; MSA 25.399(51) et seq; § 7 of that Act provides,

A youth accepted by the department shall remain a ward of state until discharged from state wardship with the approval of the Youth Parole and Review Board created in § 120 of Act No. 280 of the Michigan Compiled Laws. A youth accepted as a state ward is automatically discharged from state wardship upon reaching the age of 19. MCL 803.301; MSA 25.399(57)

thus, it was unconstitutional to sentence Hurt-El to life imprisonment without the power and authority to adjudicate the case from the beginning of the investigation he was never in jeopardy

In this case, the state to fail in its duty to fairly administer the law is the task of a prerequisite necessity of a petition for waiver to constitutionally try Hurt-El as an adult in violation of the Brady rule Brady v. Maryland 373 U.S. 83 83 S.Ct. 1194, 10 U.S.W.2d 215 (1963), as this information is clearly part of the records contained in storage of state institutions and court or archives; Boysville; W.J. Mexico; Children's Village of

detention facility and the Jurien Training School now closed, Court file no ; 79-23974 FY; 79-23975 FY; 79-23978 FY; 79-23995-FY; and any storage area where official records are placed or on microfiche unless is all information withheld from the defense denying the defendant-appellant due process and equal protection under the 14th Amendment this was compounded by an 8th Amendment violation where defendant-appellant was sentenced to life without the possibility of parole, Miller supra

There must be a full statement of reason in the case at bar the Kent court held that;

There is no place in our system of law for reaching a result of such tremendous consequences without ceremony, without hearing without effective assistance of counsel without a statement of reason.

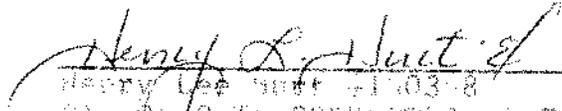
Id at 505 US 541, 86 S Ct. 1085 15 L.Ed 2d 84 (1966)

Surely an evidentiary hearing must ensue and is paramount to the maintenance of justice in the interest of state and federal judicial government irrespectful of evidence toward guilt or innocence

WHEREFORE, the defendant-appellant Henry Lee Hurt-El prays that this court will grant counsel pursuant to MCR b 505(A)(B), order an evidentiary hearing and pursuant to People v Gintger, 370 Mich 436 212 NW2d 822 (1973), and he seeks an order for new trial the court having never acquired jurisdiction over the subject matter pursuant to the applicable Court Rule and authorities in conjunction with the dictate of state and federal

constitutional provisions and laws

Submitted by


Henry Lee Hunt #103-8
CARSON CITY CORRECTIONAL FACILITY
10274 Boyer Road
Carson City, Nevada 89811

Date: April 10 2020