

APPENDIX “B”

**RULING:
LOUISIANA 22ND
JUDICIAL DISTRICT COURT**

STATE EX REL. RASHAN WILLIAMS

NO. 98-CR5-73282 "B"

VERSUS

22ND JUDICIAL DISTRICT COURT

PARISH OF WASHINGTON

STATE OF LOUISIANA

STATE OF LOUISIANA

FILED: _____

DEPUTY CLERK

JUDGMENT ON POST-CONVICTION
WITH INCORPORATED REASONS

On April 26, 2019, petitioner Rashan Williams filed a *pro se* application for post-conviction relief. On May 8, 2019, Williams supplemented his application with further documentation. After considering the application and the applicable law, the Court finds the application may be adjudicated by summary disposition pursuant to La. C.Cr.P. art. 929.

The record shows Williams was convicted after trial by jury of second degree murder and sentenced to life imprisonment. His conviction was affirmed on appeal in an unpublished opinion; writs were denied by the Louisiana Supreme Court, *State v. Williams*, 2001-0457 (La. App. 1 Cir. 11/14/01) (unpub'd); *writ denied*, 2002-0144 (La. 1/24/03); 836 So.2d 35. His conviction became final on January 24, 2003. Since then, he has sought, and been denied, state post-conviction and federal habeas review. *See State v. Williams*, 2004-1299 (La. App. 1 Cir. 8/23/04) (unpub'd); *writ denied*, 2004-2580 (La. 11/28/05); 916 So.2d 131; and *Williams v. Cain*, 2006-0344 (11.D. La. 5/7/09), 2009 WL 1269282, *aff'd*, 359 F.3d Appx. 462 (5th Cir. 2009), *cert. denied*, 559 U.S. 1075 (2010).

This Court denied Williams' second state application for post-conviction relief, based on a claim of newly-discovered evidence, in a Judgment signed on August 18, 2016. Williams sought review of this ruling and a writ of review was ultimately denied at the Louisiana Supreme Court. *See State ex rel. Williams v. State of Louisiana*, 2017-0303 (La. 5/25/18). In addition, the Louisiana Supreme Court ordered that unless Williams can show that one of the narrow exceptions authorizing the filing of a successive application applies, Williams has exhausted his right to state collateral review. *Id.* On August 13, 2018, the order of the Louisiana Supreme Court was noted in a minute entry in this matter.

C.C.P. art. 930.8(A). In this case, the Louisiana Supreme Court's order puts the burden on Williams to show his application relies on one of the narrow exceptions authorizing the filing of a successive application. The issue alleged in this application for post-conviction relief is that the conviction was obtained in violation of the constitution of the United States. See La. C.C.P. art. 930.8(B). The application alleges a claim about which the petitioner could not have had knowledge as it claims a change in the law after his conviction if true. See La. C.C.P. art. 930.8(A)(1). Thus, the Court will consider this successive application in the interest of justice. See La. C.C.P. art. 930.8(A)(1).

The record of this matter shows that on December 2, 1999, a jury convicted Williams of second degree murder by a vote of 11-1. Williams challenges La. Const. art. I, § 17(A) and La. C.C.P. art. 782 arguing that his non-unanimous verdict violates his 14th Amendment right of equal protection. He relies on the evidence produced in a post-conviction evidentiary hearing in the case of *State v. Muxie*, No. 13-Cr-07255 in Sabine Parish, to prove the prevailing verdict scheme in Louisiana at the time of his conviction was introduced with discriminatory intent and that the perpetuation of that scheme has resulted in a continuing discriminatory effect. Williams argues his federal constitutional rights were violated when he was convicted by a non-unanimous jury verdict.

Effective January 1, 2019, the Louisiana Constitution was amended by a vote of the people to require a unanimous jury verdict to convict a person of a crime for which the punishment is necessarily confinement at hard labor when the crime occurs after January 1, 2019. ~~For those~~ ~~crimes occurring before January 1, 2019, the law remains relatively unchanged since 1898, in that~~ a person can be convicted by a vote of 10 to 2 (amended in 1974 from the earlier 9 to 3 vote) of a crime for which the punishment is necessarily confinement at hard labor. See La. Const. art. I, § 17(A). Similar changes were made to the provisions of La. C.C.P. art. 782, the statutory counterpart to the state constitutional provision. Since Williams was convicted in 1999, the state constitutional amendment does not impact his conviction. The amendment to La. Const. art. I, § 17(A) only impacts those offenses which occur after January 1, 2019.

The issue which is raised by Williams in his post-conviction application is currently settled law in both the federal and state courts. In *Apodaca v. Oregon*, 406 U.S. 404, 92 S.Ct. 1628, 32

¹ See 1 unscript. December 2, 1999, p. 226/R., Vol. 3, p. 1018.

L.Ed.2d 184 (1972), the United States Supreme Court ruled that a non-unanimous jury verdict for a felony conviction did not violate constitutional principles. Relying on *Apodaca*, the Louisiana Supreme Court has denied claims of a violation of equal protection for non-unanimous jury verdicts in multiple cases. See ex. *State v. Bertrand*, 2008-2215, p. 6 (La. 3/17/09); 6 So.3d 738, 742.

