

STATE OF MICHIGAN
IN THE THIRD CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE OF MICHIGAN
Plaintiff,

Case No. 76-05890
Hon. Edward Ewell, Jr.

vs

CHARLES LEWIS
Defendant,

ORDER

At a session of said Court held in the Frank
Murphy Hall of Justice on OCT 17 2012

PRESENT: HON. Hon. Edward Ewell, JR.
Circuit Court Judge

After a jury trial, Defendant was found guilty of first-degree murder, **MCL 750.316;**
MSA 28.548 and was sentenced to life without parole. On December 8, 1978, the Court of
Appeals affirmed the conviction. The Michigan Supreme Court denied his leave to appeal in
June 1979. Defendant has subsequently filed dozens of motions, appeals and/or petitions
throughout the State and Federal Courts, all of which have been denied. Defendant now files a
Motion to Remand to the Third Circuit Court for Entry of Sentence that Complies with *Miller v*
Alabama, 132 S. Ct 2455; 183 L.Ed.2d 407 (2012).

On June 25, 2012 the United States Supreme Court held that mandatory life sentences
without parole for those under the age of 18 at the time of their crimes is unconstitutional, *Miller*
v Alabama, supra. Defendant contends that he is entitled to be resentenced pursuant to this

United States Supreme Court mandate, this Court agrees.¹ Therefore, this Court will interpret Defendant's motion as a successive Motion for Relief from Judgment pursuant to MCR 6.502(G)(2) because there has been a retroactive change in the law—specifically, the United States Supreme Court's ruling in *Miller v Alabama, supra*, regarding mandatory sentencing for juveniles. Accordingly, Defendant is entitled to be re-sentenced in accordance with *Miller v Alabama, supra*, because prior to this United States Supreme Court holding, a sentencing judge did not have the discretion to take into account the attendant characteristics of a juvenile convicted of murder pursuant to MCL 750.316. In light of this retroactive change in the law, however, the sentencing judge may now consider such characteristics as they pertain to Defendant.

Thus, for all the reasons stated, Defendant's Motion to Remand to the Third Circuit Court for Entry of Sentence that Complies with *Miller v Alabama* is hereby **GRANTED**.

Dated: OCT 17 2012



Circuit Court Judge

¹ On August 1, 2012, Defendant also filed a Motion for Appointment of Counsel Pursuant to MCR 6.425(G). On September 13, 2012, this Court was served with Notice of Appearance of Counsel and Request for Service on behalf of the Defendant. For this reason, this Court will not address Defendant's preceding motion.