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August 27th, 2013

State of Michigan House of Representatives
Committee on Criminal Justice
And
State of Michigan Senate Judiciary Committee

To all Michigan Legislators:

Hello my name is Jody Robinson and once again I stand before you as a concerned citizen, a mother, a victim advocate and the sister of a victim of a juvenile offender. I adamantly oppose HB 4806-4809.

I would first like to speak on behalf of the victims who expressed to me that they wish they could be here today but due to work, travel plans or more importantly because of the emotional or physical strain these hearing causes could not attend, and also the 734 Citizens who have voiced their concerns and opinion on this matter by signing either a letter or a petition which reads…See Attached…. There are 734 signatures which represents 36 counties and 122 Cities across our great state. There was only a handful of Victims' families collecting these signatures as we do not have Money, Staff or resources; for that matter we do not even have the media to help us make victims and the public aware of these bills and what impact they truly may have on public safety and us . We only have our love, our morals, the truth of what happened to our loved ones, and our belief that justice does and will think of the victims and public safety first and foremost.

Now I would like to introduce you to my Big Brother Jimmy (James) Cotaling.

Here is his picture this unfortunately is the only way I have of sharing him with you other than my words and memories. As he; himself cannot be here today to defend his own justice. Because of a selfish act, a selfish act by a juvenile offender, that resulted in the horrendous, brutal murder of my big brother and friend.

What I wish to tell you is who Jimmy was and what his brutal and sudden death did to me as a young girl. Jimmy was the middle child of seven, my big brother, my friend, my protector and confidant. Although Jimmy may have been 10 years older than I we had a special close relationship. When I was younger I can remember him picking me up from basketball, he always stopped at the local store and would buy me a Mountain Dew as a special treat as that was his favorite soda and to this day still mine; and being that we came from a family of seven sodas was not something that was found in our fridge. He would put Foreigner on the radio and we would sing along to the song "Hot Blooded" to this day that song brings tears to my eyes because I miss him so much.

My brother was an automotive mechanic and enjoyed working on cars. He enjoyed spring because people would roll down their windows and be able to hear that their cars needed attention and his shop would get busy. He loved to help people, often working on cars for free. I imagine that Jimmy could have owned his own business but obviously I will never know as there certainly are no second chances given here!

As I got older are relationship changed from that of big brother and baby sister to brother and sister "friends". I would talk to him about the guy I was dating, school, and my dreams of going to college. I could tell him anything.

I remember going to pick Jimmy up from work one day and when I got there he was working on a patrol car for the Auburn Hills Police Dept. I meet Sgt. Jerry Knapp as I waited for Jim to finish his work. Jimmy had done a lot of work on the patrol cars and many officers knew him. I can remember talking to this officer. I remember his words as if they were yesterday "Jim has a passion for working on cars and that is what makes him good" He told me to learn from my brother and find my passion. Little did either of us know that our next meeting would be him coming to my mother's home to tell my family that they had found Jimmy's dead body in a vacant house. Little did I know that was the beginning of a nightmare that would last me a lifetime!

The fatal day was, May 12th ,Mother's day, the day that changed my life forever. I was a senior in High school in May of 1990, my big concern was final exams and what color dress I should wear to prom. After Jimmy went missing, the next several days all I remember is police questioning my family, news reporters all over our front lawn, my mother crying, sleepless nights scared wondering where Jim could be and fearing the worst, my brothers and sisters all being together at my mothers home, I remember my oldest brother taking his hunting dog to the K-mart where Jimmy was last known to be to look for him. I remember being worried and scared for my brother and I remember worrying because I should be in school taking my senior finals, and If I don't will I graduate? This went on for days, then I remember sitting on my father's lap crying scared for Jimmy, when we got the knock on the door, the police were there to tell us they had found Jimmy's body. You cannot imagine the instant heartbreak and pain. This was my first experience with the death of a loved one, I was frantic, crying, everyone around me crying and terrified at the news we had just received. I found myself at eighteen crawling

in bed with my mother because I was too scared to sleep alone. The nightmares were all too real.

During the trial, my Mother's Health went frail, she had not been ill prior to this life altering event, but you see it was difficult for her to bury her son. She told me it was just not natural to lose a child, she could not cope with it. She loved us all and we were her life.

