

IN THE SUPREME COURT OF IOWA

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MICHAEL T. GOODWIN, JR., )  
 )  
Plaintiff, )  
 )  
v. ) SUPREME COURT 18-0737  
 )  
IOWA DISTRICT COURT FOR )  
DAVIS COUNTY, )  
 )  
Defendant. )

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CERTIORARI TO THE IOWA DISTRICT COURT  
FOR DAVIS COUNTY,  
HONORABLE JOEL D. YATES, JUDGE

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PLAINTIFF'S REPLY BRIEF AND ARGUMENT

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FINAL

**CERTIFICATE OF SERVICE**

On the 10<sup>th</sup> day of May, 2019, the undersigned certifies that a true copy of the foregoing instrument was served upon Plaintiff by placing one copy thereof in the United States mail, proper postage attached, addressed to Michael Goodwin, Jr., #6277543, Iowa State Penitentiary, 2111 330th Avenue, PO Box 316, Fort Madison, IA 52627.

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## TABLE OF CONTENTS

	<u>Page</u>
Certificate of Service.....	2
Table of Authorities.....	4
Statement of the Issue Presented for Review.....	5
Statement of the Case .....	6
Argument	
Goodwin’s claims fit squarely within a motion to correct an illegal sentence .....	6
Conclusion.....	10
Attorney's Cost Certificate .....	11
Certificate of Compliance .....	11

**TABLE OF AUTHORITIES**

<u>Cases:</u>	<u>Page:</u>
Jefferson v. District Court for Scott Cty., No. 16-1544, 2019 WL 1574664 (Iowa April 12, 2019).....	10
Montgomery v. Louisiana, 136 S.Ct. 718 (2016) .....	6, 8
State v. Null, 836 N.W.2d 41 (Iowa 2013) .....	9
State v. Roby, 897 N.W.2d 127 (Iowa 2017) .....	6, 8
State v. Sailer, 587 N.W.2d 756 (Iowa 1998) .....	7
State v. Zarate, 908 N.W.2d 831 (Iowa 2018) .....	8
<u>Statutes and Court Rules:</u>	
Iowa Code § 915.21(3) (2017) .....	7
Iowa R. Crim. P. 2.28(1) .....	10

**STATEMENT OF THE ISSUE PRESENTED FOR REVIEW**

**WHETHER GOODWIN'S CLAIMS FIT SQUARELY  
WITHIN A MOTION TO CORRECT AN ILLEGAL SENTENCE?**

**Authorities**

State v. Roby, 897 N.W.2d 127, 143 (Iowa 2017)

Montgomery v. Louisiana, 136 S.Ct. 718, 734 (2016)

State v. Sailer, 587 N.W.2d 756, 760-761 (Iowa 1998)

Iowa Code § 915.21(3) (2017)

State v. Zarate, 908 N.W.2d 831, 856 (Iowa 2018)

State v. Null, 836 N.W.2d 41, 74 (Iowa 2013)

Jefferson v. District Court for Scott Cty., No. 16-1544, 2019  
WL 1574664, at \*4 (Iowa April 12, 2019)

Iowa R. Crim. P. 2.28(1)

## **STATEMENT OF THE CASE**

COMES NOW the plaintiff, pursuant to Iowa R. App. P. 6.903(4), and hereby submits the following argument in reply to the defendant's brief.

## **ARGUMENT**

### **GOODWIN'S CLAIMS FIT SQUARELY WITHIN A MOTION TO CORRECT AN ILLEGAL SENTENCE.**

"The linchpin of the constitutional protection provided to juveniles is individualized sentencing." State v. Roby, 897 N.W.2d 127, 143 (Iowa 2017). This Court has "on numerous occasions discussed the nature of this sentencing and the role of the court in imposing the sentence." Id. Article I, section 17 requires not only an individualized sentencing hearing, but also an individualized sentence.

Miller v. Alabama announced a substantive rule of constitutional law. Montgomery v. Louisiana, 136 S.Ct. 718, 734 (2016). "Substantive rules include "rules forbidding criminal punishment of certain primary conduct," as well as "rules prohibiting a certain category of punishment for a class

of defendants because of their status or offense.” ” Id. at 728

(other citation omitted). The Montgomery Court stated:

To be sure, *Miller*'s holding has a procedural component. *Miller* requires a sentencer to consider a juvenile offender's youth and attendant characteristics before determining that life without parole is a proportionate sentence. Louisiana contends that because *Miller* requires this process, it must have set forth a procedural rule. This argument, however, conflates a procedural requirement necessary to implement a substantive guarantee with a rule that "regulate[s] only the manner of determining the defendant's culpability." There are instances in which a substantive change in the law must be attended by a procedure that enables a prisoner to show that he falls within the category of persons whom the law may no longer punish.

