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ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 2013-2014

CR-06-0741

Evan Miller

v.

State of Alabama

Appeal from Lawrence Circuit Court
(CC-06-68)

On Remand from the Supreme Court of the United States

WINDOM, Presiding Judge.

Evan Miller was 14 years old when he committed murder made capital because it was committed during the course of an arson, see § 13A-5-40(a)(9), Ala. Code 1975. On August 27, 2010, this Court affirmed Miller's capital-murder conviction

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and his resulting mandatory sentence of life in prison without the possibility of parole. Miller v. State, 63 So. 3d 676, 687 (Ala. Crim. App. 2010). On June 25, 2012, the Supreme Court of the United States reversed this Court's judgment affirming Miller's mandatory sentence and held that "the Eighth Amendment forbids a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders." Miller v. Alabama, ___ U.S. ___, ___, 132 S. Ct. 2455, 2469 (2012). In response to Miller, the Alabama Supreme Court decided Ex parte Henderson, [Ms. 1120140, Sept. 13, 2013] ___ So. 3d ___, ___ (Ala. 2013), in which it established a sentencing procedure that provides for a sentence of less than life in prison without the possibility of parole that circuit courts must use when sentencing juveniles who have been convicted of capital murder. Thus, in accordance with the decision of the Supreme Court of the United States in Miller, Miller's sentence is reversed, and this cause is remanded with instructions for the circuit court to conduct a new sentencing hearing under the procedure established in Henderson, ___ So. 3d at ___.

REVERSED AS TO SENTENCE AND REMANDED.

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Welch, Kellum, Burke, and Joiner, JJ., concur.