

SUPREME COURT OF LOUISIANA

No. 15-KH-0225

STATE EX REL. ALLEN GASKIN A/K/A ALAN GASKIN

v.

STATE OF LOUISIANA

**ON SUPERVISORY WRITS TO THE TWENTY-SIXTH
JUDICIAL DISTRICT COURT, PARISH OF BOSSIER**

PER CURIAM:

Writ granted. In light of the Supreme Court's holding in *Montgomery v. Louisiana*, 577 U.S. ____, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016) that *Miller v. Alabama*, 567 U.S. ____, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012) announced a substantive rule of constitutional law that applies retroactively, we vacate relator's sentence and remand this case to the 26th Judicial District Court for further proceedings consistent with the views expressed in *State v. Montgomery*, 13-1163 (La. 6/28/16), 194 So.3d 606, and for resentencing pursuant to La.C.Cr.P. Art. 878.1. After defendant is resentenced, that judgment is included by statute among those which defendant may appeal. *See* La.C.Cr.P. art. 912(C)(1). Furthermore, although this court originally had exclusive appellate jurisdiction over this pre-1982 felony conviction and sentence, see La. Const. art. V, § 5(E), after the resentencing to which relator is now entitled, appellate jurisdiction for the purposes of any review of his new sentence will vest in the intermediate court of appeal. *See* La. Const. art. V, § 10 (eff. July 1, 1982, "[A] court of appeal has appellate jurisdiction of ... all criminal cases triable by a jury," except when a law has been

declared unconstitutional or when the death penalty has been imposed); *see also*
State ex rel. Hudson v. State, 16-1731 (La. 1/9/17), ____So.3d ____.