

The Resentencing Process

In March, the Supreme Court of Pennsylvania (SCOPA) found the sentence of mandatory life without parole (LWOP) for 2nd degree murder unconstitutional. The Court intentionally declined to rule on whether its decision would apply retroactively, instead urging the legislature to create a new statewide legal framework. Currently, there are 1000+ people serving these unjust sentences who will be forced to go through a complex resentencing process. Here's what resentencing will entail:

Bringing a Case to SCOPA

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SCOPA will need to first rule that the *Lee* decision applies retroactively to people who are already serving sentences for 2nd degree. ALC has one case seeking a SCOPA decision on the retroactivity of *Lee*. Additional petitions and litigation will be prepared alongside other partners to bring this case to SCOPA.

SCOPA Decides Retroactivity

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We believe is likely that SCOPA will decide that *Lee* should apply retroactively, but it is not guaranteed. It is difficult to predict when the Court will decide the retroactivity issue, but nothing will happen immediately. This process will likely take at least one year, but could take several years for the litigation process to play out.

Individuals File Appeals

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If SCOPA decides that *Lee* applies retroactively, everyone currently serving an LWOP sentence for 2nd degree murder will be entitled to resentencing. At that point, individuals will have 1 year to file PCRA petitions for resentencing. Resources will be prepared and made available to assist people with writing and filing their own PCRA petitions.

Mass Resentencings

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After a PCRA petition is filed and it is determined that a person was convicted of 2nd degree, they will go back to a new sentencing hearing and work with their attorneys on mitigation strategies that advocate for the most favorable sentence possible. Sentences will be up to the discretion of the judges presiding over these cases, meaning results will vary across the state.

Legal Counsel

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Please be aware that some lawyers may offer their services for people convicted of 2nd degree, often asking for payment. Please do your due diligence before hiring and agreeing to pay any lawyer. At this point, *Lee* does not apply retroactively to people whose sentences are already final, and if resentencings begin, all individuals will be entitled to free legal counsel.

What can you do now?

Start getting ready for resentencings.

Until SCOPA decides that *Lee* applies retroactively, anyone whose sentence is final is not yet eligible for resentencing. But, you can begin preparing for the possibility of resentencing by gathering materials such as court paperwork and participation in DOC programs, planning for what you will do if you're released on parole, and thinking about what you might want to say to a judge who is resentencing you.