

SUPREME COURT OF LOUISIANA

No. 17-KP-0582

STATE OF LOUISIANA

v.

PHILLIP SCHANE

**ON SUPERVISORY WRITS TO THE SIXTEENTH JUDICIAL
DISTRICT COURT, PARISH OF IBERIA**

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. 460, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012) announced a substantive rule of constitutional law that applies retroactively, we hereby vacate relator's sentence and remand to the 16th 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 he is resentenced, that judgment of sentence is included by statute among those which a 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, *see* La.Const. art. V, § 5(E), after the resentencing to which relator is now entitled, appellate jurisdiction for 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, e.g., State ex rel. Hudson v. State*, 16-1731 (La. 1/9/17), 208 So.3d 882.