

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

v

Case No. 2022-279506-FC

Hon. KWAMÉ ROWE

ETHAN CRUMBLEY,

Defendant.

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**DEFENDANT ETHAN CRUMBLEY'S MOTION TO  
EXCLUDE TESTIMONY AT MILLER HEARING**

NOW COMES, Defendant ETHAN CRUMBLEY, by and through his attorneys PAULETTE MICHEL LOFTIN and AMY M. HOPP, and as his Motion to Exclude Testimony at *Miller* Hearing states as follows:

1. Defendant was charged with one count of Terrorism Causing Death pursuant to MCL §750.543f(2); four counts of Homicide – First Degree Murder pursuant to MCL §750.316(1)(a); seven counts of Assault with Intent

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to Murder pursuant to MCL §750.83 and twelve counts of Felony Firearm pursuant to MCL §750.227b(1).

2. On or about October 24, 2022, Defendant ETHAN CRUMBLEY enter a guilty plea to all counts as charged.
3. At the time of the offense, Defendant Ethan Crumbley was only fifteen years old and, on or about November 14, 2022, the Prosecution filed a Motion to Sentence Defendant to Life without Parole and a *Miller* Hearing is scheduled for July 27 – 28, 2023.
4. On or about June 28, 2023, the Prosecution filed their Witness and Exhibit List for the *Miller* Hearing.
5. On the Witness List the Prosecution has identified twelve minors, four law enforcement officers, two Prosecutor's Office investigators, one Forensic Laboratory Investigator Leader relative to Crime Scene Investigation, one Computer Crime unit detective, one school counselor, two school staff members, one jail representative for records; and one psychiatrist from the Forensic Center.
6. At issue during a *Miller* Hearing is whether Defendant ETHAN CRUMBLEY is irreparably corrupt justifying a sentence of life without parole.
7. The factors as outlined in *Miller*, 567 US 460 (2012), are:
  - a. Ethan Crumbley's chronological age and its hallmark features- among them immaturity, transient rashness, impulsivity, impetuosity, recklessness, heedless risk-taking, undeveloped sense of responsibility, and failure to appreciate risks and consequences;


- b. Ethan Crumbley's family and home environment;
  - c. The circumstances, not the facts or details, of the homicide offense and the effect familial and peer pressures may have had;
  - d. The incompetencies associated with the defendant's youth – for example, an inability to deal with police officers or prosecutors or an incapacity to assist counsel; and
  - e. The possibility of rehabilitation.
8. The *Miller* factors are always mitigating and can never be aggravating.
9. The facts of the crimes themselves, no matter how horrific, do not satisfy any of the *Miller* factors or justify a sentence of life without parole. *Roper v Simmons*, 543 US 551, 573 (2005).
10. The facts of the crimes themselves are not at issue at all since Defendant ETHAN CRUMBLEY entered a guilty plea.
11. With the exception of Dr. Lisa Anacker, all of the witnesses listed by the Prosecution are fact witnesses to the event and not witnesses as to the *Miller* factors.
12. Victim impact testimony is not relevant to whether ETHAN CRUMBLEY is "the rare juvenile offender who exhibits such irretrievable depravity that rehabilitation is impossible and life without parole is justified. *Montgomery v Louisiana*, 136 S Ct 718 (2016), MCL §769.25, MCL §769.25a, MRE 401 and 402.

13. The testimony of all twelve of the minors and the school staff members, specifically Molly Darnell and Kristy Gibson-Marshall, should be excluded from the *Miller* Hearing and stricken from the witness list.
14. The testimony of the remaining witnesses should be limited to the *Miller* factors and not the facts of the crimes themselves.

THEREFORE, Defendant ETHAN CRUMBLEY, respectfully requests that this Honorable Court grant his Motion and exclude the testimony of all twelve of the minors and the school staff members, specifically Molly Darnell and Kristy Gibson-Marshall, strike them from the Witness List and exclude the remaining witnesses from testifying about the facts of the crimes themselves and limit their testimony to the *Miller* factors.

Respectfully Submitted,

  
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