

**JUDGMENT ON THE STATE'S MOTION TO REINSTATE DEATH SENTENCE; AND
DEFENDANT'S MOTION TO CANCEL OCTOBER 15 HEARING ON AND TO QUASH
STATE'S MOTION TO REINSTATE DEATH PENALTY**

Present were:

John Michael Landis, for the Defendant, Dale Dwayne Craig; and
J. Taylor Gray, Assistant Attorney General, for the State of Louisiana.

The Court after considering the *Defendant's Motion to Cancel October 15 Hearing on and to Quash State's Motion to Reinstate Death Sentence* (the "Motion to Quash"); the arguments of counsel and the applicable legal authorities; and

Having determined that this Court has been divested of jurisdiction in this matter pursuant to La. C.Cr.P. art. 916 by reason of the State's appeal of the Amended Sentencing Order entered on June 5, 2025, and the Louisiana Supreme Court's subsequent granting of a writ of supervisory review of the First Circuit Court of Appeal's dismissal of said appeal; and

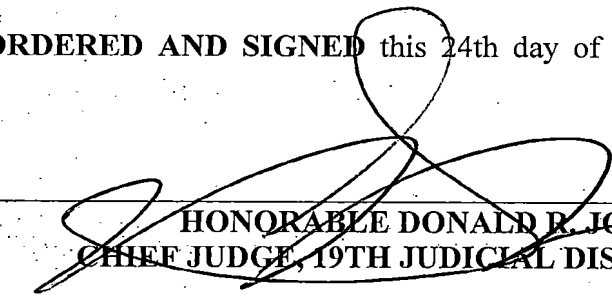
Having further determined that *the State's Motion to Reinstate Death Sentence* (the "Motion to Reinstate") constitutes an untimely motion to reconsider the Amended Sentencing Order pursuant to La. C.Cr.P. art. 881.1(A) and, therefore, that the Court has no authority even to consider the Motion to Reinstate;

IT IS ORDERED that the Motion to Quash is GRANTED and that the Motion to Reinstate shall be, and is hereby, QUASHED.

IT IS FURTHER ORDERED that the order attached to the *State's Motion to Reinstate Death Sentence*, which was signed on August 11, 2025 prior to the hearing of this case, is **VACATED**, having been inadvertently signed by the Court.



THUS ORDERED AND SIGNED this 24th day of October 2025, in Baton Rouge,
Louisiana.


HONORABLE DONALD R. JOHNSON
CHIEF JUDGE, 19TH JUDICIAL DISTRICT COURT

PLEASE SERVE:

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Doug Welborn

East Baton Rouge Parish
Appx.002 Clerk of Court

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NINETEENTH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

.
STATE OF LOUISIANA . DOCKET NO. DC-09-92-0884
V. . DIVISION: "B"
DALE DWAYNE CRAIG . SECTION: IV
.

RULING

TESTIMONY AND NOTES OF EVIDENCE, TAKEN IN THE
ABOVE-ENTITLED AND NUMBERED CAUSE, BEFORE THE **HONORABLE DR.**
DONALD R. JOHNSON, CHIEF JUDGE, PRESIDING ON THE **24TH** DAY OF
OCTOBER, 2025.

APPEARANCES:

REPRESENTING THE STATE OF LOUISIANA:

MR. ZACHARY FAIRCLOTH, ESQ.
MR. TAYLOR GRAY, ESQ.
ASSISTANT DISTRICT ATTORNEY
STATE ATTORNEY GENERAL'S OFFICE

REPRESENTING THE DEFENDANT, DALE DEWAYNE CRAIG:

MR. JOHN MICHAEL LANDIS, ESQ.

REPORTED BY:

SUSAN WILLIAMS LEE, CCR
OFFICIAL COURT REPORTER
IN AND FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

1 FRIDAY, OCTOBER 24, 2025 10:47 A.M.

2 THIS MATTER CAME BEFORE THE COURT TODAY FOR THE COURT'S
3 RULING ON THE STATE'S MOTION TO REINSTATE DEATH SENTENCE.
4 COUNSEL OF RECORD FOR THE DEFENDANT, AND COUNSEL FOR THE
5 STATE WERE PRESENT IN OPEN COURT. THE FOLLOWING IS A
6 VERBATIM REALTIME TRANSCRIPT OF THE INSTANT HEARING, TO WIT:

7 THE COURT:

8 COUNSEL CALL THE CASE.

9 MR. IGBINEIKARO, STAFF COUNSEL:

10 STATE OF LOUISIANA VERSUS DALE DWAYNE CRAIG.

11 THE COURT:

12 OFFICERS COME BACK AND MAKE AN APPEARANCE. I HAVE
13 BEEN BRIEFED NOW ON THE PERSPECTIVE OF THE MOTIONS.

14 MR. FAIRCLOTH:

15 YOUR HONOR, ZACH FAIRCLOTH, ON BEHALF OF THE
16 STATE.

17 MR. LANDIS:

18 JOHN LANDIS ON BEHALF OF MR. CRAIG.

19 THE COURT:

20 I'D LIKE TO APOLOGIZE FOR NOT BEING READY WHEN I
21 CALLED YOUR CASE. I'LL JUST SAY THAT THE VOLUME OF
22 WORK HERE IS MORE THAN WHAT YOU ARE WITNESSING. I KNOW
23 YOU'VE BEEN HERE ON MORE THAN ONE OCCASION AND IT'S
24 OBVIOUS TO YOU IF YOU HAVE EYES LIKE I DO, AND YOUR
25 EYES ARE PROBABLY BETTER THAN MINE, AND YOU'RE
26 WITNESSING THE CONSEQUENCE OF FAILURE TO COMMUNICATE
27 GOING ON IN OUR COMMUNITY IN MY ASSESSMENT. IT'S THE
28 FAILURE TO COMMUNICATE BETWEEN PARENTS AND CHILDREN
29 RESULT IN ACTIVITY AND CONDUCT THAT HAS GOTTEN OFF THE
30 MAIN ROAD IN LIFE AND HAS GOTTEN OFF ON THE SHOULDER
31 AND IN SOME CASES GOT OFF IN THE DITCH. AND YOU AND I
32 KNOW IT'S HARD TO PULL A FELLOW OUT OF THE DITCH. SO

1 WITH THAT PERSPECTIVE I'LL GO FORWARD, OFFICERS. I
2 WANT TO THANK YOU FOR YOUR TIME. I KNOW IT'S IMPORTANT
3 AND EVEN THOUGH IT MAY APPEAR TO BE AS IF I'M -- I'M
4 NOT PAYING ATTENTION -- I'VE BEEN IN YOUR SHOES BEFORE
5 AND I'VE HAD TO SIT MANY, MANY HOURS AND WAIT PATIENTLY
6 SO, I KNOW YOU'VE BEEN THERE AND DONE THAT TOO. IT'S
7 PART OF OUR PROFESSION. SO WITH THAT IN MIND LET ME
8 GET TO WHY YOU'RE HERE.

9 THE COURT HAS REVIEWED AND CONSIDERED THE
10 DEFENDANT'S MOTION TO CANCEL THE OCTOBER 15TH HEARING
11 ON AND TO QUASH THE STATE'S MOTION TO REINSTATE THE
12 DEATH PENALTY. THE ARGUMENTS OF COUNSEL AND THEIR
13 LEGAL AUTHORITIES WERE WELL PRESENTED. HAVING
14 DETERMINED THAT THIS COURT HAS BEEN DIVESTED OF
15 JURISDICTION IN THIS MATTER PURSUANT TO LOUISIANA LAWS
16 THAT HAVE SPECIFICALLY, CODE OF CRIMINAL PROCEDURE
17 ARTICLE 916, DIVESTING OF JURISDICTION OF THE TRIAL
18 COURT, HAVING REVIEWED THAT ARTICLE, THE PLEADINGS THAT
19 HAVE BEEN FILED IN CONNECTION IMPOSED UPON DALE DWAYNE
20 CRAIG. LOUISIANA CODE OF CRIMINAL PROCEDURE ARTICLE
21 916, BY REASONS OF THE STATES APPEAL OF THE AMENDED
22 SENTENCING ORDER WHICH WAS ENTERED ON JUNE 5 OF THIS
23 YEAR, AND THE LOUISIANA SUPREME COURT'S SUBSEQUENT
24 GRANTING OF A WRIT OF SUPERVISORY REVIEW OF THE FIRST
25 CIRCUIT COURT OF APPEALS DISMISSAL OF THE APPEAL,
26 HAVING FURTHER DETERMINED THAT THE STATE'S MOTION TO
27 REINSTATE THE DEATH SENTENCE CONSTITUTES AN UNTIMELY
28 MOTION TO RECONSIDER THE AMENDED SENTENCING ORDER
29 PURSUANT TO LOUISIANA CODE OF CRIMINAL PROCEDURE
30 ARTICLE 881.1 (A), AND THEREFORE THE COURT HAS NO
31 AUTHORITY EVEN TO CONSIDER THE MOTION TO REINSTATE. IT
32 IS ORDERED THAT THE MOTION TO QUASH IS GRANTED AND THAT

1 THE MOTION TO REINSTATE SHALL BE AND IS HEREBY QUASHED.
2 THE JUDGMENT WILL BE SIGNED IN WRITTEN FORM ACCORDINGLY
3 AND FILED INTO THE RECORD. I WILL TENDER BACK TO THE
4 OFFICERS OF THE COURT TO ASSIGN ERROR AND PURSUE
5 WHATEVER SUPERVISORY REVIEW IS APPROPRIATE BASED UPON
6 THE COURT DECISION. I'LL TENDER.

7 **MR. FAIRCLOTH:**

8 YOUR HONOR, WE WILL JUST NOTE OUR OBJECTION FOR
9 THE RECORD AND NOTICE OUR INTENT TO SEEK A SUPERVISORY
10 WRIT.

11 **MR. LANDIS:**

12 SO NOTED. I CAN'T DO ANYTHING ABOUT THAT.

13 **THE COURT:**

14 VERY WELL, OFFICERS, THANK YOU FOR YOUR TIME, AND
15 GOOD LUCK. I'LL SIGN IT AND PROMULGATE IT. MAKE SURE
16 THAT IT GETS SERVED COUNSEL, AND MAKE SURE THAT WE HAVE
17 IT SERVED SO THAT THE AUTHORITIES IN THE SUPERIOR COURT
18 WILL KNOW THAT IT WAS PROPERLY SERVED. I DON'T WANT
19 THAT ISSUE -- SOMEHOW IT NOT BEING SERVED IS -- IT --
20 THE CLOCK DOESN'T START RUNNING AND THAT KIND OF THING
21 AND SO, WE'LL MAKE SURE YOU GET THAT; ALL RIGHT? THANK
22 YOU AND GOOD LUCK, OFFICERS.

23 **MR. LANDIS:**

24 THANK YOU, YOUR HONOR.

25 **MR. FAIRCLOTH:**

26 THANK YOU, AND I APPRECIATE YOUR TIME AND
27 ATTENTION, JUDGE.

R-E-P-O-R-T-E-R-S P-A-G-E

I, SUSAN WILLIAMS LEE, CERTIFIED COURT REPORTER IN AND FOR THE STATE OF LOUISIANA, THE OFFICER, AS DEFINED IN RULE 28 OF THE FEDERAL RULES OF CIVIL PROCEDURE AND/OR ARTICLE 1434 (B) OF THE LOUISIANA CODE OF CIVIL PROCEDURE, BEFORE WHOM THIS PROCEEDING WAS TAKEN, DO HEREBY STATE ON THE RECORD:

THAT DUE TO THE INTERACTION IN THE SPONTANEOUS DISCOURSE OF THIS PROCEEDING, DASHES (--) HAVE BEEN USED TO INDICATE PAUSES, CHANGES IN THOUGHT, AND/OR TALK-OVERS; THAT SAME IS THE PROPER METHOD FOR A COURT REPORTER'S TRANSCRIPTION OF PROCEEDING, AND THAT THE DASHES (--) DO NOT INDICATE THAT WORDS OR PHRASES HAVE BEEN LEFT OUT OF THIS TRANSCRIPT;

THAT ANY WORDS AND/OR NAMES WHICH COULD NOT BE VERIFIED THROUGH REFERENCE MATERIAL HAVE BEEN DENOTED WITH THE PHRASE "(SPELLED PHONETICALLY)." "(INAUDIBLE)" PORTIONS OF THE TRANSCRIPT WERE DUE TO INTERRUPTION OR INAUDIBLE RESPONSES DUE TO NOISE DURING THIS PROCEEDING.

SUSAN WILLIAMS LEE, CCR
OFFICIAL COURT REPORTER, 19TH JDC
#2015005

C E R T I F I C A T E

THIS CERTIFICATION IS VALID ONLY FOR A TRANSCRIPT
ACCOMPANIED BY MY ORIGINAL SIGNATURE AND ORIGINAL REQUIRED
SEAL ON THIS PAGE.

