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2016 Decisions

Opinions of the United  
States Court of Appeals  
for the Third Circuit

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3-15-2016

## Kempis Songster v. Secretary PA Dept Corrections

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 12-3941

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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.

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JUDGMENT ORDER

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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