

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

NO. 2013-KK-1880

VS.

GEORGE TOCA

IN RE: State of Louisiana; - Plaintiff; Applying For Supervisory
and/or Remedial Writs, Parish of Orleans, Criminal District Court
Div. G, No. 301-875; to the Court of Appeal, Fourth Circuit, No.
2013-R-1061;

June 20, 2014

Granted. The district court's order granting respondent's Motion
to Correct an Illegal Sentence is reversed. The decision in
Miller v. Alabama, 567 U.S. ___, 132 S.Ct. 2455, 183 L.Ed.2d 407
(2012), does not apply retroactively in respondent's case. See
State v. Tate, 12-2763 (La. 11/15/13); 130 So.3d 829, cert.
denied, Tate v. Louisiana, No. 13-8915 (May 27, 2014).

MRC

JPV

JTK

JLW

GGG

JDH

JOHNSON, C.J., dissents and would deny the writ with
reasons.

Supreme Court of Louisiana
June 20, 2014

Rahis A. Burras

Deputy Clerk of Court
For the Court



SUPREME COURT OF LOUISIANA

No. 2013-KK-1880

JUN 20 2014

STATE OF LOUISIANA

VERSUS

GEORGE TOCA

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
FOURTH CIRCUIT, PARISH OF ORLEANS



JOHNSON, C.J. dissents and would deny the writ.

I respectfully dissent. On June 25, 2012, the United States Supreme Court issued an opinion in *Miller v. Alabama*, which held “that the Eighth Amendment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders.” *Miller v. Alabama*, 567 U.S. ----, 132 S.Ct. 2455, 183 L.Ed. 2d 407 (2012). In *State v. Tate*, 2012-2763 (La. 11/5/13), 130 So. 3d 829, this court held that *Miller* does not retroactively apply to juvenile offenders whose life sentences were handed down before the Supreme Court issued its opinion. I dissented from this court’s ruling in *Tate*, finding that *Miller* announced a new rule of criminal procedure that is substantive and consequently should apply retroactively. For the same reasons expressed in my dissent in *Tate*, I must dissent in this case.