I, SUSAN WILLIAMS LEE, OFFICIAL COURT REPORTER IN AND
FOR THE STATE OF LOUISIANA, EMPLOYED AS AN OFFICIAL COURT
REPORTER BY THE 19TH JUDICIAL DISTRICT COURT FOR THE STATE
OF LOUISIANA, DO HEREBY CERTIFY THAT THIS TESTIMONY WAS
REPORTED BY ME, IN THE STENO-MASK REPORTING METHOD, WAS
PREPARED AND TRANSCRIBED BY ME, SUSAN WILLIAMS LEE, CCR, OR
UNDER MY PERSONAL DIRECTION AND SUPERVISION, AND IS A TRUE
AND CORRECT TRANSCRIPT TO THE BEST OF MY ABILITY AND
UNDERSTANDING;

THAT THE TRANSCRIPT HAS BEEN PREPARED IN COMPLIANCE
WITH TRANSCRIPT FORMAT GUIDELINES REQUIRED BY STATUTE, OR BY
RULES OF THE BOARD, OR BY THE SUPREME COURT OF LOUISIANA;

THAT I AM NOT OF COUNSEL, NOT RELATED TO COUNSEL OR THE
PARTIES HEREIN, NOR AM I OTHERWISE INTERESTED IN THE OUTCOME
OF THIS MATTER.

WITNESS MY HAND, THIS 29TH DAY OF OCTOBER, 2025.

SUSAN WILLIAMS LEE, CCR
OFFICIAL COURT REPORTER
19TH JUDICIAL DISTRICT COURT
CCR #2015005

INDICTMENT
THE NINETEENTH JUDICIAL DISTRICT OF
FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

STATE OF LOUISIANA

VERSUS
ZEBBIE BERTHELOT (WM) DOB: 2/7/76
9551 CUYHANGA, BATON ROUGE, LOUISIANA
DALE DWAYNE CRAIG (WM) DOB: 9/22/74
3509 IROQUOIS BATON ROUGE, LOUISIANA
JAMES CONRAD LAVIGNE (WM) DOB: 3/7/73
3105 HIGHLAND ROAD APT#3
BATON ROUGE, LOUISIANA
ROY MAURER (WM) DOB: 8/3/75
P.O. BOX 42 PRIDE BAYWOOD DRIVE
BATON ROUGE, LOUISIANA

Filed Sept. 23 1992
Lynn Capet
Deputy Clerk

FIRST DEGREE MURDER
A TRUE BILL
By: James D. LaBauve
JAMES D. LABAUVE, FOREMAN

NO. 9-92-884 SEC. IV

On this the 23RD day of SEPTEMBER, 19 92, the Grand Jury of the Parish
of East Baton Rouge, State of Louisiana, charges that on or about the 15TH
day of SEPTEMBER, 19 92, at and in the Parish, District and State
aforesaid, ZEBBIE BERTHELOT, DALE DWAYNE CRAIG, JAMES CONRAD LAVIGNE AND
ROY MAURER

committed the offense of FIRST DEGREE MURDER

as defined by Louisiana Revised Statute Title 14; Article 30
in that they committed first degree murder of Kipp E. Gullet.

contrary to the law of the State of Louisiana and against the peace and dignity of the same.

DOUG MOREAU
DISTRICT ATTORNEY
Nineteenth Judicial District of Louisiana
By: Thomas C. Walsh Jr.
Section Chief Section IV
Assistant District Attorney

ORIGINAL



19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

DOC

CRIMINAL COMMITMENT

STATE OF LOUISIANA

VERSUS

DALE CRAIG

09-92-0884 Section IV Judge BONNIE JACKSON

D.O.B. 22-SEP-1974

D.O.A. 18-SEP-1992

To the Sheriff of the Parish of East Baton Rouge.

Whereas, by a decree rendered in the Honorable Court in the above numbered and entitled cause,
the above accused was ADJUDGED/PLED GUILTY of : First Degree Murder

First Degree Murder

To pay a fine of \$ _____ and court costs under the following:

Only	\$ 77.50 C.C.P. Art 887 (A) All Cases (General Court Costs)	\$ JEFF Fine
	\$ 2.00 C. Cr. P. Art 887 (E) All Cases (LCLE-Police Training)	\$ 25.00 La.R.S.13:1000.6 Drug Court (Drug treatment)
	\$ 2.00 C.C.P. 887 (F) All Cases (State MIS Fund)	\$ 75.00 DWI ONLY -Agency for Breath (BEL)
Fund)	\$ 8.75 La.R.S. 13:963 All Cases (Indigent Transcript Fund)	\$ 25.00 La.R.S. 46:2633 DWI only (Head & Spinal Cord Injury)
Fund)	\$ 5.00 La.R.S. 13:1000.4 (CASA) All Cases	\$ 5.00 La.R.S.46:2633 Reckless Operation Speeding Only (Head & Spinal Cord)
	\$ 2.00 La. R.S. 13:895.4 (Crimestoppers) All Cases	\$ 20.00 La.R.S. 13:3049(B)(1)(e) Felony (Jury Compensation Fund)
Fund)	\$ 100.00 La.R.S. 46:1816 (D) Felony (Victim Reparations Fund)	\$ 20.00 La.R.S. 13:3049 (B)(1)(e) Misdemeanor (Jury Compensation)
	\$ 7.50 La.R.S. 46:1816 (D) Misdemeanor (Victim Reparations Fund)	\$ 10.00 La.R.S. 13:3049 (B)(1)(e) Traffic (Jury Compensation Fund)
		\$ _____ Special Assessment to Jury Compensation Fund

To be confined in the EAST BATON ROUGE PARISH PRISON for a period of
And \$ _____ in costs or _____ day(s) in the EAST BATON ROUGE PARISH PRISON FOR CONTEMPT OF
COURT

Ct. vacated sent. imposed on
~~10-20-94~~ 10-23-94 + re-sent. acc. to

To be confined in the custody of the SECRETARY OF THE DEPARTMENT OF CORRECTIONS, State of
Louisiana, for a period of _____ years

life at H.L. without benefit
of prob., parole, or susp. of sent. CFTS

With credit for time served on the charge only from the date of bond, if any, and date of remand to date of
sentencing. Therefore, you are hereby commanded and required to carry into full and entire execution the
said sentence according to law, and for so doing, this shall be your warrant and authority.

Witness The Honorable Judge BONNIE JACKSON of the Court aforesaid, at Baton Rouge,
Louisiana on 5-6-95

Lf. Whetfield
Deputy Clerk of Court for
Doug Welborn, Clerk of Court

WHITE- ORIGINAL FOR SHERIFF
YELLOW- FILE COPY
PINK - JAIL COPY

\$ _____ Received by

Deputy E.B.R. Sheriff

DALE DEWAYNE CRAIG

DOCKET NO. 09-92-0884 SECT. IV

19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

DARREL VANOY, WARDEN,
LOUISIANA STATE PENITENTIARY

STATE OF LOUISIANA

AMENDED SENTENCING ORDER

This matter came before the Court on Defendant's Motion to Declare Dale Craig Parole Eligible filed on October 20, 2020 and supplemental motion filed on April 29, 2021, pursuant to Louisiana Revised Statute 15:574.4(J). The State of Louisiana, through the Attorney General's Office, filed an objection on April 28, 2021.

On October 20, 1994, a jury found Defendant guilty of first degree murder of the victim, Kipp Gullett. The Court sentenced him to death on one count of first degree murder. Subsequently, Defendant's conviction and sentence were affirmed on appeal by the Louisiana Supreme Court. See *State v. Craig*, 95-2499 (La. 5/20/97), 699 So. 2d 865, cert. denied, 522 U.S. 935 (1997). Following the United States Supreme Court's decision in *Roper v. Simmons*, 543 U.S. 551 (2005)—the Trial Court, the Honorable Judge Bonnie Jackson, vacated Defendant's death sentence and sentenced Defendant to a mandatory term of life imprisonment without benefits. See *State v. Craig*, 2010-0734 (La. 10/08/10), 46 So.3d 1267.

Nonetheless, following the Supreme Court's decisions in *Miller v. Alabama*, 567 U.S. 460 (2012) and *Montgomery v. Louisiana*, 577 U.S. 190 (2016), and the Louisiana Legislature's enactment of La. C.Cr.P. Art. 878.1, the Defendant was granted the right to a new sentencing hearing to determine whether Defendant's current life sentence should be imposed with or without parole eligibility. Thereafter on August 1, 2017, the State filed its Notice of Intent to Seek a Sentence of Life Imprisonment Without Parole Eligibility.

In resentencing Defendant, this Court must apply the juvenile sentencing legislation enacted by the Louisiana Legislature in 2013 and amended in 2017 (La. C.Cr.P. Art. 878.1). Pursuant to Article 878.1, this Court conducted a full individualized re-sentencing hearing on December 12, 2022 and March 16, 2023. The State presented two witnesses: Georgian Gullett and Lewis Lyles; eight photographs of Kipp Gullett; and a written statement by Kipp Gullett's sister, Leigh Anne Gullett. It must be noted that the State failed to formally introduce the entire record of this case and Defendant's Department of Correction's records. However, the Court will take judicial notice of same pursuant to La. C.E. art. 201(C).

The Defense presented testimony by Wilbert Kelly and Lawson Strickland, and a signed declaration by David Carr, inmates at the Louisiana State Prison; written statements by LSP Assistant Warden Nicholas Sanders and LSP Classifications Specialist Beau Bourgeois; testimony by Ashley Robique and Katie Yotter, Defendant's longtime friend and daughter; lay and expert testimony by Andrew Hundley; and selected records contained in Defendant's Master Prison Record. The Court received case law and oral arguments from both the State and the Defense.

This Court has given extensive consideration to the following factors listed in La. C.Cr.P. 878.1, and makes the following findings of fact and conclusions of law:

Nature and Circumstances of the Offense

The record is replete with evidence presented at trial and the original sentencing hearing about the nature and circumstances of this case. This case involved the carjacking, kidnapping, terrorizing, and ultimate murder of Kipp Gullett in September 1992.

Defendant's Age, Maturity, Intellectual Capacity

The Defendant was seventeen years old at the time of the offense. His unstable home life, exposure to drugs and alcohol and unaddressed educational needs contributed to his emotional immaturity and poor mental health.

Effect of Defendant's Immaturity

This Court has fully and thoughtfully considered the science on adolescent brain development in deciding an appropriate and constitutional sentence. The U.S. Supreme Court has stated that children are constitutionally different and this Court agrees. *Miller v. Alabama*, 132 S. Ct. 2455, L. Ed. 2d 407 (2012). Adolescent brain science sheds light on some of the underlying causes of poor judgment and impulsive decision making in youth. The Louisiana Legislature has mandated that a sentence of life without parole for juvenile offenders should be infrequent and that a high bar must be met: such sentences "should normally be reserved for the worst offenders and the worst cases." La. C.Cr.P. art. 878.1(D).

The U.S. Supreme Court has stated there are core differences between juveniles and adults: "children have a maturity and an underdeveloped sense of responsibility,' leading to recklessness, impulsivity, and heedless risk-taking;" juveniles "are more vulnerable . . . to negative influences and outside pressures," in part because they "have limited 'control over their own environment' and lack the ability to extricate themselves from horrific, crime-producing settings;" and the personalities of juveniles are "less fixed" than those of adults.

The U. S. Supreme Court observed that the "signature qualities" of adolescence "are all transient." *Id.* at 476 (quoting *Johnson v. Texas*, 509 U.S. 350,368 (1993)). These mitigating factors led the Supreme Court to conclude that juveniles have "lessened culpability" and "are less deserving of the most severe punishments [than adults]." *Graham*, 560 U.S. at 68 (citing *Roper*, 543 U.S. at 569. Likewise, the Louisiana Supreme Court has held that "the District Court must ... be mindful of the U.S. Supreme Court's directive in *Miller* to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." *State v. Montgomery*, 194 So. 3d at 609 (citation and internal quotation marks omitted).

In short, "youth is more than a chronological fact. It is a time of immaturity, irresponsibility, impetuosity, and recklessness . . . when a person may be most susceptible to influence and to psychological damage. And its signature qualities are all transient." *Miller*, 567 U.S. at 476 (citations and internal quotation marks omitted). Taken together, "[t]hese differences [between juveniles and adults] render suspect any conclusion that a juvenile falls among the worst offenders." *Roper*, 543 U.S. at 570.

When a court is faced with determining a sentence under Article 878.1 for a newly convicted juvenile offender, it is faced with the daunting task of predicting the offender's likelihood for change and rehabilitation based solely on evidence available at the time of the conviction. In this case, however, the Court need not make a prediction based on Defendant's pre-conviction conduct. The Court can consider Defendant's record of growth, maturation and rehabilitation over the past 28 years while he has been incarcerated at Louisiana State Penitentiary ("LSP").

In *State v. Montgomery*, 194 So. 3d 606, 610, Justice Crichton's concurrence to the Court's per curiam emphasized that a court's focus under La. C.Cr.P. art 878.1(D) must be on evidence of the defendant's maturity and rehabilitation when, as in this case, the defendant already has served a lengthy prison sentence:

There is no doubt that many of the hundreds of homicide cases at issue have been final for years, perhaps decades—or in the instant case for more than five decades. Therefore, *it is important to utilize all the tools available in providing a "meaningful opportunity" for each defendant "to obtain release based on demonstrated maturity and rehabilitation."* *Miller*, 132 S.Ct. at 2469. As stated by the per curiam, those tools include reference to the illustrative guidelines set forth by La. Code Crim. Proc. 878.1, as well as "other factors as the court may deem relevant," all of which have been successfully applied in ongoing cases. Further, the guidelines of La. Code Crim. Proc. 894.1 and the factors set forth by Fla. Stat. Sec. 921.1401(2)(2014) may prove worthwhile.

