

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 12-3941

KEMPIS P. SONGSTER

v.

SECRETARY PENNSYLVANIA DEPARTMENT OF CORRECTIONS;
DAVID DIGUGLIELMO; THE DISTRICT ATTORNEY PHILADELPHIA;
THE ATTORNEY GENERAL OF THE STATE OF PENNSYLVANIA,

Appellants

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(No. 2-04-cv-05916)
District Judge: Hon. Timothy J. Savage

Submitted Pursuant to Third Circuit LAR 34.1(a)
March 8, 2016

Before: CHAGARES, VANASKIE, and SHWARTZ, Circuit Judges.

JUDGMENT ORDER

This cause came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on March 8, 2016.

While on appeal, the United States Supreme Court decided Montgomery v. Louisiana, 577 U.S. ____ (2016). Appellee now seeks remand and represents to the Court

that Appellants are in agreement that remand is appropriate. We hold that the District Court should have the opportunity to consider the implications of Montgomery in the first instance. For that reason, it is now hereby ORDERED and ADJUDGED by this Court that the District Court's order dated September 6, 2012 is VACATED and REMANDED for proceedings not inconsistent with Montgomery.

BY THE COURT:

s/ Michael A. Chagares
Circuit Judge

ATTEST:

s/Marcia M. Waldron
Clerk

Dated: March 15, 2016

OFFICE OF THE CLERK

MARCIA M. WALDRON

CLERK



UNITED STATES COURT OF APPEALS

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March 15, 2016

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Honorable Timothy J. Savage
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James A. Byrne United States Courthouse
601 Market Street
Room 9614
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RE: Kempis Songster v. Secretary PA Dept Corrections, et al
Case Number: 12-3941
District Case Number: 2-04-cv-05916

ENTRY OF JUDGMENT

Today, **March 15, 2016** the Court issued a case dispositive order in the above-captioned matter which serves as this Court's judgment. Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment

45 days after entry of judgment in a civil case if the United States is a party

Page Limits:

15 pages

Attachments:

A copy of the panel's dispositive order only. No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. If separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to a combined 15 page limit. If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,



Marcia M. Waldron, Clerk

By: 

Timothy McIntyre, Case Manager
267-299-4953