

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

MARIO BELLAMY,

Appellant,

v.

Case No. 5D14-3864

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed September 30, 2016

3.850 Appeal from the Circuit Court
for Orange County,
Janet C. Thorpe, Judge.

Robert Wesley, Public Defender, and
David Redfearn and Erin Hyde, Assistant
Public Defenders, Orlando, for Appellant.

No Appearance for Appellee.

ON MOTION TO LIFT STAY AND WITHDRAW OPINION

PER CURIAM.

Mario Bellamy sought to correct his life sentence following Miller v. Alabama, 132 S. Ct. 2455 (2012), for a homicide committed while he was a juvenile. The trial court denied his motion for postconviction relief, finding that Miller did not apply retroactively to his sentence. This Court affirmed the trial court's order. Bellamy v. State, 166 So. 3d 802 (Fla. 5th DCA 2015). However, we stayed issuance of the mandate pending the outcome of Falcon v. State, 162 So. 3d 954 (Fla. 2015), which was before the Florida

Supreme Court. In that case, the supreme court held that Miller applied retroactively and eligible juvenile offenders seeking relief should be sentenced in conformance with Florida's new sentencing scheme, chapter 2014-220 Laws of Florida. Falcon, 162 So. 3d at 963-64.

Therefore, we lift the stay, withdraw our earlier affirmance and reverse and remand this matter to the trial court for further consideration consistent with the holding in Falcon.

REVERSED and REMANDED.

SAWAYA, PALMER and ORFINGER, JJ., concur.