In many ways, the inquiry posited by *Miller* presumes a youthful offender and asks a district court judge to predict what may occur in the course of a future incarceration. *But because Henry Montgomery and hundreds of inmates like him*

have been in the custody of the Department of Corrections for many years—some for decades—it is my view that, in addition to guidance from these statutes, the inquiry should also focus on whether the inmate has engaged in serious misconduct or committed criminal offenses while in the custodial environment. Certainly if an inmate commits serious misbehavior, as evidenced by his or her DOC disciplinary record, it is reasonable for a judge to infer that he or she is a higher risk and will likely engage in misbehavior in the event of release on parole. It is also important to give particular consideration to the factors under 15:574, specifically regarding education and job training. If an inmate has made little or no effort in that respect, there may be a concern regarding the inmate's ability to safely reenter society. Finally, in my view, whether an inmate has a family support system in place or a plan on parole should play a prominent role in the court's serious determination of parole eligibility. Such an examination of the inmate's disciplinary record while incarcerated would not preclude a later examination by the parole board (if parole eligibility is granted). More specifically, if a court has reviewed an inmate's DOC record and makes its determination the inmate should be parole eligible based on the inmate's efforts toward rehabilitation that does not thereafter limit the parole board's ability to review the same. (Emphasis supplied)

Both expert and lay testimony were considered regarding this factor. This Court considered the Defendant's disciplinary history during his 28 years of incarceration. The evidence shows that the Defendant received only 22 write-ups for the entire 28 years he has been incarcerated at LSP, including only three in the last 19 years, only two in the last 12 years, and none in the last 7 years. Apart from his attempted escape in 1999, none of the write-ups reflects a serious violation and most deal with minor contraband violations such as unauthorized possession of a cell phone or a radio. The Defendant has successfully completed every course and program made available to him at LSP. He has been recruited by the prison administration to serve as a facilitator for several of these programs. He has been recruited and has agreed to serve as a mentor for other inmates at LSP who need help or guidance in their daily lives. He has been qualified as a Mentor by LDPSC for any facility operated by LDPSC. He has obtained Class B Trusty status, allowing him to travel anywhere within LSP without the presence of prison personnel. He has been given unfettered access to the prison hobby shop and been made responsible by the prison administration for control of dangerous materials and tools located within the shop. He has volunteered his time to train service dogs for disabled veterans in the PAWS program, which requires that he care for and train dogs assigned to him on a twenty-four-hour-a-day basis.

Rehabilitation is the action of restoring someone to health or normal life through training and therapy. There is evidence of educational rehabilitation. It is also notable that Nicholas Sanders, Assistant Warden at LSP and Beau Bourgeois, Specialist in the Classifications Department at LSP, described him as positive and believes "he has changed for the better." He

has participated in educational and social programs available to him despite no guarantee that he could use what he learned in society.

Additionally, the Court considers that being released into the community after being incarcerated for 28 years creates an environment for stress, frustration, instability, and circumstances that can anger a person in the Defendant's position. However, the evidence in this case is that the Defendant has grown, matured and has been rehabilitated during his prison term.

CONCLUSION

This Defendant's actions reveal transient immaturity of youth. This Court is obligated to fashion a sentence that protects the community. Additionally, a defendant's sentence is supposed to reflect the seriousness of the offense, to promote respect for the law and to provide just punishment for the offense. Notwithstanding the aforementioned, the Court recognizes the maturity and educational rehabilitation that the Defendant has gained. The mitigation outweighs the aggravation of the type of offense committed in this case and the way in which it was committed.

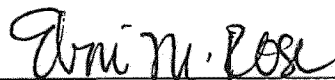
This Court is charged with ensuring that the Defendant does not receive a sentence that is in violation of the Constitution; a sentence that does not constitute cruel and unusual punishment. The Supreme Court articulated a concept of "irreparable corruption" to guide the lower courts in identifying the rare case where a juvenile would receive the harshest punishment. This Court must ask the very difficult but essential question of whether this Defendant is among the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility. This is not such a juvenile. This is not such a case. This Court finds that the appropriate sentence is Life imprisonment with the possibility of parole.

The Defendant's Motion to Declare Dale Craig Parole Eligible, pursuant to La. C.Cr.P. art. 878.1 was **GRANTED** on January 12, 2016.

Accordingly, it is therefore:

ORDERED AND ADJUDGED that the Life sentence without the benefit of parole, probation and suspension of sentence for first degree murder is hereby vacated and set aside. Defendant is re-sentenced to Life imprisonment with parole eligibility.

DONE AND ORDERED in Chambers at Baton Rouge, Louisiana this 25th day of May, 2023.


HONORABLE EBONI JOHNSON ROSE

NINETEENTH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

.
STATE OF LOUISIANA . DOCKET NO. DC-09-92-0884
V. . DIVISION: "B"
DALE DWAYNE CRAIG . SECTION: IV
.

CONTRADICTORY HEARING

TESTIMONY AND NOTES OF EVIDENCE, TAKEN IN THE
ABOVE-ENTITLED AND NUMBERED CAUSE, BEFORE THE **HONORABLE DR.**
DONALD R. JOHNSON, CHIEF JUDGE, PRESIDING ON THE **15TH** DAY OF
OCTOBER, 2025.

APPEARANCES:

REPRESENTING THE STATE OF LOUISIANA:

MR. TAYLOR GRAY, ESQ.
ASSISTANT DISTRICT ATTORNEY
STATE OF LOUISIANA

REPRESENTING THE DEFENDANT, DALE DEWAYNE CRAIG:

MR. JOHN MICHAEL LANDIS, ESQ.

REPORTED BY:

SUSAN WILLIAMS LEE, CCR
OFFICIAL COURT REPORTER
IN AND FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

1 WEDNESDAY, OCTOBER 15, 2025

2 THIS MATTER CAME BEFORE THE COURT TODAY FOR THE STATE'S
3 MOTION TO REINSTATE DEATH SENTENCE. COUNSEL OF RECORD FOR
4 THE DEFENDANT, AND COUNSEL FOR THE STATE WERE PRESENT IN
5 OPEN COURT. THE FOLLOWING IS A VERBATIM REALTIME TRANSCRIPT
6 OF THE INSTANT HEARING, TO WIT:

7 THE COURT:

8 ALL RIGHT, WHAT ARE WE ACCOMPLISHING ON PAGE 26?

9 MR. SCOTT:

10 COUNSELS ARE PRESENT ON THAT, YOUR HONOR.

11 THE COURT:

12 I'M READY.

13 MR. GRAY:

14 YOUR HONOR, GOOD MORNING, TAYLOR GRAY FOR THE
15 ATTORNEY GENERAL'S OFFICE. THIS IS STATE OF LOUISIANA
16 VERSUS DALE CRAIG, DOCKET NUMBER 09-92-0884. AND I
17 BELIEVE COUNSEL FOR MR. CRAIG IS HERE AS WELL.

18 THE COURT:

19 ALL RIGHT, PAGE 26? WHERE IS THE DEFENDANT?

20 MR. LANDIS:

21 HE HAS WAIVED HIS APPEARANCE, YOUR HONOR.

22 THE COURT:

23 ALL RIGHT, COUNSEL, MAKE AN APPEARANCE FOR ME.

24 MR. LANDIS:

25 JOHN LANDIS, REPRESENTING THE DEFENDANT, MR.
26 CRAIG.

27 THE COURT:

28 VERY WELL, WHAT'S THE PLEASURE OF THE PARTIES?

29 MR. GRAY:

30 YOUR HONOR, WE'RE HERE TODAY ON A MOTION TO
31 REINSTATE THE DEATH PENALTY AGAINST MR. CRAIG, THAT THE
32 ATTORNEY GENERAL'S OFFICE FILED SOME TIME AGO. AND

THE 19TH JUDICIAL DISTRICT COURT

1 YOUR HONOR HAD SET IT FOR ARGUMENT AND RULING TODAY.

2 **THE COURT:**

3 OKAY, WELL, LET ME HEAR WHAT THE ARGUMENTS ARE, WE
4 WILL GO FORWARD. COUNSEL, ARE YOU READY?

5 **MR. LANDIS:**

6 YEAH, AND JUST FOR THE RECORD, YOUR HONOR, SEVERAL
7 WEEKS AGO I FILED A MOTION TO CANCEL THIS HEARING AND
8 TO QUASH THE MOTION ON THE GROUND THAT YOUR HONOR HAS
9 NO ABILITY TO HEAR THE MOTION.

10 **THE COURT:**

11 OH, I SEE, OKAY, LET ME HEAR YOUR MOTION THEN,
12 UNLESS YOU, ARE YOU PREPARED TO ARGUE TODAY?

13 **MR. LANDIS:**

14 YES, YOUR HONOR.

15 **MR. GRAY:**

16 IF I MAY, YOUR HONOR, I DON'T BELIEVE THAT, THAT
17 MOTION HAS BEEN DOCKETED FOR TODAY.

18 **THE COURT:**

19 WELL, IF YOU'RE NOT PREPARED I CAN DOCKET IT FOR
20 YOU.

21 **MR. GRAY:**

22 I'D PREFER TO GO FORWARD WITH OUR MOTION TODAY AND
23 IF NEED BE YOU CAN DOCKET THE OTHER MOTION LATER BUT AS
24 FAR AS THE ATTORNEY GENERAL'S OFFICE IS CONCERNED, WE
25 FILED OUR MOTION SOME TIME AGO; IT WAS DOCKETED.
26 OPPOSING COUNSEL EVEN RESPONDED TO OUR MOTION; WE FILED
27 A REPLY; IT WAS DOCKETED. AND WE'RE READY TO GO
28 FORWARD WITH THE MOTION TODAY.

29 **MR. LANDIS:**

30 MY ARGUMENTS AND MY MOTION, YOUR HONOR, ARE IN
31 OPPOSITION TO WHAT HE'S -- HIS MOTION, SO --

32 **THE COURT:**

THE 19TH JUDICIAL DISTRICT COURT

1 ALL RIGHT, HERE'S WHAT I'LL DO, I'LL GO AHEAD AND
2 HEAR THE ARGUMENT TODAY BUT I'M NOT GOING TO RULE
3 TODAY. I'M GOING TO SET YOUR MATTER FOR HEARING AND
4 THEN I'LL RULE ON BOTH AFTERWARDS; OKAY?

5 MR. GRAY:

6 WITH ALL DUE RESPECT, YOUR HONOR, THE STATE WOULD
7 PREFER THAT YOUR HONOR RULE ON OUR MOTION TODAY.

8 THE COURT:

9 THE COURT IS GOING TO HEAR YOUR MOTION, AND THE
10 COURT IS GOING TO TAKE YOUR MOTION UNDER ADVISEMENT.
11 I'M GOING TO HEAR THE MERITS OF THE COUNTER-MOTION, AND
12 THEN I'M GOING TO RULE AT THE SAME TIME ON BOTH. THAT
13 IS THE PROCEDURE I'M GOING TO FOLLOW. ARE YOU READY TO
14 ARGUE?

15 MR. GRAY:

16 YES, YOUR HONOR.

17 THE COURT:

18 ALL RIGHT, LET'S GO.

19 MR. GRAY:

20 AND IT'S FAIRLY SIMPLE, YOUR HONOR, THE STATE
21 FILED OUR -- OUR MOTION RECOGNIZING THAT THE UNITED
22 STATES SUPREME COURT'S DECISION IN ROPER V. SIMMONS
23 FROM 2005 CURRENTLY BARS YOUR HONOR FROM GRANTING THIS
24 MOTION. ESSENTIALLY FOR INDIVIDUALS WHO ARE JUVENILES
25 AT THE TIME OF THE OFFENSE, ROPER HOLDS THAT THEY
26 CANNOT BE SENTENCED TO DEATH. MR. CRAIG WAS ORIGINALLY
27 SENTENCED TO DEATH, AND IN LIGHT OF ROPER THIS
28 CONVICTION DATES BACK TO THE EARLY 1990'S. IN LIGHT OF
29 ROPER IN 2005, HIS CONVICTION WAS CONVERTED TO LIFE
30 WITHOUT PAROLE BY JUDGE BONNIE JACKSON AT THAT TIME.
31 ROPER IS STILL THE LAW AS FAR AS THE UNITED STATES
32 SUPREME COURT IS CONCERNED AND THE STATE FULLY

THE 19TH JUDICIAL DISTRICT COURT

1 UNDERSTANDS THAT. WHAT WE HAVE FILED, YOUR HONOR, IS A
2 -- WHAT WE'RE SEEKING REALLY IN THE FILING OF OUR
3 MOTION IS YOUR HONOR'S SUMMARY DENIAL OF OUR MOTION
4 KNOWING THAT YOUR HONOR IS CONSTRAINED BY ROPER
5 CURRENTLY. THE STATE WANTS TO BE FULLY CANDID, WE WANT
6 TO TAKE THIS UP TO THE UNITED STATES SUPREME COURT. WE
7 WANT THE COURT -- THAT COURT -- TO RECONSIDER ROPER.
8 WE THINK THAT THERE ARE SEVERAL REASONS THAT IT SHOULD
9 DO SO, NOT THE LEAST OF WHICH IS ROPER, AT THE TIME WAS
10 ON FAIRLY SHAKY FOOTING AS A -- I BELIEVE -- PARTY LINE
11 FIVE-FOUR DECISION.