And soon the comfort of sleeping with my mom was taken from me, as she was admitted to the hospital and while we are attending the trial, hearing and seeing the most horrifying, gruesome details of how Jimmy's life was taken, my mother is trying to hold on, trying to extend her own life in order to have the peace of mind that justice was served and she could go be with her son.
Trial by day and hospital by night. That became my family's schedule, with everyday in court the nightmares got worse and more vivid. You cannot imagine the pure torture of sitting in a court room hearing how this offender planned and then executed a murder for a car. Listening to how her co-defendant took her to the bus station to see if they could afford bus tickets as an alternative to the plan she had devised in order to go see her father in New Mexico. Yes this would be the same father the ACLU and offender now claim physically and mentally abused her. She wanted to live with him – you have to ponder that thought for a minute. **She wanted to live with him**?

Hearing how she went early that afternoon to the local K-mart and purchased the 6 inch filet knife that would be used to butcher my brother and take his car. Unless you were in that court room 23 years ago you have no idea how painful and traumatizing it is to hear the details of how your loved one is murdered. You see my brother was not just stabbed once or twice. He suffered 26 wounds in all. 10 stabs wounds and 16 incised wounds. But the brutality did not stop here. Jim had suffered many lacerations to his neck as they had sawed at it to the point of almost decapitation. Listening to how they dragged his lifeless body to the corner and covered it with old rugs to conceal it. The murderer has repeatedly told the media that she was not in the room when my brother was killed, but his clenched hand contained hair that was forcibly pulled from her head. I am being vague here today, but the medical examiner, I promise you was not! She had to describe each and every wound, she described all of his defensive wounds he received while trying to fight off his attackers and described in great detail where the wounds were, how deep they were and what damage they did to my brother's organs. I remember her testifying that the first wound was a fatal wound. I remember the pictures they showed the Jury. I remember that night having the most horrific night mares, waking up all alone covered in sweat and scared to death. Just writing this makes me cringe and brings back the horrible thoughts of my brother's endless suffering and his horrible death. The pain had to be tremendous; to this day I can imagine him bleeding to death. All for his car!

Offender advocates claim this inmate is an accomplice and deserves a second chance… what then is an accomplice I ask? This offender formed a plan, purchases a knife, lured a

man, commissioned her boyfriend to steal a license plate, and helped hold down and stab their victim. Does that sound like an accomplice to you?

I will never forget the day the trial ended and the jury went out to deliberate, that same day they came back with a verdict in both cases Guilty of First degree Premeditated Murder, Guilty Felony Murder, Guilty Armed Robbery I remember the sense of relief that came over me. We left the court room and went to the pay phone in the hall my sister called our mother in her hospital room to tell her the verdict. My mother asked "What Does that Mean?" My sister explained it meant Life without Parole and they would never get out to hurt anyone again. We left the court room like we did every day and took the 45 min ride to the hospital to see our mom, by the time we arrived, my mom was gone, clinically dead. She held on to her life long enough to know justice had been served and she could go in peace to be with her son.

But that was not the end we still had the sentencing to attend and the court was nice enough to schedule the sentencing around my mother's funeral.

Because this offender was a Juvenile we had to hold yet another hearing, now determine although tried as an adult and found guilty as an adult could she be sentenced as an adult. And again the Judge after review her mental state, her history, her age, her upbringing, what the social worker, psychiatrist and correction dept. recommended she was deemed an adult and punishable as such.

Now at the age of nineteen I have lost my big brother and my mother. I find myself scared of people, having night terrors, angry with the lord; angry with my mom for leaving me, and most of all heartbroken over all the loss I have had to endure. The path my life was on had been derailed on not by any doing of my own.

But knowing Jimmy and my mom would want me to move on I started attending college courses at the community college, I started to in my eyes to pick up the pieces of my shattered life and try and move forward. I thought if I just accepted what I could not change and moved on I would be ok, little did I realize over the next few years I was slipping further and further into a clinically depressed state, I was in a self-destructive pattern. I found myself thinking of suicide, wanting to be with Jimmy and my mom, hating that I could not control my night terrors. At the age of 22 I enrolled myself into inpatient therapy. I spent a week of intense therapy then a few years in out patient therapy. Finally at the age of 25 I started to move on from this horrible time in my life. I still had nightmares but not as often. I could think of Jimmy and remember the good times, his smile, his laughter, and not all the horror.

I have since married, I have three wonderful boys, I have earned a bachelors degree in accounting. Things were looking up. Until seven years ago; when legislation was introduced that would potential change this inmate's sentence. As I research what this truly meant I found publication by many advocacy groups about this inmate and quickly realizing that this inmate still after 16 years had not taken responsibility for her actions; and that made me scared. I also learned this inmate had filed her final appeal of habeas

corpus and was denied. I attended the first House Judiciary committee hearing in 2006 and soon found myself having nightmares, when thinking of Jimmy I could no longer see his smiling face all I could see was the horror he must of went through. My son's started asking why their mother had to sleep with the light on and what had really happened to Uncle Jimmy.

