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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff/Respondent,

vs.

Johnny Orsinger,

Defendant/Movant.

No. CV-13-08160-PCT-SPL
No. CR-01-01072-05-PCT-DGC

ORDER

Before the Court is Movant/Defendant Johnny Orsinger’s Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody pursuant to 28 U.S.C. § 2255 (“Motion”) (Doc. 1). This matter was reassigned to this Court on July 9, 2014 (Doc. 11).

In its Response to the Motion (Doc. 8), Plaintiff/Respondent United States of America agrees that Movant should be resentenced pursuant to *Miller v. Alabama*, ___ U.S. ___, 132 S.Ct. 2455 (2012). The Honorable Lawrence O. Anderson, United States Magistrate Judge, issued a Report and Recommendation (“R&R”) (Doc. 9) on May 5, 2014, recommending that in accordance with *Miller*, the Motion should be granted and Movant be resentenced in CR-01-01072-05-PCT-DGC.

The Court will accept the R&R and grant the Motion. *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate”). Accordingly,

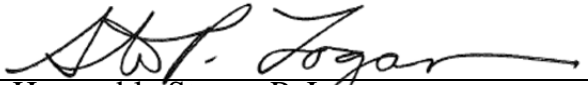
IT IS ORDERED:

1. That Magistrate Judge Lawrence O. Anderson’s Report and

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- Recommendation (Doc. 9) is **accepted** and **adopted** by the Court;
2. That the Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody pursuant to 28 U.S.C. § 2255 (Doc. 1) is **granted**;
 3. That Defendant/Movant Johnny Orsinger be resentenced in accordance with *Miller v. Alabama*, __ U.S. __, 132 S. Ct. 2455 (2012);
 4. That a hearing and resentencing in CR-01-01072-05-PCT-DGC is set for **October 27, 2014, at 3:00 p.m.**, before the Honorable David G. Campbell, in Courtroom 603, 401 West Washington Street, Phoenix, Arizona 85003;
 5. That the Probation Department shall prepare an updated presentence investigation report; and
 6. That the Clerk of Court shall **terminate CV-13-08160-PCT-SPL**.

Dated this 15th day of July, 2014.



Honorable Steven P. Logan
United States District Judge