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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REGINALD THOMAS BUNN, JR.,
Petitioner,
v.
RAUL LOPEZ,
Respondent.

No. 2:11-cv-1373 MCE CKD P (TEMP)


Petitioner is a state prisoner proceeding through counsel with a petition for a writ of habeas corpus under 28 U.S.C. § 2254. One of petitioner’s habeas claims is that his sentence of life without parole plus 25 years-to-life constitutes cruel and unusual punishment under the Eighth Amendment in light of the fact that he was a juvenile when the crime was committed. On January 25, 2016, the United States Supreme Court held in Montgomery v. Louisiana, No. 14-280, 2016 WL 280758 (USSC Jan. 25, 2016) that its decision in Miller v. Alabama, ___ U.S. ___, 132 S. Ct. 2455 (2012), prohibiting mandatory life sentences without parole for juvenile offenders, is retroactive on state collateral review. In addition, the California Supreme Court has recently issued an opinion addressing the interplay between its sentencing scheme for juveniles and the Eighth Amendment proscription against cruel and unusual punishment. See e.g., People v. Gutierrez, 58 Cal.4th 1354 (2014). In light of these recent decisions, and good cause appearing,

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IT IS ORDERED that:

1. Within thirty days from the date of this order, petitioner shall file a supplemental brief addressing his claim that his sentence constitutes cruel and unusual punishment under the Eighth Amendment.
2. Respondent may file a reply within thirty days after petitioner's brief is filed.

Dated: January 28, 2016



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE