

10/28/2016 "See News Release 062 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

NO. 15-OK-1879

STATE OF LOUISIANA

v.

KYLE ALEXANDER

ON WRIT OF CERTIORARI TO THE TWENTY-THIRD JUDICIAL
DISTRICT COURT, PARISH OF ASSUMPTION

PER CURIAM:

Writ granted; case remanded. 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 remand the case to the 23rd Judicial District Court for further proceedings consistent with the views expressed in State v. Montgomery, 13-1163 (La. 6/28/16), ___ So.3d ___, and for resentencing pursuant to La.C.Cr.P. art. 878.1. In all other respects, the application is denied.

Relator has now fully litigated three applications for post-conviction relief in state court. Similar to federal habeas relief, see 28 U.S.C. § 2244, Louisiana post-conviction procedure envisions the filing of a second or successive application

only under the narrow circumstances provided in La.C.Cr.P. art. 930.4 and within the limitations period as set out in La.C.Cr.P. art. 930.8. Notably, the Legislature in 2013 La. Acts 251 amended that article to make the procedural bars against successive filings mandatory. Relator's claims have now been fully litigated in accord with La.C.Cr.P. art. 930.6, and this denial is final. Hereafter, unless he can show that one of the narrow exceptions authorizing the filing of a successive application applies, relator has exhausted his right to state collateral review. The District Court is ordered to record a minute entry consistent with this per curiam.