

No. 20-5363

In the Supreme Court of the United States

REGINALD JONES,
Petitioner

v.

STATE OF LOUISIANA,
Respondent

ON PETITION FOR A WRIT OF CERTIORARI
TO THE LOUISIANA COURT OF APPEAL, FOURTH CIRCUIT

RESPONDENT'S APPENDIX A

10/06/2020 "See News Release 037 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

No. 2019-K-0533

STATE OF LOUISIANA

VERSUS

REGINALD JONES

*On Writ of Certiorari to the Court of Appeal, Fourth Circuit,
Parish of Orleans*

WEIMER, J., concurs in the result.

Given the procedural posture of this case, I respectfully concur in the denial of rehearing in this matter.

Defendant’s writ application was unanimously denied by this court on March 16, 2020. **State v. Jones**, 19-0533 (La. 3/16/20). In that application, which pre-dated the U.S. Supreme Court decision in **Ramos v. Louisiana**, 140 S.Ct. 1390 (2020), no mention (much less complaint) was made as regards the non-unanimous jury verdict on two of defendant’s three convictions. That issue was raised for the first time in an application for rehearing filed by defendant on June 18, 2020.

This court’s ability to address the **Ramos** issue, raised for the first time on rehearing, is foreclosed by both the rules of this court and of the Code of Criminal Procedure. La. S.Ct. Rule IX, § 6 provides that “[a]n application for rehearing will not be considered when the court has merely granted or denied an application for a writ of certiorari or a remedial or other supervisory writ” Likewise, La. C.Cr.P. art. 922(D) provides that “[i]f an application for a writ of review is timely filed with the supreme court, the judgment of the appellate court from which the writ of review is sought becomes final when the supreme court denies the writ.” Pursuant to these

rules, this matter is now final, and not properly reviewable by application for rehearing.¹

The U.S. Supreme Court granted certiorari to consider whether **Ramos** applies retroactively to cases on federal collateral review. **Edwards v. Vannoy**, 206 L.Ed.2d 917 (5/4/2020). Furthermore, I have repeatedly and consistently voted to grant writs and to order briefing and argument to consider the retroactivity of **Ramos** to cases on collateral review under state law. However, because defendant's case has been final on direct review since March 16, 2020, defendant's **Ramos** claims are not properly before this court at this time.

¹ However, that finality does not leave the defendant without an avenue for potential review. He still has available post-conviction proceedings.