

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2014 KW 0201

VERSUS

LAVAR NELSON

MAY 05 2014

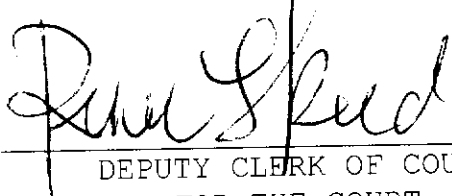
In Re: Lavar Nelson, applying for supervisory writs, 22nd
Judicial District Court, Parish of Washington, No. 97-
CR3-70793.

BEFORE: PETTIGREW, McDONALD AND McCLENDON, JJ.

WRIT DENIED. *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011, 2026, 176 L.Ed.2d 825 (2010) is not applicable to relator because he was not sentenced to life without parole. Instead, he was sentenced to an aggregate term of 85 years at hard labor without benefit of parole, probation or suspension of sentence. *Bunch v. Smith*, 685 F.3d 546 (6th Cir. 2012), cert. denied, 569 U.S. ___, 133 S.Ct. 1996, 185 L.Ed.2d 865 (2013). See also *State v. Brown*, 2012-0872 (La. 5/7/13), 118 So.3d 332, 337. Furthermore, *Miller v. Alabama*, ___ U.S. ___, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012), which dealt with juvenile homicide offenders, does not apply retroactively in state cases on collateral review. See *State v. Tate*, 2012-2763 (La. 11/5/13), 130 So.3d 829.

JTP
JMM
PMc

COURT OF APPEAL FIRST CIRCUIT



DEPUTY CLERK OF COURT
FOR THE COURT