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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court."  
Although it is posted on the internet, this opinion is binding only on the  
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-2225-15T4  
A-5597-15T4

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

LUIS TORRES,

Defendant-Appellant.

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Submitted February 13, 2018 – Decided February 27, 2018

Before Judges Fisher and Fasciale.

On appeal from Superior Court of New Jersey,  
Law Division, Hudson County, Indictment No.  
92-03-0369.

Luis A. Torres, appellant pro se.

Esther Suarez, Hudson County Prosecutor,  
attorney for respondent (Erin M. Campbell,  
Assistant Prosecutor, on the brief).

PER CURIAM

Defendant was charged as a juvenile offender for committing  
an armed robbery and murder at a jewelry store in Union City in  
1991 when he was sixteen years old. On the State's motion, juvenile

jurisdiction was waived, and defendant and a cohort were indicted in 1992 and charged with knowing or purposeful murder, felony murder, armed robbery, possession of a handgun for an unlawful purpose, and possession of a handgun without a permit. Defendant was convicted on all counts at the conclusion of a jury trial. In 1993, the trial judge imposed a term of life imprisonment with a thirty-year period of parole ineligibility, as well as other concurrent terms. Defendant unsuccessfully appealed, State v. Torres, 313 N.J. Super. 129 (App. Div. 1998), and has twice unsuccessfully sought post-conviction relief.

In 2015, defendant moved in the trial court to correct what he claims was an unlawful sentence. He argued that the imposition of a term of life imprisonment subject to a thirty-year period of parole ineligibility was made constitutionally impermissible by Miller v. Alabama, 567 U.S. 460 (2012). In Docket No. A-2225-15, defendant appeals the judge's denial of that motion, reprising for us his contention that the sentence violates Miller.

Defendant separately moved in the trial court for a change of his sentence to apply commutation and work credits earned during the twenty-five years he has served of his life sentence; he claims the judgment should be modified so that he may earn those credits that, because he "does not ha[ve] a specific numerical term between [thirty] years and what constitutes 'life,' numerically," are not

currently being applied to his sentence. In Docket No. A-5597-15, defendant argues that the judge erred in denying this motion.

We consolidate both defendants' appeals for purposes of disposing of them in a single opinion. As to the first, we agree with the motion judge that Miller, 567 U.S. at 479, which held that "the Eighth Amendment forbids a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders," was not implicated here. In considering the reach of Miller and other related decisions, our Supreme Court recognized in the two underlying cases it considered in State v. Zuber, 227 N.J. 422, 448 (2017), that the imposition on juvenile offenders of minimum terms of fifty-five years, in one case, and more than sixty-eight years in the other – while not "officially 'life without parole'" – "trigger[s] the protections of Miller" under both the federal and state constitutions. The sentence imposed here – with a parole ineligibility period that will be completed when defendant is less than fifty years old – pales by comparison and does not suggest a violation of these constitutional principles. We, thus, affirm the order denying the motion to correct the sentence challenged in A-2225-15.

We also reject defendant's appeal in A-5597-15. The Legislature clearly and unambiguously declared that "commutation and work credits shall not in any way reduce any judicial or

statutory mandatory minimum term and such credits accrued shall only be awarded subsequent to the expiration of the term." N.J.S.A. 30:4-123.51(a). Accordingly, defendant's argument, which in essence seeks application of those credits to the parole ineligibility period, is without sufficient merit to warrant further discussion in a written opinion. R. 2:11-3(e)(2).

The orders in both appeals are affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.



CLERK OF THE APPELLATE DIVISION