## IN THE SUPREME COURT OF THE STATE OF DELAWARE

§
§ No. 543, 2012
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§ Court Below—Superior Court
§ of the State of Delaware,
§ in and for Kent County
§ Cr. ID 91K02432DI
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Submitted: November 16, 2012 Decided: November 20, 2012

Before STEELE, Chief Justice, HOLLAND, and JACOBS, Justices.

## ORDER

This 20<sup>th</sup> day of November 2012, upon consideration of the appellant's motion for remand and the State's response thereto, it appears to the Court that:

(1) The appellant, Keith Warren, filed this appeal, *pro se*,<sup>1</sup> from the Superior Court's order denying his second motion for postconviction relief. Warren argued to the Superior Court that his life sentence without the possibility of parole for a crime he committed at the age of 17 is unconstitutional in light of the United States Supreme Court's recent decision in *Miller v. Alabama*, 132 S. Ct.

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<sup>&</sup>lt;sup>1</sup> After the appeal was filed, Warren filed a motion for appointment of counsel, which this Court granted.

2455 (2012). The Superior Court summarily dismissed Warren's petition without

considering the merits of his claim.

(2) Warren's newly-appointed counsel has filed a motion requesting the

Court to remand this matter to the Superior Court to address, as a matter of first

impression, whether the decision in *Miller* applies retroactively. Counsel further

argues that, if the Superior Court determines that Miller does apply retroactively,

then Warren is entitled to an evidentiary hearing for a determination of the

appropriate sentence in his case.

(3) The State does not oppose the motion for remand.

NOW, THEREFORE, IT IS ORDERED that the motion for remand is

GRANTED. This matter shall be remanded to the Superior Court for consideration

of whether Miller is retroactively applicable to Warren's mandatory life sentence

without parole. Jurisdiction is not retained.

BY THE COURT:

/s/ Myron T. Steele

Chief Justice

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