12 **THE COURT:**

13 WHAT DO YOU MEAN, PARTY, WHAT DO YOU MEAN?

14 **MR. GRAY:**

15 AN IDEOLOGICAL LINE, SORRY TO SAY, CONSERVATIVE
16 VERSUS LIBERAL JUSTICES.

17 **THE COURT:**

18 YOU BELIEVE THAT OUR JUSTICES ARE CONSERVATIVE AND
19 LIBERAL? THE APPLICATION OF THE CONSTITUTION?

20 **MR. GRAY:**

21 I DON'T WANT TO MAKE WAVES, YOUR HONOR, BUT THERE
22 IS -- THERE IS SOME ELEMENTS OF THE COURT'S HISTORY
23 THAT MAY LEAD ONE TO BELIEVE THAT THERE ARE IDEOLOGIES
24 AT PLAY.

25 **THE COURT:**

26 UNDERSTOOD.

27 **MR. GRAY:**

28 THAT SAID, THE APPLICATION OF ROPER ITSELF HAS
29 SEEMINGLY BORN OUT OF NUMEROUS PROBLEMS, THE LEAST OF
30 WHICH IS EXEMPLIFIED BY THIS CASE. MR. CRAIG WAS EIGHT
31 DAYS AWAY FROM HIS 18TH BIRTHDAY WHEN HE COMMITTED THIS
32 HEINOUS MURDER. AND NATOLIS NATURE OF BEING A WEEK

THE 19TH JUDICIAL DISTRICT COURT

1 AWAY FROM HIS 18TH BIRTHDAY HAS HE NOW BEEN ABLE TO
2 SKIRT THE DEATH PENALTY, OBVIOUSLY AS MR. LANDIS WILL
3 TALK ABOUT AT THE SUPREME COURT THE LOUISIANA SUPREME
4 COURT CURRENTLY IS A RECENT TO AMENDMENT TO HIS
5 SENTENCE TAKING AWAY -- OR GIVING HIM ELIGIBILITY FOR
6 PAROLE CONSIDERATION IN LINE WITH MILLER AND
7 MONTGOMERY. WE'RE TALKING ABOUT THE LINE DRAWN BY THE
8 ROPER COURT THAT ARGUABLY WASN'T SEEING THE
9 PRACTICALITIES OF REAL LIFE. IF HE HAD BEEN BORN NINE
10 DAYS LATER HE COULD BE -- HE WOULD HAVE -- ALREADY HAVE
11 BEEN EXECUTED, I THINK IS THE -- THE FINE POINT TO PUT
12 ON IT. FOR THOSE REASONS THE STATE BELIEVES THAT THIS
13 CASE PRESENTS A VERY GOOD OPPORTUNITY FOR THE -- FOR
14 THE UNITED STATES SUPREME COURT TO RECONSIDER ROPER.
15 LIKE I SAID, OBVIOUSLY ROPER HASN'T BEEN OVERRULED,
16 OTHERWISE WE PROBABLY WOULDN'T BE HERE. AND AS A
17 RESULT YOUR HONOR IS CONSTRAINED BY ROPER, WE THINK, AS
18 I WAS ELUDING TO WHEN WE FIRST STOOD UP. WE WOULD
19 PREFER YOUR HONOR RULE ON THIS MOTION TODAY BECAUSE
20 FRANKLY WE EXPECT A DENIAL OF IT, AND IT'S AS SIMPLE AS
21 THAT. BUT WE NEED THAT DENIAL TO MOVE THIS CASE UP THE
22 LADDER OF REVIEW TO ULTIMATELY HOPEFULLY GET IT TO THE
23 UNITED STATES SUPREME COURT. LOOK, THEY MAY ULTIMATELY
24 DISAGREE WITH THE ATTORNEY GENERAL'S OFFICE ON WHETHER
25 ROPER I GOOD OR BAD LAW. BUT WE THINK THAT --

26 **THE COURT:**

27 AND SO YOU'RE FILING A MOTION AND YOU WANT ME TO
28 JUST REJECT YOUR MOTION IS WHAT YOU'RE SAYING? YOU
29 DON'T WANT ME TO CONSIDER THE MOTION?

30 **MR. GRAY:**

31 YOU'RE CONSTRAINED -- I MEAN -- IF YOUR HONOR IS
32 WILLING TO CONSIDER THE MOTION I'M HAPPY.

THE 19TH JUDICIAL DISTRICT COURT

1 **THE COURT:**

2 DON'T FILE SOMETHING THAT YOU'RE NOT ASKING FOR ME
3 TO THOUGHTFULLY CONSIDER. I MEAN IF YOU -- YOU'RE
4 SAYING THAT YOU'RE FILING SOMETHING HERE AND YOU SAY,
5 JUDGE, DENY IT, JUST -- I JUST WANT A RECORD. IS THAT
6 WHAT YOU WANT ME TO DO?

7 **MR. GRAY:**

8 SIMPLY PUT, YES, BECAUSE ROPER IS -- IT HAS NOT
9 BEEN HELD IN -- IT'S UP AND OVERRULED BY THAT COURT OR
10 ANY OTHER. BUT WE -- THIS IS THE -- THIS IS THE
11 VEHICLE TO GET IT THERE TO BE FULLY CANDID. I'M NOT
12 GOING TO COME INTO COURT AND PUT A WHOLE DOG AND PONY
13 SHOW ASKING YOU TO ESSENTIALLY SPIT IN THE EYE OF THE
14 UNITED STATES SUPREME COURT. WE'RE GOING TO ASK THEM
15 TO DO THAT TO THEMSELVES ULTIMATELY.

16 **THE COURT:**

17 ALL RIGHT. THIS LAW IS ADVERSE TO THE MOTION IS
18 WHAT HE IS SAYING. ALL RIGHT, DEFENSE, WHAT DO YOU
19 SAY?

20 **MR. LANDIS:**

21 YOUR HONOR, JUST TO SET THE PROCEDURAL STAGE TO
22 MAKE SURE YOUR HONOR IS AWARE OF IT. IN 2017 THE
23 LEGISLATURE AMENDED ARTICLE 878.1 TO PROVIDE THIS, THAT
24 THE, IF THE STATE WANTS TO -- IT'S TO DEFAULT. UNLESS
25 THE STATE FILES A NOTICE JUVENILE OFFENDERS WHO WERE
26 SENTENCED TO DEATH OR BY THEN, BY THAT TIME LIVING LIFE
27 WITHOUT PAROLE AUTOMATICALLY WOULD RECEIVE LIFE WITH A
28 POSSIBILITY OF PAROLE. THE STATE FILED A NOTICE IN
29 2017. IN 2022 AND 2023 JUDGE JOHNSON ROSE CONDUCTED A
30 HEARING OVER TWO DAYS. IN JUNE OF 2023 SHE ISSUED A
31 RULING GRANTING MY CLIENT LIFE WITH PAROLE
32 CONSIDERATION.

THE 19TH JUDICIAL DISTRICT COURT

1 **THE COURT:**

2 BY THE STATUTORY PROVISION OF THE STATE --

3 **MR. LANDIS:**

4 YES. YEAH. THE STATE DID NOT SEEK
5 RECONSIDERATION OF THAT, THE STATE FILED A APPEAL. I
6 FILED A MOTION TO DISMISS THE APPEAL. ABOUT A YEAR
7 LATER THE FIRST CIRCUIT DISMISSED THE APPEAL ON THE
8 GROUNDS THAT I ASSERTED. IT HAD NO AUTHORITY TO REVIEW
9 THAT SENTENCE, EITHER UNDER BY APPEAL OR BY WRIT UNDER
10 ARTICLE 881.2. THE STATE THEN FILED THE WRIT
11 APPLICATION TO THE SUPREME COURT TO REVIEW THE
12 DISMISSAL OF ITS APPEAL. THE SUPREME COURT GRANTED
13 THAT WRIT, WE ARGUED THE CASE IN AUGUST, IT HASN'T BEEN
14 DECIDED YET. SO AS OF NOW THAT CASE IS PENDING IN THE
15 LOUISIANA SUPREME COURT. NOW, THIS COURT UNDER THE
16 CLEAR LAW, WELL, LET ME START THIS, IT WOULD BE LEGAL
17 ERROR FOR THIS COURT EVEN TO CONSIDER THE STATE'S
18 MOTION TO REINSTATE THE DEATH PENALTY. THE STATE HAS
19 CONCEDED THAT ITS MOTION TO REINSTATE THAT DEATH
20 PENALTY IS A MOTION TO RECONSIDER THE SENTENCE UNDER
21 881.1(A). UNDER THAT ARTICLE THE STATE HAD THIRTY DAYS
22 FROM THE ISSUANCE OF THE OTHER RULING; THAT IS JUNE 5,
23 2023. IT HAD UNTIL JULY, IT HAD UNTIL AUGUST 11 -- I'M
24 SORRY, IT HAD UNTIL JULY OF 2023 TO FILE THE MOTION TO
25 RECONSIDER THE SENTENCE. THE STATE DID NOT FILE ITS
26 MOTION TO RECONSIDER THE SENTENCE UNTIL AUGUST 11 OF
27 2025, WHICH IS MORE THAN TWO YEARS TOO LATE. AS THE
28 NUMEROUS CASES CITED IN OUR MOTION TO QUASH DEMONSTRATE
29 THE COURTS HAVE CONSISTENTLY HELD THAT THE 30-DAY
30 DEADLINE POSED UNDER ARTICLE 881.1 (A) MUST ALWAYS BE
31 STRICTLY ENFORCED. IN MANY OF THE SAME CASES THAT WE
32 CITE IN OUR MOTION THE COURT HAS HELD THAT IT IS LEGAL

THE 19TH JUDICIAL DISTRICT COURT

ERROR FOR A DISTRICT COURT TO EVEN CONSIDER AN UNTIMELY
MOTION TO RECONSIDER A SENTENCE MUCH LESS GRANT IT OR
DENY IT, EVEN TO CONSIDER IT IS A LEGAL ERROR. AND IN
ADDITION THIS COURT HAS BEEN DIVESTED OF JURISDICTION
OR REASON OF THE STATE'S APPEAL TO THE FIRST CIRCUIT.
AFTER THE FIRST CIRCUIT DISMISSED THE STATE'S APPEAL,
AS I SAID, THE -- THE STATE SOUGHT REVIEW OF THAT
DISMISSAL IN THE LOUISIANA SUPREME COURT. THAT IS
STILL PENDING. UNDER ARTICLE 916 THE STATE HAS -- THIS
COURT HAS BEEN DIVESTED OF JURISDICTION. THE -- THE --
IN ITS PLEADINGS THE STATE ARGUES THAT THERE ARE TWO
EXCEPTIONS IN ARTICLE 916 THAT MIGHT APPLY. FIRST THEY
SAY THAT THIS IS A MOTION TO CORRECT ITS MOTION, IT'S A
MOTION TO CORRECT IN A LEGAL SENTENCE. THAT ARGUMENT
WAS MADE AND REJECTED BY THE FIRST CIRCUIT. OR THE
STATE CONCEDES THAT ITS SENTENCE IS NOT ILLEGAL. ROPER
IS THE LAW OF THE LAND. MONTGOMERY IS THE LAW OF THE
LAND. IT'S NOT ILLEGAL UNDER EITHER OF THOSE. IT'S
NOT ILLEGAL UNDER ARTICLE 878.1. THE STATE ALSO ARGUES
THAT THIS SHOULD BE DEEMED A MINISTERIAL MATTER, THAT
IS NOT IN CONTROVERSY ON APPEAL. THE RULING SOUGHT BY
THE STATE RESENTENCING MR. CRAIG TO A DEATH SENTENCE,
CLEARLY IS NOT MINISTERIAL. NONE OF THE EXCEPTIONS
UNDER ARTICLE 916 APPLY. THIS COURT HAS NO
JURISDICTION TO CONSIDER THE MOTION. IF IT DID HAVE
JURISDICTION IT WOULD BE COMMITTING LEGAL ERROR TO DO
SO UNDER ARTICLE 881.1 (A).

THE COURT:

NOTED.

MR. GRAY:

IF I MAY YOUR HONOR.

