

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

Chambers of
Ellen Lipton Hollander
District Court Judge

101 West Lombard Street
Baltimore, Maryland 21201
410-962-0742

December 7, 2016

MEMORANDUM TO COUNSEL

Re: *Maryland Restorative Justice Initiative et al v. Hogan et al.*
Civil Action No. ELH-16-1021

Dear Counsel:

As you know, a motions hearing has been scheduled for January 4, 2017, to address the defendants' motion to dismiss, or in the alternative, motion for summary judgment. ECF 23 ("Motion").

After the Motion was fully briefed, the Fourth Circuit issued an opinion in *Leblanc v. Mathena*, ___ F.3d ___, 2016 WL 6652438 (4th Cir. Nov. 7, 2016), a habeas case under 28 U.S.C. § 2254. There, the petitioner had been sentenced to life imprisonment without parole for a nonhomicide offense that he committed at the age of sixteen. He sought post-conviction relief in state court after the Supreme Court decided *Graham v. Florida*, 560 U.S. 48 (2010).

The Virginia courts concluded that Virginia's geriatric release program provided a meaningful opportunity for release, beginning when the prisoner reaches the age of 60. The Fourth Circuit disagreed. It concluded that the petitioner was "entitled to relief from his unconstitutional sentence." *Leblanc*, 2016 WL 6652438, at *1.

The Fourth Circuit explained, *id.*:

Most significantly, Virginia courts unreasonably ignored the plain language of the procedures governing review of petitions for geriatric release, which authorize the State Parole Board to deny geriatric release for any reason, without considering a juvenile offender's maturity and rehabilitation. In light of the lack of governing standards, it was objectively unreasonable for the state courts to conclude that geriatric release affords Petitioner with the "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation" Graham demands. (Quoting *Graham*, 560 U.S. at 74).

In view of *Leblanc*, by the close of business on December 16, 2016, the parties are directed simultaneously to submit memoranda, not to exceed seven pages in length, addressing the impact, if any, of *Leblanc* on the Motion. Each side may reply by the close of business on December 28, 2016.

Despite the informal nature of this Memorandum, it is an Order of the Court, and the Clerk is directed to docket it as such.

Very truly yours,

/s/

Ellen Lipton Hollander
United States District Judge