

SUPREME COURT OF LOUISIANA

No. 2013-KP-1163

STATE OF LOUISIANA

VERSUS

HENRY MONTGOMERY

**ON SUPERVISORY WRITS TO THE NINETEENTH JUDICIAL
DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE**

JOHNSON, C.J. dissents and would grant the writ.

I respectfully dissent. On June 25, 2012, the United States Supreme Court issued an opinion in *Miller v. Alabama*, which held “that the Eighth Amendment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders.” *Miller v. Alabama*, 567 U.S. ----, 132 S.Ct. 2455, 183 L.Ed. 2d 407 (2012). In *State v. Tate*, 2012-2763 (La. 11/5/13), 130 So. 3d 829, this court held that *Miller* does not retroactively apply to juvenile offenders whose life sentences were handed down before the Supreme Court issued its opinion. I dissented from this court’s ruling in *Tate*, finding that *Miller* announced a new rule of criminal procedure that is substantive and consequently should apply retroactively. For the same reasons expressed in my dissent in *Tate*, I must dissent in this case.