THE COURT:

THE 19TH JUDICIAL DISTRICT COURT

1 YOU MAY.

2 MR. GRAY:

3 JUST -- JUST A COUPLE OF THINGS. I WANT TO POINT
4 OUT, AS I ALLUDED TO AND AS I OUTRIGHT STATED A SECOND
5 AGO, BECAUSE THE COURT IS BOUND TO SUMMARILY DENY THE
6 STATE'S MOTION UNDER ROPER WE BELIEVE THIS IS CLEARLY
7 SOMETHING THAT IS MINISTERIAL AND CERTAINLY MINISTERIAL
8 TO WHAT IS EVER, WHATEVER IS HAPPENING AT THE LOUISIANA
9 SUPREME COURT RIGHT NOW. TO BE CLEAR, OPPOSING COUNSEL
10 MAKES -- MAKES ARGUMENTS THAT SEEM IN OPPOSITE TO EACH
11 OTHER FIRST BY ARGUING THAT THIS COURT IS DIVESTED OF
12 JURISDICTION TO HEAR SUCH A MOTION LIKE THIS BECAUSE OF
13 THE NATURE OF THE APPEAL. BUT AS HE ALSO STATES, AND
14 I'VE SEEN THE PLEADINGS. FROM THE MOMENT THE STATE
15 TOOK AN APPEAL OF THE RULING IN 2023, COUNSEL HAS UP
16 AND DOWN, AS LOUDLY AS POSSIBLE ARGUED THAT THE STATE
17 HAS NO RIGHT OF APPEAL AND THAT THE APPEAL WAS
18 ESSENTIALLY A NULLITY AND SOUGHT ITS DISMISSAL, GOT ITS
19 DISMISSAL BUT THE FIRST CIRCUIT COURT OF APPEAL. THE
20 CASE IS CURRENTLY UP ON WRITS AT THE LOUISIANA SUPREME
21 COURT BUT THAT DOES NOT DIVEST THIS COURT OF HANDLING
22 MATTERS THAT ARE BOTH MINISTERIAL AS WELL AS MATTERS
23 THAT ARE NOT ON POINT DIRECTLY TO THE ISSUE THAT'S AT
24 THE SUPREME COURT CURRENTLY. OUR HOPE HAS BEEN OR HAD
25 BEEN AND THAT THIS ISSUE WOULD BE AT THE LOUISIANA
26 SUPREME COURT IN CONCURRENCE WITH THE MATTER THAT IT'S
27 UP THERE CURRENTLY. AT ORAL ARGUMENTS AT THE SUPREME
28 COURT COUNSEL ON THE OTHER SIDE OF THE ISLE STATED TO
29 THEM, IF I RECALL, THAT THEY WERE NOT THE PROPER COURT
30 TO BE EVEN CONSIDERING THIS ISSUE AND THAT YOUR HONOR
31 IS THE PROPER COURT TO BE CONSIDERING THE ISSUE BECAUSE
32 THAT MATTER OR THAT THIS ISSUE WAS NOT BEFORE THAT

THE 19TH JUDICIAL DISTRICT COURT

1 COURT ON THAT WRIT. I THINK IT'S CLEAR THAT YOUR HONOR
2 IS NOT DIVESTED OF JURISDICTION TO HEAR THE STATE'S
3 MOTION HERE, CERTAINLY NOT TO SUMMARILY DENY IT UNDER
4 ROPER AS WE HAVE LAID OUT IN OUR BRIEFING. THANK YOU.

5 **THE COURT:**

6 I WANT TO THANK THE OFFICERS OF THE COURT FOR THE
7 ARGUMENTS AND THE NATURE OF THE MOTION. I HAVE
8 INDICATED THAT THE MATTER WILL BE TAKEN UNDER
9 ADVISEMENT. LET'S SELECT THE DATE TO HEAR THE MOTION
10 TO QUASH.

11 **MR. LANDIS:**

12 YOUR HONOR, I DON'T REALLY HAVE ANY MORE TO ADD --

13 **THE COURT:**

14 IF YOU WANT TO OFFER THAT IN SUPPORT THE STATE
15 WILL COME IN AND ARGUE, IF THEY'RE NOT READY TO ARGUE
16 TODAY --

17 **MR. GRAY:**

18 IT WASN'T THAT WE WEREN'T READY TO ARGUE IT, YOUR
19 HONOR, I --

20 **THE COURT:**

21 YOU DO NOT WISH TO ARGUE THE MERITS OF THE MOTION.

22 **MR. LANDIS:**

23 AND I'LL COME BACK UP FROM NEW ORLEANS AGAIN, YOUR
24 HONOR.

25 **MR. GRAY:**

26 I DON'T -- I AGREE WITH MR. LANDIS, I DON'T THINK
27 THAT IT'S NECESSARY, I THINK --

28 **THE COURT:**

29 YOU WANT TO SUBMIT THAT MOTION ON THE ARGUMENT
30 THAT YOU'VE PRESENTED, I'LL TAKE IT UNDER ADVISEMENT ON
31 THE SUBMISSION AND THEN I'LL RULE ACCORDINGLY.

32 **MR. LANDIS:**

THE 19TH JUDICIAL DISTRICT COURT

1 YEAH, AND YOUR HONOR, I WOULD SO MOVE.

2 **MR. GRAY:**

3 AND WHAT I'LL DO, YOUR HONOR, IS THAT I'M IN
4 AGREEMENT, WHAT I WILL DO IS I'M GOING TO CHECK WITH
5 THE SOLICITOR GENERAL TO MAKE SURE THAT THEY DON'T HAVE
6 ANY INTENTION OF FILING OR ARGUING SOMETHING IN
7 OPPOSITION TO THAT MOTION. I DON'T PRESUME THAT THEY
8 DO SINCE THEY HAVEN'T YET.

9 **THE COURT:**

10 I'M GIVING YOU A DATE TO HEAR THE MOTION TO QUASH.
11 STAND BY. LET'S GIVE THE PARTIES A DATE.

12 **MR. GRAY:**

13 YOUR HONOR, IF I COULD STOP YOU FOR A MOMENT,
14 APOLOGIES, I WAS, I'M HOPING, YOUR HONOR, THE STATE IS
15 REQUESTING THAT YOU RULE ON THE STATE'S MOTION FAIRLY
16 QUICKLY IN THE NEXT COUPLE OF WEEKS.

17 **THE COURT:**

18 ONE MORE TIME. THE COURT HAS INDICATED IT WILL
19 RULE ON THE MOTION FILED BY THE STATE, THE SECOND TIME
20 IT RULES ON THE MOTION TO QUASH.

21 **MR. GRAY:**

22 UNDERSTOOD.

23 **THE COURT:**

24 TWO WEEKS OR LESS. LET ME GET YOUR CALENDARS AND
25 LET'S PICK A DATE.

26 **MR. GRAY:**

27 AND I THINK ANY DATE FRO ITS RULING IN A WEEK AND
28 ONE HALF. I THINK IT, WOULD YOU KNOW, IT WOULD BE FINE
29 WITH THE STATE. WE'LL BE FLEXIBLE ON THE DAY.

30 **MADAME MINUTE CLERK:**

31 OCTOBER 30TH.

32 **MR. LANDIS:**

THE 19TH JUDICIAL DISTRICT COURT

1 YES, THAT WORKS. OCTOBER 30TH.

2 **THE COURT:**

3 COUNSELS WILL COME INTO COURT ON THAT DAY AND
4 ASSERT THEIR RESPECTIVE POSITIONS. AT THE END OF THE
5 CONCLUSION OF THE MOTION TO QUASH I'LL RULE ON THE
6 OUTSTANDING MATTER UNDER ADVISEMENT ALONG WITH THE
7 PENDING MATTER.

8 **MR. GRAY:**

9 IS IT POSSIBLE TO DO SOMETHING EARLIER THAT WEEK,
10 YOUR HONOR? APOLOGIES. THE 27TH OR 28TH?

11 **MADAME MINUTE CLERK:**

12 THE 24TH?

13 **MR. GRAY:**

14 I CAN MAKE THAT WORK.

15 **THE COURT:**

16 AND I AM GOING TO ASK COUNSELS TO SUBMIT PROPOSED
17 JUDGMENTS ON EACH MOTION. SEND THOSE, YOU CAN FILE
18 YOUR PROPOSED JUDGMENTS WITH THE CLERK BUT I DIRECT YOU
19 TO SEND YOUR PROPOSED JUDGMENTS EMAIL TO MY STAFF
20 COUNSEL, COPY YOUR OPPONENT AND EMAIL ME A PROPOSED
21 JUDGMENT. I'M GOING TO SIGN OFF ON JUDGMENTS THAT DAY
22 SO YOU CAN MOVE FORWARD ON BOTH MOTIONS.

23 **MADAME MINUTE CLERK:**

24 WE DO HAVE A DOCKET ON OCTOBER 24TH.

25 **MR. GRAY:**

26 I CAN MAKE THAT WORK, WE CAN MAKE THAT WORK.

27 **MR. LANDIS:**

28 THANK YOU, YOUR HONOR.

29 **THE COURT:**

30 COUNSELS, SEE YOU ON YOUR NEXT COURT DATE.

31 **MR. GRAY:**

32 THANK YOU, YOUR HONOR.

THE 19TH JUDICIAL DISTRICT COURT

THIS HEARING CONCLUDED.

R-E-P-O-R-T-E-R-S P-A-G-E

I, SUSAN WILLIAMS LEE, CERTIFIED COURT REPORTER IN AND FOR THE STATE OF LOUISIANA, THE OFFICER, AS DEFINED IN RULE 28 OF THE FEDERAL RULES OF CIVIL PROCEDURE AND/OR ARTICLE 1434 (B) OF THE LOUISIANA CODE OF CIVIL PROCEDURE, BEFORE WHOM THIS PROCEEDING WAS TAKEN, DO HEREBY STATE ON THE RECORD:

THAT DUE TO THE INTERACTION IN THE SPONTANEOUS DISCOURSE OF THIS PROCEEDING, DASHES (--) HAVE BEEN USED TO INDICATE PAUSES, CHANGES IN THOUGHT, AND/OR TALK-OVERS; THAT SAME IS THE PROPER METHOD FOR A COURT REPORTER'S TRANSCRIPTION OF PROCEEDING, AND THAT THE DASHES (--) DO NOT INDICATE THAT WORDS OR PHRASES HAVE BEEN LEFT OUT OF THIS TRANSCRIPT;

THAT ANY WORDS AND/OR NAMES WHICH COULD NOT BE VERIFIED THROUGH REFERENCE MATERIAL HAVE BEEN DENOTED WITH THE PHRASE "(SPELLED PHONETICALLY)." "(INAUDIBLE)" PORTIONS OF THE TRANSCRIPT WERE DUE TO INTERRUPTION OR INAUDIBLE RESPONSES DUE TO NOISE DURING THIS PROCEEDING.

SUSAN WILLIAMS LEE, CCR
OFFICIAL COURT REPORTER, 19TH JDC
#2015005

C E R T I F I C A T E

THIS CERTIFICATION IS VALID ONLY FOR A TRANSCRIPT
ACCOMPANIED BY MY ORIGINAL SIGNATURE AND ORIGINAL REQUIRED
SEAL ON THIS PAGE.

I, SUSAN WILLIAMS LEE, OFFICIAL COURT REPORTER IN AND
FOR THE STATE OF LOUISIANA, EMPLOYED AS AN OFFICIAL COURT
REPORTER BY THE 19TH JUDICIAL DISTRICT COURT FOR THE STATE
OF LOUISIANA, DO HEREBY CERTIFY THAT THIS TESTIMONY WAS
REPORTED BY ME, IN THE STENO-MASK REPORTING METHOD, WAS
PREPARED AND TRANSCRIBED BY ME, SUSAN WILLIAMS LEE, CCR, OR
UNDER MY PERSONAL DIRECTION AND SUPERVISION, AND IS A TRUE
AND CORRECT TRANSCRIPT TO THE BEST OF MY ABILITY AND
UNDERSTANDING;

THAT THE TRANSCRIPT HAS BEEN PREPARED IN COMPLIANCE
WITH TRANSCRIPT FORMAT GUIDELINES REQUIRED BY STATUTE, OR BY
RULES OF THE BOARD, OR BY THE SUPREME COURT OF LOUISIANA;

THAT I AM NOT OF COUNSEL, NOT RELATED TO COUNSEL OR THE
PARTIES HEREIN, NOR AM I OTHERWISE INTERESTED IN THE OUTCOME
OF THIS MATTER.

WITNESS MY HAND, THIS 29TH DAY OF OCTOBER, 2025.

SUSAN WILLIAMS LEE, CCR
OFFICIAL COURT REPORTER
19TH JUDICIAL DISTRICT COURT
CCR #2015005

THE 19TH JUDICIAL DISTRICT COURT

STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE
19TH JUDICIAL DISTRICT COURT

STATE OF LOUISIANA

v.

DALE CRAIG

Docket No. 09-92-0884
Criminal Section 4

Chief Judge Donald R. Johnson

THE STATE’S MOTION TO REINSTATE DEATH SENTENCE

The State of Louisiana respectfully moves to reinstate Defendant Dale Craig’s death sentence for the reasons outlined in the below memorandum of law in support. The State recognizes, however, that current U.S. Supreme Court precedent requires this Court to deny this motion. Accordingly, the State submits this motion for preservation purposes only and asks the Court to summarily dispose of it under binding U.S. Supreme Court precedent.

Dated: August 11, 2025

Respectfully submitted,

ELIZABETH B. MURRILL

/s/ Zachary Faircloth
ZACHARY FAIRCLOTH (La #39875)
Principal Deputy Solicitor General
OFFICE OF THE LOUISIANA ATTORNEY
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Counsel for the State of Louisiana

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served this
11th day of August, 2025, via electronic mail, upon all counsel of record.

/s/ Zachary Faircloth
ZACHARY FAIRCLOTH (La #39875)

STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE
19TH JUDICIAL DISTRICT COURT

STATE OF LOUISIANA

v.

DALE CRAIG

Docket No. 09-92-0884

Criminal Section 4

Chief Judge Donald R. Johnson

**THE STATE’S MEMORANDUM OF LAW IN SUPPORT OF ITS
MOTION TO REINSTATE DEATH SENTENCE**

The State respectfully moves this Court to reinstate defendant Dale Craig’s death sentence, which was originally entered on October 23, 1994. The State recognizes, however, that the United States Supreme Court’s decision in *Roper v. Simmons*, 543 U.S. 551 (2005), currently bars reinstatement of Craig’s death sentence. Accordingly, the State moves for preservation purposes only, understanding that this Court must deny the State’s request under *Roper*.

* * *

“On September 14, 1992, defendant Dale Dwayne Craig brutally murdered Kipp E. Gullet, an 18 year-old freshman student at Louisiana State University.” *State v. Craig*, 699 So. 2d 865, 866 (La. 1997). Following his theft of Kipp’s Bronco and a period of psychological torture, Craig marched Kipp at gunpoint into “a secluded construction site.” *Id.* at 867. There, Craig struck him with the gun, causing Kipp to fall to the ground “in a fetal position.” *Id.* As Kipp lay there, Craig “knelt at his side and fired three bullets through his head, killing him.” *Id.*

After a trial in 1994, the jury found Craig guilty of first degree murder and “unanimously determined that [he] should receive the death sentence, which the district judge thereafter imposed.” *Id.* at 868. Craig was “eight days away from his eighteenth birthday” when he murdered Kipp. *Id.* at 872. But he was fully an adult. Said Craig to his friends: “I told you I was hard.” *Id.* at 867. And he continued: “I love you all, you are my boys. If you say one f---ing word, I’ll kill you, too.” *Id.* But, he wondered, “should [they] go kill anybody else while they were at it?” *Id.* He “answered his own question”: “No, the game warden might get pissed.” *Id.*

In 2005, the United States Supreme Court decided *Roper*, which held that “[t]he Eighth and Fourteenth Amendments forbid imposition of the death penalty on offenders who were under the age of 18 when their crimes were committed.” 543 U.S. at 578. That holding encompasses Craig, who was technically (eight days) under the age of 18 when he murdered Kipp. Accordingly, two months after *Roper*, Judge Bonnie Jackson resentenced Craig as *Roper* requires—vacating the death sentence imposed on October 23, 1994, and resentencing Craig to life without parole. R.7106.

* * *

The State now respectfully moves this Court to reinstate Craig’s original October 23, 1994, death sentence. The State recognizes that *Roper* prevents the Court from doing so—and thus, the State understands that the Court must deny this motion. The State preserves for appellate review, however, its position that *Roper* is egregiously wrong and should be overruled.

Four Justices agreed in *Roper* itself. *See* 543 U.S. at 606 (O’Connor, J., dissenting) (“[T]he moral proportionality arguments against the juvenile death penalty fail to support the rule the Court adopts today.”); *id.* at 615 (Scalia, J., dissenting, joined by Rehnquist, C.J., and Thomas, J.) (rejecting “the Court’s ‘own judgment’ that murderers younger than 18 can never be as morally culpable as older counterparts” (internal quotation marks omitted)). *Roper* was thus “on shaky ground from the start.” *Ramos v. Louisiana*, 590 U.S. 83, 112 (2020) (Sotomayor, J., concurring).

But *Roper* also bears all the hallmarks of a constitutional precedent that should be overruled: (1) it is egregiously wrong, not least because the quality of its reasoning is exceedingly poor; (2) it has caused significant jurisprudential and real-world consequences, not least because it makes a mockery of justice by allowing Louisiana to execute murderers who had just turned 18, *see State v. Hoffman*, 326 So. 3d 232, 234 (La. 2021); *Hoffman v. Westcott*, 145 S. Ct. 797 (2025), while prohibiting Louisiana from executing murderers like Craig who would turn 18 within a week; and (3) there are no legitimate reliance interests in play, not least because no juvenile murderer can plausibly claim to have relied on *Roper* when committing a heinous murder. *See Ramos*, 590 U.S. at 122–23 (Kavanaugh, J., concurring in part).

Again, the State fully acknowledges that *Roper* bars this Court from considering this argument and granting this motion to reinstate Craig’s original death sentence. Nonetheless, the State submits its position for preservation purposes.

PRAYER FOR RELIEF

The State respectfully requests that this Court reinstate Craig's death sentence. Because *Roper* currently prohibits such reinstatement, however, the State recognizes that the Court is bound to deny this motion.

Dated: August 11, 2025

Respectfully submitted,

ELIZABETH B. MURRILL

/s/ Zachary Faircloth
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STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE
19TH JUDICIAL DISTRICT COURT

STATE OF LOUISIANA,

v.

DALE CRAIG,

Docket No. 09-92-0884
Criminal Section 4

Chief Judge Donald R. Johnson

[PROPOSED] ORDER

Considering the foregoing State’s Motion to Reinstate Death Sentence,

IT IS ORDERED that the State’s Motion to Reinstate Death Sentence is

_____ **GRANTED**

_____ **DENIED** as foreclosed by *Roper v. Simmons*, 543 U.S. 551 (2005).

So ordered. Baton Rouge, Louisiana, this ____ day of _____, 2025.

HONORABLE DONALD R. JOHNSON
CRIMINAL SECTION 4
19TH JUDICIAL DISTRICT COURT

STATE OF LOUISIANA

CRIMINAL SECTION 4

DOCKET NO. 9-92-884

STATE OF LOUISIANA

VERSUS

DALE DWAYNE CRAIG

FILED: _____

DEPUTY CLERK

RESPONSE TO STATE'S MOTION TO REINSTATE DEATH SENTENCE

Defendant, Dale Dwayne Craig, respectfully files this response to the State's Motion to Reinstate Death Sentence (the "Motion"). The court should strike the motion because the Court has no jurisdiction to even entertain it.

On June 5, 2023, this Court entered an Amended Sentencing Order that re-sentenced Mr. Craig to life with the possibility of parole pursuant to C.Cr.P. art. 878.1. On June 23, 2023, the state filed a motion for appeal of the Amended Sentencing Order, which was granted. That caused Defendant's scheduled parole hearing to be continued indefinitely. On November 14, the First Circuit Court of Appeal dismissed the state's appeal on the ground that the state had no right to appeal the Amended Sentencing Order. The state then filed a supervisory writ application with the Louisiana Supreme Court, which granted the application and promulgated a briefing schedule. All briefs have been filed with the Supreme Court and oral argument in the case is scheduled for August 26, 2025.

The state recognizes that the relief it seeks is unconstitutional under *Roper v. Simmons*, 543 U.S. 551 (2005), but asks the Court to deny the Motion "for preservation purposes only." Under La. C.Cr.P. art. 916, however, this Court was divested of jurisdiction to act in this case when the state's motion to appeal was granted. While this case is pending in the Louisiana Supreme Court, this Court remains divested of jurisdiction to act.

Moreover, the Motion attempts to ignore that in addition to being barred by *Roper v. Simmons*, the relief it seeks is unavailable under current state law. See La. C.Cr.P. art. 878.1. Only the legislature has the power to change the law governing juvenile offenders. This Court cannot do so.

Finally, by requesting that the Court deny the Motion, the state unquestionably is trying to manufacture another appeal for the sole purpose of further delaying Defendant the parole

hearing to which he is entitled. Respectfully, the Court should not facilitate the state's cynical effort to further delay the inevitable – the parole hearing that Defendant has earned.

Accordingly, Defendant respectfully requests that the Court strike the Motion from the record.

/s/ John M. Landis

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Attorneys for Dale Dwayne Craig

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served on Zachary Faircloth, Louisiana Department of Justice, P.O. Box 94005, Baton Rouge, LA 70804, by electronic mail on this 13th day of August, 2025.

/s/ John M. Landis

John M. Landis

**STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE
19TH JUDICIAL DISTRICT COURT**

STATE OF LOUISIANA

v.

DALE CRAIG

Docket No. 09-92-0884

Criminal Section 4

Chief Judge Donald R. Johnson

**THE STATE’S REPLY IN SUPPORT OF ITS MOTION TO
REINSTATE DEATH SENTENCE**

The State respectfully files this reply in support of its Motion to Reinstate Death Sentence. As the Court is aware, the State has conceded that its Motion must be denied as foreclosed by *Roper v. Simmons*, 543 U.S. 551 (2005). Remarkably, however, Defendant does not want the Court to deny the Motion, which, if granted, would sentence him to death. His position makes little sense, and his brief arguments are difficult to understand.

First, he says (Resp. 1) that, “[u]nder La. C.Cr.P. art. 916, ... this Court [is] divested of jurisdiction” in light of the State’s pending appeal in the Louisiana Supreme Court regarding Defendant’s sentence to life with the possibility of parole. He is wrong. The divestiture rule in Article 916 is subject to express exceptions, including the trial court’s ability to (a) “[c]orrect an illegal sentence or take other appropriate action pursuant to a properly made or filed motion to reconsider sentence,” and (b) “[r]ender an interlocutory order ... concerning a ministerial matter not in controversy on appeal.” La. C. Cr. P. art. 916(3), (6). The State’s Motion

is a motion to reconsider Defendant's sentence, which this Court plainly may adjudicate under Article 916(3). In addition, the Court's order denying the Motion will be "ministerial" (because the Court is bound to summarily deny it under *Roper*), and the Motion itself does not address the appealability question that currently is "on appeal" to the Louisiana Supreme Court. Thus, the Court has independent authority to issue the order under Article 916(6). Either way, Defendant's invocation of Article 916 does not help him.

Second, Defendant appears to argue (Resp. 1) that, wholly apart from the *Roper* bar, the Court cannot reinstate Defendant's death sentence because "La. C.Cr.P. art. 878.1" somehow bars a death sentence. He is wrong again. Article 878.1 applies only in cases where a prosecutor elects to seek life imprisonment for a juvenile offender; in such cases, Article 878.1 articulates the procedures governing parole eligibility. Article 878.1 does not say a word about death, nor does it displace La. R.S. 14:30, the death-eligible statute under which Defendant was convicted and originally sentenced to death. State law thus does not bar the reinstatement of Defendant's death sentence.

Finally, Defendant worries (Resp. 1-2) that the denial of the State's Motion would "delay[] Defendant the parole hearing to which he is entitled." This is exceedingly difficult to understand. The more time passes before this Court denies the State's Motion, the longer any supposed "delay" will be—for Defendant himself is "delay[ing] the inevitable" (Resp. 2) appeal that the State will take on the *Roper* issue.

He appears to sense that he has backed himself into a corner because his ultimate request is for the Court to “strike the Motion from the record.” Resp. 2. But, as just explained, this Court has no valid basis to do so.

With due respect, Defendant has no serious objection to the State’s Motion. The State recognizes that the Court must deny the Motion, which Defendant remarkably opposes notwithstanding that a denial of reinstating his death sentence is in his best interest. The Court should summarily deny the Motion and put this matter to rest.

Dated: August 13, 2025

Respectfully submitted,

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Counsel for the State of Louisiana

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served this
13th day of August, 2025, via electronic mail, upon all counsel of record.

/s/ Zachary Faircloth
ZACHARY FAIRCLOTH (La #39875)

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

CRIMINAL SECTION 4

DOCKET NO. 9-92-884

STATE OF LOUISIANA

VERSUS

DALE DWAYNE CRAIG

FILED: _____
DEPUTY CLERK

**DEFENDANT'S MOTION TO CANCEL OCTOBER 15 HEARING ON AND TO QUASH
STATE'S MOTION TO REINSTATE DEATH PENALTY**

Defendant, Dale Dwayne Craig, respectfully moves the Court to cancel the October 15, 2025 hearing on and to quash the state's motion to reinstate death penalty. The grounds for this motion are: (1) because the state's motion constitutes an untimely motion for reconsideration of Mr. Craig's sentence, the Court would commit error by even entertaining the motion; and (2) even if the Court could entertain the motion, the Court could not do so while the dismissal of the state's appeal of Mr. Craig's sentence by the Court of Appeal is under review by the Louisiana Supreme Court.

A. PROCEDURAL HISTORY AND POSTURE OF THE CASE

In October 1994, Mr. Craig was convicted of first-degree murder committed when he was a juvenile, and he was sentenced to death. In March 2005, after capital punishment for juvenile offenders was declared to be unconstitutional in *Roper v. Simmons*, 543 U.S. 551 (2005), the Court granted Mr. Craig's unopposed motion to be resentenced to mandatory life without parole in accordance with *Roper*. The state did not seek review of that sentence, and it became final.

In 2012, the United States Supreme Court held in *Miller v. Alabama*, 567 U.S. 460 (2012) that mandatory life without parole sentences for juvenile offenders are unconstitutional. In 2016, the United States Supreme Court held in *Montgomery v. Louisiana*, 577 U.S. 190 (2016) that its ruling in *Miller* applies retroactively, making Mr. Craig's mandatory life without parole sentence unconstitutional.

In response to *Montgomery*, the Louisiana Legislature amended La.C.Cr.P. art. 878.1 to require that juvenile offenders indicted for first or second degree murder prior to August

1, 2017 be sentenced to life with the possibility of parole unless the state filed a notice of intent to seek a sentence of life without the possibility of parole within 90 days after August 1, 2017. On August 30, 2017, the state filed such a notice in this case, thereby necessitating an evidentiary hearing to determine whether Mr. Craig was to be resentenced to life with or without parole. The Court conducted the required evidentiary hearing on December 12, 2022 and March 16, 2023. On June 5, 2023, the Court entered an Amended Sentencing Order revoking Mr. Craig's mandatory life without parole sentence and resentencing him to life with the possibility of parole.

