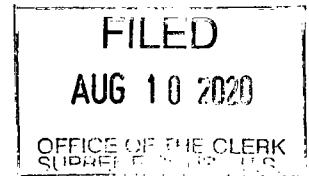


20-5363

No.:



In the
Supreme Court of the United States

REGINALD JONES

Petitioner,

v.

STATE OF LOUISIANA

Respondent.

**Petition for A Writ of Certiorari
to the Louisiana Supreme Court**

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Jackson, LA 70748-0788

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**Providing Pro Bono Guidance to Inmate On WRIT*

ORIGINAL

Question Presented

In light of this court's recent decision in Ramos v. Louisiana, 140 S.Ct. 1390 (2020), finding non-unanimous jury verdicts in serious criminal cases unconstitutional, is Petitioner entitled to be released from prison when the State Prosecutor failed to prove he was "Guilty" of two felonies¹ by a unanimous jury verdict due to the State's failure to show defendant ever used a firearm as defined by Louisiana Statute?

¹ Actually, defendant was charged with three felonies due to the third being inextricably connected to the previous two, i.e., obstruction of justice based on the 10-2 verdicts on the first two felonies charged.

LIST OF PARTIES

Petitioner is an inmate in a Louisiana Prison in Jackson, Louisiana.

The Respondent is the State of Louisiana.

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Fourth Circuit, State of Louisiana

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Writ of Certiorari Before the

Louisiana Supreme Court,

Referencing the 10-2 Jury

Verdict's Support of His

Innocence [footnote #1]²

² This was 100% consistent with Petitioner's "Specification of Errors" #1, in his Brief to the Court of Appeal, Fourth Circuit, State of Louisiana, about the Trial Court making an error in denying his "Motion for Post-Verdict Judgment of Acquittal, which referenced in its "Constitutional Analysis" that convicting him violated Due Process (meaning specifically and generally).

TABLE OF AUTHORITIES

Ramos v. Louisiana, 140 S.Ct. 1390 (2020)

Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781,

61 K./ed,2d 560 (1979)

Mullaney v. Wilbur, 421 U.S. 684, 95 S.Ct. 1881, 44

L.Ed.2d 508 (1975)

Ivan V. v. City of New York, 407 U.S. 203, 92 S.Ct.

1951, 32 L.Ed.2 659 (1972)

Lego v. Twomey, 404 U.S. 477, 92 S.Ct. 619, 30 L.Ed.2d

618 (1972)

In re Winship, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d

368 (1970)

OPINION BELOW

The [1] Opinion of the Court of Appeal, Fourth Circuit, State of Louisiana and [2] Denial of Petitioner's Writ by the Louisiana Supreme Court have not been published. Presently, they are cited as

STATE OF LOUISIANA VERSES REGINALD JONES, NO. 2018-KA-0973

STATE OF LOUISIANA V. REGINALD JONES, Supreme Court of

Louisiana, 3/16/20, No. 2019-K-00533

STATEMENT OF JURISDICTION

The Louisiana Supreme Court is the highest court in the State of Louisiana. Its March 16, 2020 denial of Petitioner's Application for a Writ of Certiorari upheld the lower courts' support of Petitioner "Guilty" Verdict. Hence, the basis of jurisdiction is 28 U.S.C. Sec. 1257.

CONSTITUTIONAL PROVISIONS INVOLVED

The following Amendments to the United States Constitution are applicable herein (in pertinent part): Fifth ("nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; . . . nor be deprived of life, liberty, or property, without due process of law..."), Sixth ("In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury..."), and Fourteenth ("All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state

where they reside. No state shall make or enforce any law which shall . . . deprive any person of life, liberty, or property, without due process of law;").

Article I, Section 17 of the Louisiana Constitution, which permits non-unanimous jury verdicts is also applicable herein. It states in pertinent part as follows, "A case in which the punishment is necessarily confinement at hard labor shall be tried before a jury of twelve persons, ten of whom must concur to render a verdict."

STATEMENT OF THE CASE

On November 9, 2017, the State and Defense stipulated that there was NO Probable Cause in the case (the criminal court found likewise). Nonetheless, defendant was offered a plea on the day before his Trial. After the public defender urged him to accept the plea one day before Trial, he did. However, he requested that the Criminal District Court permit him to withdraw his plea due to the poor preparation of his counsel. On March 15, 2018, a hearing was conducted

and the court found the public defender unprepared for Trial and granted defendant's request. In response, the State aggressively tried the defendant, and he was found "Guilty" by a non-unanimous jury (10 to 2) of three crimes/felonies, namely, Aggravated Assault With A Firearm (La. R.S. 14:37.4), Possession of a Firearm or Concealed Weapon by a Felon (La. R.S. 14:95.1), and Obstruction of Justice (La. R.S. 14:130.1). Defendant filed a Motion for Post-Verdict Judgment of Acquittal" on April 24, 2018 (citing a violation of Due Process in its "Constitutional Analysis" section), and it was Denied. Defendant was sentenced to 10 years imprisonment on May 4, 2018. Five days later, defendant filed a Motion for Appeal, which was not signed within the law-mandated 72 hours. The State proceeded with a Habitual Offender (La. R.S. 15:529.1) Hearing on August 2, 2018, and defendant was convicted and sentenced to 20 years imprisonment. The Court signed defendant's Motion for Appeal on August 6, 2018 and denied his Motion to Reconsider Sentence. On

