

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

CHARLES E. CARLSON, III

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 106 WDA 2015

Appeal from the PCRA Order December 22, 2014
In the Court of Common Pleas of Beaver County
Criminal Division at No(s): CP-04-CR-0002338-1999

BEFORE: PANELLA, J., OLSON, J., and PLATT, J.*

JUDGMENT ORDER BY PANELLA, J.

FILED APRIL 15, 2016

On August 17, 2012, Carlson filed a petition pursuant to the Post Conviction Relief Act ("PCRA"), asserting that the mandatory life sentences that he was serving had been declared unconstitutional by the Supreme Court of the United States in **Miller v. Alabama**, 132 S.Ct. 2455 (2012). It is undisputed that Carlson was under age 18 at the time he committed the murders for which he received life sentences. **See** Appellee's Brief, at 1. The PCRA court deferred action on Carlson's petition pending the Supreme Court of Pennsylvania's decision in **Commonwealth v. Cunningham**, 81 A.3d 1 (Pa. 2013).

* Retired Senior Judge assigned to the Superior Court.

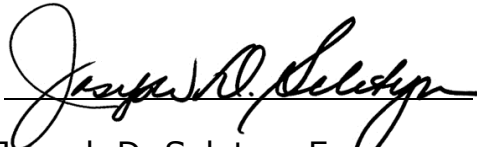
After the Pennsylvania Supreme Court held that **Miller** was not an avenue of relief on collateral review, the PCRA court denied Carlson's petition. This timely appeal followed.

While this appeal was pending, the Supreme Court of the United States held, in **Montgomery v. Louisiana**, 136 S.Ct. 718 (2016), that **Miller** was retroactive and provided a remedy on collateral review. **Montgomery** therefore overruled **Cunningham**.

As a result, we reverse the PCRA court's order dismissing Carlson's petition, vacate the judgment of sentence, and remand for re-sentencing pursuant to **Miller** and **Montgomery**.

Order reversed. Judgment of sentence vacated. Case remanded for resentencing. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn". The signature is written in a cursive, flowing style.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 4/15/2016