

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JESSE MANUAL TREVATHAN, JR.

CIVIL ACTION

versus

NO. 15-1009

BURL CAIN, WARDEN

SECTION: "N"(1)

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 the petitioner's application for habeas corpus relief 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 ninety (90) days or, in the alternative, to release him from confinement.

IT IS FURTHER ORDERED that the petitioner's "Motion to Dismiss Pending Writ of Habeas Corpus," Rec. Doc. 11, is **DENIED AS MOOT**.

New Orleans, Louisiana, this 11th day of April, 2016.


KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE