

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

<b>COMMONWEALTH OF PENNSYLVANIA</b>	:	<b>CP-41-CR-0002025-2005</b>
<b>Appellee</b>	:	<b>2048 MDA 2016</b>
	:	
<b>v.</b>	:	
	:	
<b>JONATHAN MITCHELL,</b>	:	
<b>Appellant</b>	:	<b>Pa.R.A.P. 1925(a) OPINION</b>

**OPINION**

This Opinion is written in support of the Court’s Order filed in case CR-2025-2005 on November 10, 2016, finally dismissing Defendant’s Petition for Post Conviction Relief. For the purpose of this Opinion, the Court will rely on the Opinion and Order filed on October 3, 2016, explaining the proposed dismissal. The Court notes that the Court’s final dismissal was sent to SCI Huntingdon, the Court having not been made aware that Defendant had been moved to SCI Fayette on October 17, 2017. The Court’s final dismissal was not postmarked to Defendant until December 1, 2016, and as such his Notice of Appeal filed December 19, 2016, is within the within 30 days of his receipt of the Order.

In addition to the Court’s opinion of October 3, 2016, the Court adds that the offense date for the criminal homicide that underlies the above captioned matter was May 24, 2005. Defendant was 22 years old on the offense date, and thus not a child as defined by 42 Pa. C.S. Section 4302 (juvenile matters; definitions). Thus, Miller v. Alabama, 132 S. Ct. 2455 (2012) (holding that mandatory lifetime incarceration for juveniles is cruel and unusual punishment) and Montgomery v.

Louisiana, 136 S. Ct. 718 (2015) (making Miller retroactive), do not apply to Defendant's case.

DATE: \_\_\_\_\_

BY THE COURT,

\_\_\_\_\_  
Nancy L. Butts, P.J.

cc: Jonathan R. Mitchell [HB-3072]  
SCI Fayette  
P.O. Box 9999  
LaBelle, PA 15450-1050 DA  
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DA