

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	Nos. ED96851 & ED96832
Plaintiff/Respondent,)	Appeal from the Circuit Court
v.)	of the City of St. Louis
LEDALE NATHAN,)	Honorable Robert H. Dierker, Jr.
Defendant/Appellant.)	Date: November 20, 2012

Defendant, who was 16 years old at the time of the offense, appeals from a judgment rendered upon a jury verdict finding him guilty of first-degree murder, in violation of section 565.020 RSMo (2000), and other offenses. He was sentenced to life in prison without probation or parole on the first-degree murder count. In one of his points on appeal, he challenges the constitutionality of section 565.020 as it applies to him and juveniles under 18. He has filed a motion to transfer.

TRANSFERRED TO MISSOURI SUPREME COURT.

Division Two Holds:

1. Defendant properly raised and preserved his constitutional challenges for appellate review.
2. Defendant's constitutional challenge is real and not merely colorable. Section 565.020 mandates a sentence of life without parole. In *Miller v. Alabama*, 132 S.Ct. 2455, 2469 (2012), the United States Supreme Court held that the Eighth Amendment forbids such a mandatory sentencing scheme for juvenile offenders.

Opinion by: Kathianne Knaup Crane, P.J.
Mary K. Hoff, J. and Lisa Van Amburg, J., concur.

Attorneys for Respondent: Chris Koster and Joseph E. Buchheim

Attorney for Appellant: Jessica Hathaway

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