

**IN THE SUPREME COURT OF PENNSYLVANIA  
WESTERN DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 67 WAL 2015
	:	
Respondent	:	
	:	
v.	:	Petition for Allowance of Appeal from
	:	the <b>Unpublished Memorandum and</b>
	:	<b>Order</b> of the Superior Court at No. 1558
	:	WDA 2014 exited February 18, 2015,
	:	<b>affirming</b> the Order of the Allegheny
ALBERT IRBY,	:	County Court of Common Pleas at No.
	:	CP-02-CR-0000013-1969 exited
Petitioner	:	September 24, 2014.

**ORDER**

**PER CURIAM**

**AND NOW**, this 11th day of February, 2016, the Petition for Allowance of Appeal is **GRANTED** on the issue of whether Petitioner's sentence violates the prohibition against mandatory life sentences for juvenile offenders announced by the Supreme Court of the United States in *Miller v. Alabama*, 567 U.S. \_\_\_\_, 132 S. Ct. 2455 (2012). As a result of the recent holding by that Court that *Miller* must be applied retroactively by the States, see *Montgomery v. Louisiana*, 2016 WL 280758 (U.S. Jan. 25, 2016), the Superior Court's order is **VACATED**, and the case is **REMANDED** for further proceedings consistent with *Montgomery*.

To the extent necessary, leave is to be granted to amend the post-conviction petition to assert the jurisdictional provision of the Post Conviction Relief Act extending to the recognition of constitutional rights by the Supreme Court of the United States which it deems to be retroactive. See 42 Pa.C.S. §9545(b)(1)(iii).

Mr. Justice Eakin did not participate in the consideration or decision of this matter.