

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

DARRYL CROCKETT

CIVIL ACTION

VERSUS

NO. 15-319

N. BURL CAIN, WARDEN

SECTION: "S"(3)

ORDER

The Court, having considered the petition, the record, the applicable law and the Report and Recommendation of the United States Magistrate Judge, and the failure of any party to file any objection to the Magistrate Judge's Report and Recommendation, hereby approves the Report and Recommendation of the United States Magistrate Judge and adopts it as its own opinion. Accordingly,

IT IS ORDERED that petitioner's claim that there was racial discrimination in the selection of the grand jury is **DENIED AND DISMISSED WITH PREJUDICE** as untimely.

IT IS FURTHER ORDERED that petitioner's claim that his sentence is unconstitutional under Miller is **GRANTED**, that his mandatory sentence of life imprisonment without the benefit of probation, parole, or suspension of sentence is **VACATED**, and that the state court is **ORDERED** to resentence him in conformity with Miller v. Alabama, 132 S. Ct. 2455 (2012), within one hundred twenty (120) days or, in the alternative, to release him from confinement.

New Orleans, Louisiana, this 11th day of January, 2017.


UNITED STATES DISTRICT JUDGE