Notably, the state did not file a motion to reconsider Mr. Craig's sentence. Instead, on June 23, 2023, the state filed a motion to appeal the Amended Sentencing Order, which was granted. On November 4, 2024, the First Circuit Court of Appeal granted Mr. Craig's motion to dismiss the appeal, holding that the state could not appeal his sentence under either La. C.Cr.P. art. 881.2 or La. C.Cr.P. art. 912 because the sentence was not illegal in that it conformed to the sentences available under La.C.Cr.P. art. 878.1.¹ In April 2025, the Louisiana Supreme Court granted the state's application for a supervisory writ to review the First Circuit's dismissal of the appeal and scheduled oral argument for August 26, 2025. The Supreme Court held oral argument as scheduled but, as of the filing of this memorandum, the Court has not yet issued a ruling on the merits of the state's writ application.

On August 11, 2025, fifteen days before oral argument in the Louisiana Supreme Court, the state filed its motion in this Court to reinstate the death penalty. On August 13, 2025, Mr. Craig filed a response to the motion, asserting that the Court lacked jurisdiction to consider the state's motion under La. C.Cr.P. art. 916 and requesting that the motion be stricken from the record. On the same day, the state filed a reply in which it confirmed that its motion to reinstate the death penalty was a motion to reconsider Mr. Craig's sentence, which the state contends the Court has jurisdiction to consider under La. C.Cr.P. art. 916(3) and/or (6). Thereafter, the Court ordered that a hearing on the state's motion be held on October 15, 2025.

¹ A copy of the First Circuit's unpublished opinion dismissing the state's appeal is attached to this motion as Exhibit I.

B. ARGUMENT

1. The state's motion to reconsider Mr. Craig's sentence is untimely.

The state conceded in its August 13, 2025 reply that "[t]he State's Motion is a motion to reconsider Defendant's sentence." Under La. C.Cr.P. art. 881.1(A), the state had thirty days, or until July 5, 2023, to make or file a motion to reconsider the sentence imposed by the Amended Sentencing Order. The state did not file its motion until August 11, 2025, over two years too late. Louisiana courts have always strictly enforced the thirty-day deadline for seeking reconsideration of a sentence under La. C.Cr.P. art. 881(A). *See, e.g., State v. Carter*, 2024-322 (La. App. 3 Cir. 3/19/25), 408 So. 3d 523, 528-29; *State v. Crowther*, 2024-625 (La. App. 4 Cir. 1/31/25), 408 So. 3d 277, 287; *State v. Hymel*, 2022-304 (La. App. 5 Cir. 2/27/23), 359 So. 3d 124, 127-28; *State v. Wade*, 53,311 (La. App. 2 Cir. 1/15/20), 289 So. 3d 1158, 1161-62, *writ granted in part and remanded*, 2020-KO-299 (La. 7/31/20), 300 So. 3d 389; *State v. Perkins*, 2008-0078 (La. App. 4 Cir. 6/25/08), 988 So. 2d 793, 800, *writ denied*, 2008-K-1675 (La. 3/4/09), 3 So. 3d 471; *State v. Adams*, 39,792 (La. App. 2 Cir. 6/29/05), 907 So. 2d 844, 846-47, *writ denied*, 2006-KH-259 (La. 8/18/06), 935 So. 2d 136; *State v. Gedric*, 1999-1213 (La. App. 1 Cir. 11/5/99), 741 So. 2d 849, 852, *writ denied*, 99-KH-1830 (La. 11/5/99), 751 So. 2d 239; *State v. Mark*, 1999-508 (La. App. 4 Cir. 3/24/99), 732 So. 2d 110, 113. The state's motion unquestionably is untimely.

The state's attempt to appeal the Amended Sentencing Order did not extend the thirty-day deadline. In *State v. Hymel*, *supra*, the defendant moved for leave to file an out-of-time appeal and also filed a motion for his sentence to be reconsidered. The district court granted the motion for leave to file an out-of-time appeal but denied the motion to reconsider sentence. The court of appeal affirmed the denial of the motion for reconsideration of sentence, holding that the thirty-day deadline under La. C.Cr.P. art. 881.1(A) was not extended by reason of the appeal. 359 So. 3d at 127-28.² *See also State v. Adams*, 907 So. 2d at 846-47 (same).

In this case, the state had the ability to file a timely motion to reconsider sentence but chose to file a motion for appeal instead. It does not get a second bite at the apple under La. C.Cr.P. art 881.1.

² It is notable that the Attorney General represented the state in this case.

2. The Court would commit error by even entertaining the state's untimely motion.

In *State v. Crowther*, *supra*, the Attorney General successfully convinced the court of appeal to vacate new sentences that had been imposed in response to an untimely motion to reconsider the prior sentences. As the Attorney General argued, the court of appeal explained that the district court should not have even entertained the untimely motion:

According to La. C.Cr.P. art. 881(A)(1), a motion to reconsider sentence is untimely if it is filed more than thirty days after sentencing if the sentencing transcript does not reflect that the district court extended the time for filing the motion to reconsider during the defendant's sentencing. A district court has no authority to consider a motion to reconsider sentence that is untimely per La. C.Cr.P. art 881.1. *In fact, a district court errs in simply considering an untimely motion to reconsider sentence, let alone in granting an untimely motion.*

408 So. 3d at 287 (emphasis added, internal citations omitted). *See also*, *State v. Wade*, 289 So. 3d at 1161-61 (holding that "the trial court erred in even considering" an untimely motion under Article 881.1(A)); *State v. Adams*, 907 So. 2d at 847 ("The defendant's failure to file a motion to reconsider within the normal delay precluded the trial court from even considering his motion."); *State v. Wimberly*, 32,984 (La. App. 2 Cir. 7/29/99), 760 So. 2d 355 ("The trial court erred in granting a hearing on an untimely motion to reconsider sentence."); *State v. Gedric*, 741 So. 2d at 852 ("An 'out-of-time' motion to reconsider sentence is not contemplated by the Code of Criminal Procedure nor allowed by the jurisprudence."). Accordingly, this Court would commit error if it entertains the state's motion to reconsider Mr. Craig's sentence.

3. Even if the Court could entertain the motion, it could not do so while this case is still pending in the Louisiana Supreme Court.

In his August 13, 2025 response to the state's motion, Mr. Craig pointed out that this Court was divested of jurisdiction under Article 916 when the Court granted the state's motion to appeal the Amended Sentencing Order. The Court obviously remains divested of jurisdiction while the case is pending in the Louisiana Supreme Court. In its August 13, 2025 reply, the state argued that the Court has authority to consider its motion, even while the case is pending before the Louisiana Supreme Court, under either La. C.Cr.P. art. 916(3) or La. C.Cr.P. art. 916(6). Neither of these provisions, however, authorizes the Court to hear and determine the state's motion when the Court has been divested of jurisdiction under La. C.Cr.P. art. 913.

a. Mr. Craig's sentence is not illegal.

Under Article 916(3), a district court retains jurisdiction to "[c]orrect an illegal sentence or take other appropriate action pursuant to a properly made or filed motion to reconsider sentence." The state's motion for reconsideration obviously was not "properly made or filed" in that it was filed long after the thirty-day deadline under Article 881.1(A). Nor does the state's motion seek to correct an illegal sentence. The state appears to argue that Mr. Craig's current sentence is illegal because the state believes that the United States Supreme Court's ruling in *Roper v. Simmons*, *supra*, should be overturned. The state's desire to change current constitutional law, however, does not make Mr. Craig's current sentence illegal.

Under Article 881.2(B)(1)(a), a sentence is "illegal" only if it is "not in conformity with [the] mandatory requirements of the statute under which the defendant was convicted, or any other applicable mandatory sentence provision." In *State v. Gedric*, the First Circuit explained: "Only those claims relating to the legality of the sentence itself under the then applicable sentencing statutes may be raised in a motion to correct an illegal sentence." 741 So. 2d at 851-52. *See also State v. Parker*, 98-0256 (La. 5/8/98), 711 So. 2d 694, 695 ("Because Parker's filing below did not point to a claimed illegal term in his sentence, he did not raise a claim cognizable in a motion to correct an illegal sentence.").

Moreover, the First Circuit's dismissal of the state's appeal of the Amended Sentencing Order forecloses the state's Article 916(3) argument under the law of the case doctrine.

The law of the case doctrine bars reconsideration of issues that were previously fully litigated. It applies to those who were parties to the case when the former decision was rendered and to issues that were actually presented and decided by the appellate court. The reasoning behind the law of the case doctrine is to avoid relitigation of the same issue, and to promote consistency and fairness to the parties by affording a single opportunity for the argument and decision of the matter at issue.

Meadows v. Adams, 2018-1544 (La. App. 1 Cir. 11/9/20), 316 So. 3d 5, 6 (citations omitted). *See also Day v. Campbell-Grosjean Roofing & Sheet Metal Corp.*, 256 So. 2d 105, 107 (La. 1971). On the appeal of Mr. Craig's sentence, the state argued that the appeal was authorized under La. C.Cr.P. art 881.2 because the sentence was illegal. The First Circuit flatly rejected that argument:

Article 881.2(B) provides the State may appeal or seek review of a sentence if the sentence imposed is not in conformity with the mandatory requirements of the statute under which the defendant was convicted, or any other applicable mandatory

sentence, or was not in conformity with the applicable provisions under the Habitual Offender Law, and if the State objected at the time the sentence was imposed or filed a motion to reconsider sentence under Article 881.2. In other words, under Article 881.2, the State may appeal or seek review of an *illegal* sentence. The State has no right to appeal or seek review under Article 881.2 of the sentence imposed herein because the sentence was not illegal. Rather, the sentence imposed by the trial court's Amended Sentencing Order conforms with the requirements of the statute under which the defendant was sentenced, La. Code Crim. P. art. 878.1.

The sole purpose of the hearing initiated by the State's notice of intent to seek a sentence of life without parole for the defendant was to determine whether the sentence of life imprisonment shall be imposed with or without parole eligibility. La. Code Crim. P. art. 878.1(D). The trial court faithfully executed its function and, in its discretion, imposed a sentence granting the defendant parole eligibility. We find that such was legal under Article 878.1, was not appealable under Article 912, and was neither appealable nor otherwise reviewable under Article 881.2.³

Thus, the issue of the legality of Mr. Craig's sentence already has been litigated and decided in this case. Any attempt by the state to relitigate the issue is barred by the law of the case doctrine.

b. The state's motion is not a ministerial matter.

The state's reliance on Article 916(6) to evade the thirty-day deadline under Article 881.1 is even more misplaced. Under Article 916(6), a district court retains jurisdiction to "[r]ender an interlocutory or a definitive judgment concerning a ministerial matter not in controversy on appeal." In its August 13, 2025 reply, the state contended that its motion is "ministerial" because "the Court is bound to summarily deny it under *Roper*." Irrespective of whether the relief sought by the state's motion for reconsideration would violate *Roper*, that relief – reinstating the death penalty – obviously cannot be deemed to be ministerial. Moreover, the issue of the legality of the sentence is "in controversy on appeal." Accordingly, the Court has no authority under Article 916(6) to consider the motion.

4. The only action the Court properly can take with respect to the state's motion is to quash it.

As already explained, the Court cannot entertain the state's motion without committing error. This situation is analogous to a district court being asked to entertain a criminal prosecution over which it has no jurisdiction. In that instance, the proper action for the court is to quash the indictment. *See State v. Haik*, 248 So. 2d 287 (La. 1971). The Court likewise should quash the state's motion because the Court has no authority even to consider it.

³ Exhibit I at pp. 7-8 (emphasis in original).

C. CONCLUSION

Because the Court would commit error by even considering the state's untimely motion to reconsider Mr. Craig's current sentence, the Court should cancel the hearing on the motion now scheduled for October 15, 2025 and enter an order quashing the motion.

/s/ John M. Landis

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served on Zachary Faircloth, Louisiana Department of Justice, P.O. Box 94005, Baton Rouge, LA 70804, by electronic mail on this 22nd day of September, 2025.

/s/ John M. Landis

John M. Landis

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA
COURT OF APPEAL
FIRST CIRCUIT

2023 KA 1296

STATE OF LOUISIANA

VERSUS

DALE DWAYNE CRAIG

Judgment Rendered: NOV 04 2024

* * * * *

On Appeal from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
No. 9-92-884, Sec. 4

The Honorable Eboni Johnson-Rose, Judge Presiding

* * * * *

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Dale Dwayne Craig

* * * * *

BEFORE: GUIDRY, C.J., PENZATO, AND STROMBERG, JJ.

EXHIBIT

I

STROMBERG, J.

The defendant, Dale Dwayne Craig, was found guilty of first degree murder and sentenced to death in October of 1994. The offense occurred in September of 1992, when the defendant was seventeen years old. **State v. Craig**, 95-2499 (La. 5/20/97), 699 So.2d 865, cert. denied, 522 U.S. 935, 118 S.Ct. 343, 139 L.Ed.2d 266 (1997). His sentence was amended in 2005 to life in prison without the possibility of parole after the United States Supreme Court held the death penalty unconstitutional as applied to individuals such as the defendant who were under the age of eighteen at the time of the offense. **State v. Craig**, 2005-2323 (La. App. 1 Cir. 10/25/06), 944 So.2d 660, writ denied, 2006-2782 (La. 6/29/07), 959 So.2d 518, cert. denied, 552 U.S. 1062, 128 S.Ct. 714, 169 L.Ed.2d 554 (2007); see Roper v. Simmons, 543 U.S. 551, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005).

