

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2013 KW 2003

VERSUS

EDDIE ROOSEVELT SMITH

MAR 14 2014

In Re: Eddie Roosevelt Smith, applying for supervisory writs,
19th Judicial District Court, Parish of East Baton
Rouge, No. 08-94-1327.

BEFORE: PETTIGREW, McDONALD AND McCLENDON, JJ.

WRIT DENIED. The trial court did not err in denying relator's motion to correct an illegal and unconstitutional sentence. Recently, in **State v. Tate**, 2012-2763 (La. 11/5/13), ___ So.3d ___ 2013 WL 5912118, the Louisiana Supreme Court addressed the res nova issue of whether the holding in **Miller v. Alabama**, ___ U.S. ___, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012) applied retroactively to juvenile offenders whose convictions for homicides were final when the **Miller** decision was rendered. After conducting an analysis under **Teague v. Lane**, 489 U.S. 288, 307, 109 S.Ct. 1060, 103 L.Ed.2d 334 (1989), the Louisiana Supreme Court held that **Miller** does not apply retroactively in cases on collateral review as it merely sets forth a new rule of criminal constitutional procedure which is neither substantive nor implicative of the fundamental fairness and accuracy of criminal proceedings. Furthermore, the Louisiana Supreme Court found that La. Code Crim. P. art. 878.1 and La. R.S. 15:574.4(E)(1) only apply prospectively.

JTP
JMM
PMc

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FOR THE COURT