

SUPREME COURT OF LOUISIANA

No. 18-OK-0156

STATE OF LOUISIANA

v.

CLIFFORD HAMPTON

**ON SUPERVISORY WRITS TO THE TWENTY-THIRD JUDICIAL
DISTRICT COURT, PARISH OF ST. JAMES**

CRICHTON, J., additionally concurs and assigns reasons:

As I have noted previously, adversarial proceedings are the norm in our system of criminal justice, while *ex parte* proceedings are the disfavored exception that may be invoked in good faith only in very limited circumstances. See *State v. Brown*, 16-0274 (La. 4/22/16), 192 So.3d 720 (Crichton, J., concurring). In the present case, the defendant sought and shockingly obtained substantial public funding (\$50,400) in an *ex parte* proceeding that defendant contends he needs to show eligibility for parole pursuant to *Miller v. Alabama*, 567 U.S. 460, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012), and *Montgomery v. Louisiana*, 577 U.S. —, —, 136 S.Ct. 718, 736, 193 L.Ed.2d 599 (2016). Notably, defendant here need not even make that showing at all because he is automatically eligible for parole consideration in accordance with La.R.S. 15:574.4(D)(1). In the absence of the parole eligibility provided by this statute, however, I emphasize that the expenditure of public resources ought to be carefully tailored to the question of whether or not a defendant, who committed murder as a juvenile, is entitled to parole eligibility. As I have previously written, in making this determination, a court should focus on the facts of the underlying conviction and defendant's criminal history, if any, as well as the defendant's behavior record during confinement. See *State v. Allen*, 18-1042 (La.

11/5/18), 255 So.3d 998. Moreover, while there are certainly some instances where mitigation hearings such as these are absolutely necessary, those instances generally are the exception and not the norm. *See State v. Harris*, 18-KP-0686 (La. 6/15/18), 245 So.3d 1036 (La. 6/15/18) (Crichton, J., concurring, noting that defendant's generic allegation of prejudice did not rise to the level necessary for an *ex parte* hearing for public funds for a *Miller* hearing); *See also State v. Pascual*, 16-KP-2167 (La. 6/29/17), 222 So.3d 25 (Crichton, J., concurring, noting that "neither *Miller* nor *Montgomery* expressly requires government funding for an expert witness in every instance. . . ." and "the necessity of an expert witness should be determined on a case-by-case basis).