October 6, 2018, defendant filed his Original Brief with the Louisiana Court of Appeal, Fourth Circuit. On February 27, 2019, the Court of Appeal "Affirmed" the Criminal District Court of Orleans Parish. On March 7, 2019, defendant filed his Application for Rehearing. On March 15, 2019, the Court of Appeal "Denied" the Application for Rehearing. On March 29, 2019, Petitioner filed his Application for a Writ of Certiorari and referenced the non-unanimous jury verdict as support for his acquittal. On March 16, 2020, the Louisiana Supreme Court Denied Petitioner's Writ Application.

REASONS FOR ALLOWANCE OF WRIT

[I]

In Ramos v. Louisiana, 140 S.Ct. 1390 (2020), this court held that Louisiana and Oregon's laws permitting non-unanimous jury verdicts in serious criminal trials are unconstitutional. The Sixth Amendment's term "trial by an impartial jury trial" means a jury must reach a unanimous verdict in order to convict in state

and federal trials equally; common law, early state constitutions, post-adoption treatises, and years of decisions by the U.S. Supreme Court support the fact that the Sixth Amendment requires unanimity in serious criminal trials and such applies to the states by incorporation via the Fourteenth Amendment.

Petitioner was found "Guilty" by a non-unanimous jury (10 to 2) of three felonies, namely, Aggravated Assault With A Firearm (La. R.S. 14:37.4), Possession of a Firearm or Concealed Weapon by a Felon (La. R.S. 14:95.1), and Obstruction of Justice (La. R.S. 14:130.1). Two jurors agreed with Petitioner that he did not use a firearm to scare his neighbor, as a firearm is defined by Louisiana Statute (La. R.S. 14:37). The statute defines a firearm as follows: "An instrument used in the propulsion of shot, shell, or bullets by the action of gunpowder exploding within it." Because [1] the neighbor Petitioner sought to scare gave a sworn, notarized, Affidavit that a water

pistol was used and no firearms were involved,³ [2] no firearm was recovered by the police, [3] the video only showed a black object in Petitioner's hand, and [4] the prosecution made a decision to not offer a weapons' expert to identify the black object on the video, two jurors recognized that a "Guilty" verdict was not possible and voted against conviction.

[II]

Evidence of a firearm, as defined by statute, was an indispensable element of the crimes with which Petitioner was charged, and failing to prove this rendered conviction a violation of due process. Two jurors recognized the fundamental principle of criminal procedure, namely, "The Due Process Clause of the Fourteenth Amendment protects a defendant in a criminal case against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." Jackson v.

³ Critically important is that after the Prosecution, during its direct examination, "referenced" the neighbor getting in trouble by testifying in support of his sworn affidavit, the neighbor testified inconsistent with his affidavit, obviously concerned about being charged with perjury if he did not support the Prosecution's case.

Virginia, 443 U.S. 307, 315, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); In re Winship, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970); Ivan V. v. City of New York, 407 U.S. 203, 92 S.Ct. 1951, 32 L.Ed.2 659 (1972); Lego v. Twomey, 404 U.S. 477, 92 S.Ct. 619, 30 L.Ed.2d 618 (1972); Mullaney v. Wilbur, 421 U.S. 684, 95 S.Ct. 1881, 44 L.Ed.2d 508 (1975). Petitioner's criminal jury trial worked as the Framers of our Constitution intended, and if not for Louisiana's shameful racial history and unconstitutional jury-verdict law, Petitioner would not be sitting in prison, now exceeding two years. As the Ramos Court observed, state interests in final judgments "cannot outweigh the interest we all share in the preservation of our constitutionally promised liberties." Ramos, 590 U.S. at 25. Petitioner explicitly made reference to a non-unanimous verdict in his Writ before the Louisiana Supreme Court and explicitly referenced being denied due process in his Brief before the Court of Appeals, Fourth Circuit, State of Louisiana. He even has a

motion for re-hearing pending before the Louisiana Supreme Court in light of the Ramos Decision. However, due to that court's discretion in responding, this Writ of Certiorari is filed to not miss the deadline for filing. However viewed, Petitioner has taken all steps to secure his Sixth and Fourteenth Amendments rights and re-cover his wrongfully taken liberty.

CONCLUSION

Due to this court's decision in Ramos, Petitioner respectfully request that this court grant his Writ of Certiorari OR ALTERNATIVELY (and preferably), Order his immediate release from prison.

Reginald Jones Date 8-10-20

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