

**14-280 MONTGOMERY V. LOUISIANA**

DECISION BELOW: 141 So.3d 264

LOWER COURT CASE NUMBER: 2013-KP-1163

**QUESTION PRESENTED:**

Henry Montgomery has been incarcerated since 1963. Montgomery is serving a mandatory life sentence for a murder he committed just 11 days after he turned seventeen years of age.

In light of *Miller v. Alabama*, 567 U.S. \_\_\_, 132 S.Ct. 2455, 83 L.Ed.2d 407 (2012), which holds that mandatory sentencing schemes "requiring that all children convicted of homicide receive lifetime incarceration without possibility of parole" ... violate the Eighth Amendment's ban on cruel and unusual punishment, Montgomery filed a state district court motion to correct his illegal sentence. The trial court denied Montgomery's motion, and on direct writ application, the Louisiana Supreme Court denied Montgomery's application, citing *State v. Tate*, 2012--2763 (La. 11/5/13), *cert. denied*, 134 S.Ct. 2663, 189 L.Ed.2d 214 (2014), which held that *Miller* is not retroactive on collateral review to those incarcerated in Louisiana.

The question thus presented here is whether *Miller* adopts a new substantive rule that applies retroactively on collateral review to people condemned as juveniles to die in prison?

IN ADDITION TO THE QUESTION PRESENTED BY THE PETITION, THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING QUESTION: "DO WE HAVE JURISDICTION TO DECIDE WHETHER THE SUPREME COURT OF LOUISIANA CORRECTLY REFUSED TO GIVE RETROACTIVE EFFECT IN THIS CASE TO OUR DECISION IN *MILLER v. ALABAMA*, 567 U.S. \_\_\_ (2012)?"

ORDER OF March 30, 2015:

RICHARD BERNSTEIN, ESQUIRE, OF WASHINGTON, D. C., IS INVITED TO BRIEF AND ARGUE, AS *AMICUS CURIAE*, AGAINST THIS COURTS JURISDICTION TO DECIDE WHETHER THE SUPREME COURT OF LOUISIANA CORRECTLY REFUSED TO GIVE RETROACTIVE EFFECT IN THIS CASE TO OUR DECISION IN *MILLER V. ALABAMA*, 567 U. S. \_\_\_\_ (2012).

CERT. GRANTED 3/23/2015