However, the United States Supreme Court granted certiorari in *State of Louisiana v. Ramos*, 2017-2133 (La. 6/15/18); 257 So.3d 679 (Mem.); cert. granted sub nom *Ramos v. Louisiana*, No. 18-5924, which raises the same issue raised by Williams here. Oral argument is set for October 7, 2019, and the opinion from the United States Supreme Court will be issued thereafter. Similarly, the same issue is pending at the Louisiana Supreme Court in a case entitled *State of Louisiana v. Valentino Ramon Hodge*, on direct appeal from an October 2018 district court ruling. The oral argument in the Louisiana Supreme Court is expected to occur on its October 2019 docket, which is not yet published.

[REDACTED]

Accordingly, the Court [REDACTED] the application for post-conviction relief filed by Rashan Williams.

Franklinton, Louisiana, this 20th day of August, 2019.



Hon. August J. Hand, Judge
22nd Judicial District Court, Division B

A True Copy of Original
This 8-21-19
[Signature]
By: Clerk of Court

APPENDIX “C”

**RULING:
LOUISIANA 1ST COURT OF APPEAL**

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2019 KW 1189

VERSUS

RASHAN WILLIAMS

DEC 18 2019

In Re: Rashan Williams, applying for supervisory writs, 22nd Judicial District Court, Parish of Washington, No. 98-CR5-73282.

BEFORE: McCLENDON, WELCH, AND HOLDRIDGE, JJ.

WRIT DENIED. For offenses committed prior to January 1, 2019, non-unanimous twelve-person jury verdicts in Louisiana are constitutional. **State v. Bertrand**, 2008-2215 (La. 3/17/09), 6 So.3d 738. We note, however, that the United States Supreme Court granted certiorari in **Ramos v. Louisiana**, 2016-1199 (La. App. 4th Cir. 11/2/17), 231 So.3d 44, writ denied, 2017-2133 (La. 6/15/18), 257 So.3d 679, and writ denied sub nom., **State ex rel. Evangelisto Ramos v. State**, 2017-1177 (La. 10/15/18), 253 So.3d 1300, and cert. granted, ___ U.S. ___, 139 S.Ct. 1318, 203 L.Ed.2d 563 (2019), to address the question of whether the unanimous jury verdict requirement of the Sixth Amendment to the United States Constitution applies to the states through application of the Fourteenth Amendment. Depending on the Court's ultimate holding in **Ramos**, relator may have grounds to raise this issue again in a future proceeding.

PMc
JEW
GH

COURT OF APPEAL, FIRST CIRCUIT



DEPUTY CLERK OF COURT
FOR THE COURT

APPENDIX “D”

**RULING:
LOUISIANA SUPREME COURT**

WESTLAW

STATE OF LOUISIANA V. RASHAN WILLIAMS

Supreme Court of Louisiana, August 14, 2020 — So.3d — 2020 WL 4732040 2020-00069 (La. 8/14/20) (Approx. 1 page)

2020 WL 4732040

Supreme Court of Louisiana.

STATE OF LOUISIANA

V.

RASHAN WILLIAMS

No.2020-KH-00069

08/14/2020

IN RE: **Rashan Williams** - Applicant Defendant; Applying For Supervisory Writ, Parish of Washington, 22nd Judicial District Court Number(s) 98-CR5-73282, Court of Appeal, First Circuit, Number(s) 2019 KW 1189;

Opinion

Writ application denied.

JTG

JDH

SJC

WJC

JHB

Supreme Court of Louisiana August 14, 2020

Johnson, C.J., would grant and docket and assigns reasons.

Weimer, J., would grant to address the retroactivity of *Ramos v. Louisiana*, 140 S. Ct. 1390, 206 L. Ed. 2d 583 (2020).**All Citations**

— So.3d —, 2020 WL 4732040, 2020-00069 (La. 8/14/20)

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STATE OF LOUISIANA V. RASHAN WILLIAMS

Supreme Court of Louisiana. August 14, 2020 --- So.3d --- 2020 WL 4727052 2020-00069 (La. 8/14/20) (Approx. 1 page)

2020 WL 4727052

Supreme Court of Louisiana.

STATE OF LOUISIANA

V.

RASHAN WILLIAMS

No. 2020-KH-00069

08/14/2020

On Supervisory Writ to the 22nd Judicial District Court, Parish of Washington

Opinion

JOHNSON, C.J., would grant and docket and assigns reasons:

I would grant the writ to clarify that the Supreme Court's recent decision in *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020) should be applied retroactively to cases on state collateral review. It is time we abandoned our use of *Teague v. Lane*, 489 U.S. 288 (1989) in favor of a retroactivity test that takes into account the harm done by the past use of non-unanimous jury verdicts in Louisiana courts.

Regardless of the words or legal grounds a defendant uses to challenge his conviction, and for the reasons I explain further in *State v. Gipson*, 19-KH-01815 (La. 06/03/20), I believe *Ramos* should apply to anyone convicted by a non-unanimous jury.

All Citations

--- So.3d ---, 2020 WL 4727052, 2020-00069 (La. 8/14/20)

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