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Pennsylvania man set for resentencing in felony murder case

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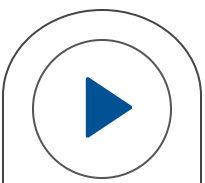
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Derek Lee's counsel from the Abolitionist Law Center argued the court cannot and did not look at individual culpability because second-degree murder is murder committed during the commission of another felony. (Adobe Stock)



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The Pennsylvania Supreme Court decided March 26 the state's mandatory life-without-parole law is unconstitutional and lawmakers have now missed an important follow-up deadline to establish a new sentencing scheme for felony murder.

The [Commonwealth v. Lee](#) case centered on Derek Lee, a man who was involved in a 2014 Pittsburgh home robbery when his accomplice fatally shot a resident. He was given a mandatory life sentence despite not firing the gun. The court gave the state's General Assembly [120 days](#) to come up with new rules for sentencing, but the deadline passed July 24, meaning the ruling is now in effect.

Elizabeth Wood-Bennett, assistant director of training for the [Public Defender Association of Pennsylvania](#), explained Lee is not exonerated of his crime.

"Derek Lee will get a new sentencing," Wood-Bennett explained. "It doesn't change the fact that he was found guilty of second-degree murder and the underlying robbery. He will just get a new sentencing and the court will have to look at his individualized culpability within the crime and look at him as an individual for purposes of sentencing."

The ruling will affect future sentencing decisions but there is still the unresolved issue of "retroactivity," whether others serving the same sentence are also owed a resentencing.

Wood-Bennett pointed out hundreds of others serving the same mandatory sentence of life in prison without parole still remain in legal limbo. In its decision, the court recognized people convicted of felony murder can have vastly different levels of responsibility.

On July 23, [House Bill 1042](#) passed the state House with bipartisan support. As amended, the bill included a remedy for the felony murder law, a path to earn vocational and educational credits toward early release and an expansion of medical release from prison.

Wood-Bennett noted the House and [Senate](#) had agreed retroactivity should be part of the final law. Both chambers wrote bills which could have provided a potential legislative solution but neither passed before the 120-day deadline ran out.

"We expect that the legislature is going to come back and continue their efforts to put a bill through that will address retroactivity for the 1,100 people who are sitting in jail on these unconstitutional sentences," Wood-Bennett added.

Wood-Bennett emphasized Pennsylvania provided \$7.5 million for indigent defense funding in the budget for next year, which provides public defenders to those who cannot afford them. Wood-Bennett stressed the group is happy funding has continued but it may not be enough for the number of resentencing and parole hearings a retroactivity bill would bring.