Id. at 734-735 (other citations omitted).

In the present case, the district court heard evidence which addressed the propriety of a mandatory minimum sentence. (Sent. Tr. p. 6L11-p. 24L7, p. 29L4-p. 53L14).<sup>1</sup>

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<sup>1</sup> The victim impact statement made by Goodwin's aunt was not evidence. (Sent. Tr. p. 24L14-p. 28L5). The purpose of the Chapter 915, to provide victim rights, is at odds with an evidentiary hearing which is to provide a defendant due process. State v. Sailer, 587 N.W.2d 756, 760-761 (Iowa 1998)(The legislative purpose of Chapter 915 is for the fair and compassionate treatment of victims of crime.). The victim is not placed under oath and is not subject to cross-examination. Iowa Code § 915.21(3) (2017).

However, the use of an evidentiary hearing process does not necessarily result in a constitutionally required individualized sentence to which Goodwin is entitled. State v. Zarate, 908 N.W.2d 831, 856 (Iowa 2018)(“Consequently, the sentencing judge failed to appropriately consider the relevant sentencing factors when he resentenced Zarate. As such, the sentencing judge did not provide Zarate with the constitutionally required individualized sentencing process that he is entitled to receive.”); Montgomery v. Louisiana, 136 S.Ct. at 730 (“Nor could the use of flawless sentencing procedures legitimate a punishment where the Constitution immunizes the defendant from the sentence imposed.”). “The hearing does not replace but rather gives effect to *Miller’s* substantive holding that life without parole is an excessive sentence for children whose crimes reflect transient immaturity.” Id. at 735. The same is true for the substantive holdings of *Null-Lyle- Roby* that a restriction on parole eligibility is “an uncommon result.” State v. Roby, 897 N.W.2d at 147.

The purpose of the hearing is to facilitate the imposition of a constitutional sentence for a juvenile offender. The hearing process is not a substitute for an appropriate individualized assessment for the imposition of a constitutional sentence. The lack of any findings specifically tailored to the imposed sentence results in the same constitutional error as a lack of an evidentiary hearing regarding mitigation.

This Court has held under the state constitution the Miller factors must be recognized and applied in making sentencing decision which restricts parole eligibility. State v. Null, 836 N.W.2d 41, 74 (Iowa 2013). The Null Court cited to cases from other jurisdictions in support of the requirement for in-depth on-the-record findings why the juvenile offender deserves a restriction on his parole eligibility. Id. “In making such findings, the district court must go beyond a mere recitation of the nature of the crime.” Id. The court also must not merely recite other appropriate factors. In order to have a constitutional sentence for a juvenile offender, the

district court must conduct an evidentiary hearing, recognize (*consider*) and apply (*weigh*) the *Null-Lyle-Roby* factors, and then articulate on-the-record findings to support the uncommon sentence which restricts parole eligibility.

### **CONCLUSION**

Michael Goodwin, Jr. respectfully requests this Court vacate the twenty-year minimum sentence and remand to the district court for entry of an amended sentence order.

Alternatively, Goodwin respectfully requests this Court vacate his sentence and remand to the district court for resentencing.

If this Court determines the original sentence should remain in effect on this record, Goodwin respectfully request this Court remand to the district court for appointment of counsel and a hearing on his motion to correct an illegal sentence. Jefferson

v. District Court for Scott Cty., No. 16-1544, 2019 WL

1574664, at \*4 (Iowa April 12, 2019)(Under Iowa R. Crim. P.

2.28(1), right to counsel for motion to correct illegal sentence).

**ATTORNEY'S COST CERTIFICATE**

The undersigned, hereby certifies that the true cost of producing the necessary copies of the foregoing Brief and Argument was \$ 1.21, and that amount has been paid in full by the Office of the Appellate Defender.

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS, TYPEFACE REQUIREMENTS AND TYPE-STYLE REQUIREMENTS**

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) because:

[X] this brief has been prepared in a proportionally spaced typeface Bookman Old Style, font 14 point and contains 856 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

  
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