

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

DONALD ZOLLER, JR.

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1676 WDA 2014

Appeal from the PCRA Order October 3, 2014
In the Court of Common Pleas of Allegheny County
Criminal Division at No(s): CP-02-CR-0004839-1986

BEFORE: LAZARUS, J., STABILE, J., and JENKINS, J.

CONCURRING STATEMENT BY LAZARUS, J.:

FILED JUNE 3, 2016

I respectfully concur. While I agree that Zoller is entitled to relief pursuant to **Montgomery**, I believe that we are constrained to follow the procedure set forth in our Court's decision, **Commonwealth v. Secreti**, 2016 PA Super 28 (Pa. Super. 2016) (interpreting **Montgomery** as making retroactivity under **Miller** effective as of the date of the **Miller** decision). Therefore, I would reverse and remand for resentencing.