

July 15, 2005

Dear Client:

As we reach the mid point of 2005, we are writing to bring you up to date on several recent developments in the law. Some recent decisions of the United States Supreme Court, the Maryland Court of Appeals, and the Maryland Court of Special Appeals may have an impact on your case. In addition, some recent legislative developments may apply to you or someone you know.

In *Bradshaw v. Stumpf*, the Supreme Court ruled that a guilty plea is invalid if the defendant enters the plea without knowledge of the crime's elements. Thus, if the elements of the crime are not explained on the record at the guilty plea, and the record does not show that the attorney informed the defendant of the elements, the plea may very well be invalid.

Three state court decisions filed in 2005 might also be of assistance to you. In *Matthews v. State*, the Court of Special Appeals emphatically ruled that trial counsel's failure to file a motion for reconsideration of sentence constitutes ineffective assistance of counsel without the necessity of showing that such a motion would have been granted. The remedy for this Sixth Amendment violation is the right to file a belated motion for reconsideration of sentence. In *Wilkins v. State*, the Court of Special Appeals ruled that the failure of a sentencing judge to exercise discretion (and consider suspending a portion of a life sentence) renders the sentence illegal. Such illegality can be raised at any time on a motion to correct illegal sentence or as part of a post conviction petition or motion to reopen post conviction. In a third case, the Court of Appeals recently ruled that a court may not impose a sentence of life without the possibility of parole unless the record very clearly reveals that the defendant was served with a written notice of the State's intent to seek the penalty. See *Gorge v. State*.

The legislature also enacted a law this past session that affects certain defendants sentenced to 25 years without the possibility of parole for the crime of burglary or housebreaking. House Bill 596, effective October 1, 2005, provides that a person serving such a mandatory minimum sentence that was imposed before October 1, 1994, may apply for a review of sentence by a three-judge panel on or before September 30, 2006. The panel may strike the no parole provision, but may not reduce the length of the sentence.

Finally, you should be aware that a new post conviction statute of limitations takes effect on October 1, 2005. Anyone sentenced on or after October 1, 1995, is now subject to a ten-year statute of limitations on the filing of a post conviction petition. This change in the law does not apply to persons sentenced before October 1, 1995, who are not subject to any time limitation on filing post conviction petitions. Note, however, that everyone is now subject to a one petition limit, with a provision only for a motion to reopen post conviction.

If you or someone you know has any questions about any of these matters, please feel free to contact us, in writing or by calling collect at 301-220-1570.

Sincerely,

THE LAW FIRM OF BENNETT & BAIR, LLP