

SUPREME COURT OF LOUISIANA

No. 16-KH-1908

STATE EX REL. ALBERT LEWIS

v.

STATE OF LOUISIANA

**ON SUPERVISORY WRITS TO THE CRIMINAL
DISTRICT COURT, PARISH OF ORLEANS**

PER CURIAM:

Granted for the sole purpose of transferring to the Fourth Circuit Court of Appeal for its consideration.

Though this Court originally retained exclusive appellate jurisdiction over this pre-1982 felony conviction, *see* La. Const. art. V, § 5(E), following the substantive change of law announced in *Miller v. Alabama*, 567 U.S. ___, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012), the retroactive applicability of which was clarified in *Montgomery v. Louisiana*, 577 U.S. ___, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016), the matter was remanded to the trial 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. Accordingly, given that the United States Supreme Court's Eighth Amendment jurisprudence concerning the punishment of juvenile defendants undermined defendant's original sentence, and that he was resentenced in 2016, when appellate jurisdiction in non-capital penalty cases triable by jury, such as this case, is vested in the intermediate courts of appeal, *see* La. Const. art. V, §10(A) (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), defendant’s pleading, which we construe as an appeal from his resentencing, *see State v. Franks*, 391 So. 2d 1133 (La. 1980) (subsequent filings following resentencing treated as appeals by this Court), is subject to direct review in the court of appeal.