



**(HC) Bunn v. Lopez et al**

2016 | Cited 0 times | E.D. California | January 28, 2016

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

REGINALD THOMAS BUNN, JR.,

Petitioner, v. RAUL LOPEZ,

Respondent.

No. 2:11-cv-1373 MCE CKD P (TEMP)

Petitioner is a state prisoner proceeding through counsel with a petition for a writ of habeas corpus under 28 U.S.C. § 2254. life without parole plus 25 years-to-life constitutes cruel and unusual punishment under the Eighth Amendment in light of the fact that he was a juvenile when the crime was committed. On January 25, 2016, the United States Supreme Court held in *Montgomery v. Louisiana*, No. 14- 280, 2016 WL 280758 (USSC Jan. 25, 2016) that its decision in *Miller v. Alabama*, \_\_\_ U.S. \_\_\_, 132 S. Ct. 2455 (2012), prohibiting mandatory life sentences without parole for juvenile offenders, is retroactive on state collateral review. In addition, the California Supreme Court has recently issued an opinion addressing the interplay between its sentencing scheme for juveniles and the Eighth Amendment proscription against cruel and unusual punishment. See e.g., *People v. Gutierrez*, 58 Cal.4th 1354 (2014). In light of these recent decisions, and good cause appearing, IT IS ORDERED that: 1. Within thirty days from the date of this order, petitioner shall file a supplemental brief addressing his claim that his sentence constitutes cruel and unusual punishment under the Eighth Amendment.

Dated: January 28, 2016

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MAGISTRATE JUDGE CAROLYN K. DELANEY UNITED STATES