I have since devoted my time and life to protecting victims and victims rights. I have asked offender advocates to bring victims into the discussion on this issue, as I agreed some reforms were in order. I have asked them to stop using propaganda and mistruths about the offenders as it is very disheartening and disrespectful to the victims and their families and Laws should not be made based on misleading information. Their response to me was "we are advocating" or "this is an issue concerning juvenile offenders". As if to say; the victims and their families didn't matter.

Then In 2010 I received a letter from the Parole and Commutation board stating they had granted Barbara Hernandez a Commutation hearing. I thought I would be ok, I would be strong enough to handle this, it wouldn't be that much different than what I had been doing for years here in Lansing testifying in front of committees such as this. Boy was I wrong.... Yes these hearing are hard and I suffer from re-victimization, I suffer from night mares again. But the parole/ commutation hearing was a living nightmare, I was forced back to that time and I was 18 all over again as I heard all the horrifying and gruesome details once again, I heard something's that were never told in the original trial, like how my brother begged and pleaded for his life how he struggled and fought offering up his keys and money if they would just leave him be. I heard how this inmate had spent the first 10 years stoned on heroin and other drugs, how she has since went to school getting her GED and going on to college, how she enjoys online classes and writing. How she has enjoyed making new friends in AA meeting and visiting with them. Does this sound like someone sentenced to DIE ? I sat there once again surrounded by family and friends listening to the nightmare of how my brother died as if it had just happened. My niece and nephew who were very young 4 and 6 when they lost their uncle now as adults felt compelled to be there and forced to learn the true details of their uncle's death. Something we all tried hard to shelter them from. Why I ask? Why do my children, my other nieces and nephews whom never got to meet their uncle have to live this nightmare? Is my brother legacy to be that of a horror story that just keeps being replayed?

These advocates are asking you to apply *Miller* retroactively and seek a second chance for these juveniles who committed murder in the first degree. I ask where is my Brothers second chance to have a family or fulfill his dreams, where is my children's second chance to meet their uncle, or where is my second chance to enjoy my prom, or go off to college? We can NEVER get a second chance so how can they ask us to give the offender one. Because they were young? I was young also, my children and niece and nephews are young or juveniles. That doesn't grant them a second chance. Advocates now claim these juvenile made a mistake, A MISTAKE??? taking a life is no mistake, we are not talking about an accidental death or a rock being thrown. Their use of the word "mistake" again shows their complete lack of respect for human life.

Therefore I say absolutely Not, First *Miller* does not call for Retroactivity. Second *Miller* is centered on cruel and unusual punishment. And by making this ruling apply retroactively you are sentencing the innocent, the victims families and friends to a lifetime of reliving the death of their loved one over and over again. I ask you what is more cruel and unusual than that.

I am no lawyer, judge or expert but I have spent a lot of time and energy on this issue, and I think anyone who has will tell you the same. One day the issue of retroactivity will be brought back to the Federal Supreme Court, too many states have already ruled that retroactivity does not apply to *Miller* and the ACLU and other advocates will see it goes back for clarification. I understand the need and want of many of you to deal with this issue now, So what I am asking is that you write into the law that at this time we do not believe *Miller* is to apply retroactively but if the higher court ever determines otherwise than a onetime resentencing would occur and either a LWOP sentence would be sought by the prosecutor or they would receive a parole-able sentence at the judge's discretion of 40-50years.

You now have a choice to make as to what type of judicial system we are going to have. You have the choice to apply *Miller* retroactively and put the offenders first and disregard the victims and public safety or apply the ruling as written and comply by offering judges a 40-50 year sentencing option and show that our system is one that cares about the rights of victims and one that cares about public safety!

In closing I would just like to say You have probably all lost a family member to death, perhaps an Aunt or an Uncle maybe even your parent or sibling. Do you remember the pain you felt? Well let me tell you, you may think you understand the pain of losing a loved one but you don't. You need to think about that pain and now take it up about 4 or 5 notches; you need to understand that my brother's life was abruptly taken from him and our family. I urge you to stop and for just one second imagine your brothers head nearly decapitated, his body lying in a pool of blood on an old dirty, dusty, dark and cold floor of an abandoned house in the worst part of town. Imagine two teenagers, 16 and 18, in custody of the police, they know where the body is but they won't talk. Now imagine every few years being forced to relive that event .Once you imagine all this, and you can reconcile all of it in your mind only then you should come to me about second chances of this then 16 year girl. She knew better, it was no mistake and she simply did not care!

Please give me and all victim families the legal Finality we deserve, we are the innocent Stop making us the punished.

Sincerely,

Judy Robinson
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