

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**

This court granted the defendant's application, vacated his sentence, and remanded for resentencing pursuant to La.C.Cr.P. art. 878.1. The State's application for rehearing is granted to clarify that the district court on remand has discretion to determine the extent of the proceedings necessary to comply with that directive. While defendant must be given the opportunity to show his crime did not reflect irreparable corruption, in accordance with *Montgomery v. Louisiana*, 577 U.S. —, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016), because substantial proceedings have already been conducted in this matter the parties should have the opportunity to introduce transcripts of those earlier proceedings at the resentencing hearing conducted on remand. Furthermore, in light of the earlier proceedings, the district court has discretion to determine what additional evidence is necessary to comply with La.C.Cr.P. art. 878.1(C). Finally, as we noted previously, 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).