

FILED

July 25, 2005

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 00-10784

THOMAS JOE MILLER-EL,

Petitioner-Appellant,

VERSUS

DOUG DRETKE, Director, Texas Department of Criminal Justice,
Correctional Institutions Division

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
(96-CV-1992)

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before DAVIS, JONES, and DeMOSS, Circuit Judges.

PER CURIAM*:

Pursuant to the mandate of the Supreme Court of the United States, see *Miller-El v. Dretke*, ___ U.S. ___, 125 S. Ct. 2317 (Jun. 13, 2005), the above styled and numbered petition is remanded to the district court with instructions that an order be entered:

*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

(1) granting the petition for writ of habeas corpus; (2) setting aside Petitioner's conviction and sentence for capital murder; (3) ordering the release of Petitioner from custody unless the State grants Petitioner a new trial within 120 days from the date of the entry of the district court's order; and (4) entering final judgment for Petitioner.

REMANDED WITH INSTRUCTIONS.