In 2023, following the United States Supreme Court's decisions in **Miller v. Alabama**, 567 U.S. 460, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012) and **Montgomery v. Louisiana**, 577 U.S. 190, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016), the defendant was resentenced to life in prison with the possibility of parole. The State now appeals, arguing the trial court erred in granting the defendant parole eligibility. For the following reasons, the State's appeal is dismissed.

FACTS

The facts of this case were previously set forth by this court as follows, in pertinent part:

On September 14, 1992, defendant and three accomplices abducted the victim, Kipp Gullet [sic], a freshman at Louisiana State University, at gunpoint from the parking lot of Kirby Smith Dormitory on the Baton Rouge campus of the university. The victim cried and begged for mercy as defendant and his accomplices drove the victim around in his truck. Defendant expressed his decision to kill the victim, but appeared to acquiesce to the suggestions of his accomplices to beat the victim unconscious, rather than kill him. After driving to a secluded construction site, defendant and James Lavigne

marched the victim at gunpoint out to a grassy area. Lavigne used the butt of his gun to strike the victim in the head, causing the victim to fall to the ground. Lavigne then walked away. While the victim lay on the ground in a fetal position, the defendant knelt at his side and fired three bullets into his head, killing him.

Craig, 944 So.2d at 661-62.

PAROLE ELIGIBILITY

On appeal, the State contends the trial court committed legal and factual error by granting the defendant parole eligibility. As a threshold matter, we must first determine whether the State has a right to appeal or otherwise seek review of the trial court's imposition of a statutorily legal sentence.¹

General appellate review is governed by Louisiana Code of Criminal Procedure article 912, which provides that only a final judgment or ruling is appealable. La. Code Crim. P. art. 912(A). Adverse judgments or rulings from which the State may appeal include, but are not limited to, judgments or rulings on a motion to quash an indictment, a plea of time limitation, a plea of double jeopardy, a motion in arrest of judgment, a motion to change venue, and a motion to recuse. La. Code Crim. P. art. 912(B)(1)-(B)(6). The judgments or rulings from which the defendant may appeal include a judgment which imposes a sentence. La. Code Crim. P. art. 912(C)(1).

Appellate and supervisory review of sentences are governed by Louisiana Code of Criminal Procedure article 881.2, which provides the defendant may appeal or seek review of a sentence based on any ground asserted in a motion to reconsider sentence. La. Code Crim. P. art. 881.2(A)(1). The State may appeal or seek review of a sentence if the sentence was not in conformity with the mandatory requirements of the statute under which the defendant was convicted, and the State

¹ We note the defendant filed a motion to dismiss appeal in this matter, which will be discussed *infra*.

objected at the time the sentence was imposed. La. Code Crim. P. art. 881.2(B)(1)(a) & (B)(2).

As a fundamental rule of statutory construction, the more specific statute controls over a broader, more general statute. When two statutes deal with the same subject matter, if there is a conflict, the statute specifically directed to the matter at issue must prevail as an exception to the statute more general in character. **Regions Bank v. Eymard**, 2021-0926 (La. App. 1 Cir. 5/23/22), 342 So.3d 908, 924, writ denied, 2022-00977 (La. 10/18/22), 348 So.3d 731.

The State contends that because the trial court's imposition of sentence was a final judgment, the judgment is appealable under Article 912(A). Moreover, the State contends the grounds upon which the State can appeal under Article 912(B) are not exhaustive, and thus the trial court's ruling is appealable pursuant to Article 912. The defendant argues Article 881.2 is controlling, as it specifically addresses appellate review of sentences, and the State may only appeal or seek review of a sentence which does not conform with mandatory sentencing requirements. Thus, he contends the State is precluded from appealing the ruling under Article 912 because Article 912(B) does not permit the State to appeal the imposition of a sentence. Moreover, the defendant contends the State is precluded from appealing or seeking review of the judgment under Article 881.2 because the sentence is in conformity with the applicable sentencing provisions.

As indicated in both Article 912 and Article 881.2, the grounds upon which the State may file an appeal or seek review are significantly limited as compared to the grounds upon which the defendant may do the same. While a defendant may appeal any judgment which imposes a sentence, a State may appeal a trial court's adverse ruling only in a delineated set of circumstances. See La. Code Crim. P. art. 912(B) & (C). Moreover, while a defendant may appeal or seek review of a

sentence based on any grounds upon which he objected in the trial court, the State is limited to appeal or review of those sentences which do not conform to the governing statute under which a defendant was sentenced. See La. Code Crim. P. art. 881.2(A) & (B).

When the defendant was initially convicted of first degree murder and sentenced to death in 1994, Louisiana law permitted imposition of the death penalty for juvenile offenders guilty of first degree murder. However, capital punishment for juvenile offenders was later ruled unconstitutional in **Roper** and the defendant was sentenced to a mandatory term of life imprisonment without the possibility of parole. **Roper**, 543 U.S. at 578, 125 S.Ct. at 1200. In 2012, the United States Supreme Court held in **Miller** the Eighth Amendment's prohibition against cruel and unusual punishment forbids a sentencing scheme which mandates life in prison without the possibility of parole for juvenile offenders who were under the age of eighteen at the time of the offense. **Miller**, 567 U.S. at 470, 132 S.Ct. at 2464. Thereafter, in 2016, the United States Supreme Court determined that **Miller** announced a substantive right of constitutional law which applied retroactively to juvenile offenders. **Montgomery**, 577 U.S. at 212, 136 S.Ct. at 736.

In accordance therewith, the Louisiana legislature specifically amended the Louisiana Code of Criminal Procedure and the Louisiana Revised Statutes to codify **Miller's** holding, as follows:

- (1)[A]ny person serving a sentence of life imprisonment for a conviction of . . . second degree murder . . . who was under the age of eighteen years at the time of the commission of the offense and whose indictment for the offense was prior to August 1, 2017, shall be eligible for parole consideration . . . if a judicial determination has been made that the person is entitled to parole eligibility pursuant to Code of Criminal Procedure Article 878.1(B) and . . .
 - (a) The offender has served twenty-five years of the sentence imposed.

La. R.S. 15:574.4(G).

For such an offender, the district attorney may choose to file a notice of intent to seek a sentence of life imprisonment without the possibility of parole, at which point a hearing shall be conducted to determine whether the sentence shall be imposed with or without parole eligibility. La. Code Crim. P. art. 878.1(B)(1). The sole purpose of the hearing is to determine whether the sentence shall be imposed with or without parole eligibility. La. Code Crim. P. art. 878.1(D).

Herein, the State filed a notice of intent to seek a sentence of life imprisonment without possibility of parole pursuant to La. Code Crim. P. art. 878.1(B)(1) and requested a hearing to determine whether the sentence should be imposed with or without parole eligibility. Thus, the legality of the defendant's sentence of life imprisonment with the possibility of parole is governed by Article 878.1, which unambiguously permits imposition of such a sentence. We find the State's argument on appeal is a challenge to the trial court's imposition of a statutorily legal sentence.

As to whether such a ruling is appealable under Article 912, we find it is not. While we agree with the State that the trial court's ruling was a final judgment, a judgment's finality is not dispositive of its appealability. Indeed, the very next provision goes on to limit the final judgments upon which the State may seek appellate review. While the State argues the legislature could not possibly have conceived of a situation such as that posed by the present case when drafting the list of judgments appealable by the State, the judgment the State seeks to overturn herein is, in essence, a legal, discretionary sentence which the State believes is too lenient. Given that many criminal sentencing provisions drafted prior to the enactment of Article 878.1 require the trial court to exercise its discretion and

impose a sentence somewhere within the statutorily proscribed range of legal sentences, we find this argument unpersuasive.

Moreover, Article 912(C) specifically provides a defendant may appeal a judgment which imposes a sentence. Article 912(B) makes no such allowance for the State, and instead significantly limits the rulings from which it may seek an appeal. Had the legislature intended to allow both the defendant and the State to appeal a judgment which imposes a sentence, it could have drafted such a provision. Instead, the legislature opted to create a very narrow set of circumstances under which the State could appeal, and a very broad set of circumstances under which a defendant could appeal. We choose to take the legislature at their word rather than read into a statute a right which does not otherwise exist. Thus, while the trial court's ruling was a final judgment, it is not a judgment from which the State can appeal under Article 912(B). See State v. Holmes, 504 So.2d 589 (La. App. 4 Cir. 1987), writ denied, 506 So.2d 1223, over'd on other grounds by State v. Dean, 588 So.2d 708 (La. App. 4 Cir. 1991), writ denied, 595 So.2d 652 (La. 1992) (finding only a defendant could appeal a judgment which imposes a sentence under Article 912, whereas both the State and the defendant could seek review of an allegedly illegal sentence).

We now turn to whether the trial court's imposition of a legal sentence is appealable under Article 881.2 and note this article specifically addresses appellate review of sentences, whereas Article 912 addresses appeals generally. Thus, under the rules of statutory construction and in the event of a conflict, Article 881.2 controls. See Regions Bank, 342 So.3d at 924. Article 881.2(B) provides the State may appeal or seek review of a sentence if the sentence imposed is not in conformity with the mandatory requirements of the statute under which the defendant was convicted, or any other applicable mandatory sentence, or was not

in conformity with the applicable enhancement provisions under the Habitual Offender Law, and if the State objected at the time the sentence was imposed or made or filed a motion to reconsider sentence under Article 881.2. In other words, under Article 881.2, the State may appeal or seek review of an *illegal* sentence. The State has no right to appeal or seek review under Article 881.2 of the sentence imposed herein because the sentence was not illegal.² Rather, the sentence imposed by the trial court's Amended Sentencing Order conforms with the requirements of the statute under which the defendant was sentenced, La. Code Crim. P. art. 878.1.

The sole purpose of the hearing initiated by the State's notice of intent to seek a sentence of life without parole for the defendant was to determine whether the sentence of life imprisonment shall be imposed with or without parole eligibility. La. Code Crim. P. art. 878.1(D). The trial court faithfully executed its function and, in its discretion, imposed a sentence granting the defendant parole eligibility. We find that such was legal under Article 878.1, was not appealable under Article 912, and was neither appealable nor otherwise reviewable under Article 881.2. See State v. Bernard, 94-928 (La. App. 3 Cir. 2/1/95), 649 So.2d 1145 (finding the State was not authorized to appeal the sentence based on the trial court's failure to consider sentencing guidelines where the sentence was not illegal); cf. State v. Sugasti, 2001-770 (La. App. 5 Cir. 11/27/01), 802 So.2d 943, aff'd 2001-3407 (La. 6/21/02), 820 So.2d 518 (finding the State was authorized to appeal the judgment imposing the sentence where the sentence did not conform to the requirements of the statute under which the defendant was convicted).

² We note that La. Code Crim. P. art. 881.2 became effective January 31, 1992, long before the United States Supreme Court's decisions in **Miller** and **Montgomery** and the legislature's amendments addressing same. Article 881.2 does not address the hearing to determine parole eligibility provided for in La. Code Crim. P. art. 878.1, and any change to the current statutory scheme is the province of the legislature.

We therefore grant the defendant's motion to dismiss the appeal and order the State's appeal in this matter be dismissed.

**DEFENDANT'S MOTION TO DISMISS APPEAL GRANTED,
APPEAL DISMISSED.**

STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE
19TH JUDICIAL DISTRICT COURT

STATE OF LOUISIANA

v.

DALE CRAIG

Docket No. 09-92-0884
Criminal Section 4

Chief Judge Donald R. Johnson

**THE STATE’S NOTICE OF INTENT TO SEEK
SUPERVISORY WRIT OF THE OCTOBER 24, 2025 JUDGMENT**

Under Uniform Rule of Louisiana Courts of Appeal 4-2, the State of Louisiana respectfully notify this Court and Dale Craig of the State’s intent to apply for supervisory writs from the judgment issued October 24, 2025. In connection with the writ application, the State respectfully requests a return date of November 23, 2025. *See* La. Unif. R. Ct. of App. 4-3.



Dated: October 27, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served this
27th day of October, 2025, via electronic mail, upon all counsel of record.

/s/ Zachary Faircloth
ZACHARY FAIRCLOTH (LA 39875)



STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE
19TH JUDICIAL DISTRICT COURT

STATE OF LOUISIANA,

v.

DALE CRAIG,

Docket No. 09-92-0884
Criminal Section 4

Chief Judge Donald R. Johnson

[PROPOSED] ORDER

Considering the foregoing Notice of Intent to Seek Supervisory Writ of the October 24, 2025, Judgment,

IT IS ORDERED that the State’s request for return date is **GRANTED**. The State has until November 23, 2025, to apply for supervisory writs from this Court’s judgment issued on October 24, 2025.

So ordered. Baton Rouge, Louisiana, this **27** day of October, 2025.



HONORABLE DONALD R. JOHNSON
CRIMINAL SECTION 4
19TH JUDICIAL DISTRICT COURT

Please notify the parties

