

10/28/2016 "See News Release 062 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

No. 13-KH-2893

STATE EX REL. RODNEY J. TOLLIVER

VERSUS

STATE OF LOUISIANA

ON REMAND FROM THE

UNITED STATES SUPREME COURT, No. 14-6672

CRICHTON, J., additionally concurs and assigns reasons.

I agree with the ruling to remand this matter to the trial court, but write separately to note that, while the facts of this case are particularly troubling, our United States Supreme Court recently determined that the “juvenile offender whose crime reflects irreparable corruption” now constitutes an exceptional case, thereby issuing a new legal standard to which trial courts must adhere when making initial parole eligibility determinations of juvenile defendants. *Miller v. Alabama*, 132 S. Ct. 2455, 2469, 183 L. Ed. 2d 407 (2012) (quoting *Roper v. Simmons*, 543 U.S. 551, 573, 125 S. Ct. 1183, 1197, 161 L. Ed. 2d 1 (2005)). A jury convicted Rodney J. Tolliver of second-degree murder of 70-year-old widow Yolande Landry Theriot. Tolliver viciously raped and brutalized Mrs. Theriot before smothering her to death. Though Tolliver committed shocking acts of violence, the question of whether or not his actions and subsequent pattern of behavior while incarcerated demonstrate irretrievable depravity must be decided by the district court after a meaningful hearing pursuant to *Miller v. Alabama*, 567 U.S. ___, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012) and as further mandated by *Montgomery v. Louisiana*, 136 S. Ct. 718, 734, 193 L. Ed. 2d 599 (2016), as revised (Jan. 27, 2016). Additionally, as I noted in *State v. Montgomery*, 13-1163 (La. 6/28/16), 194 So. 3d 606, it is critical that trial courts establish a solid and

thorough record in the *Montgomery/Miller* line of cases in order to allow appellate courts to further examine and develop this new and important area of law.