No. 20-7125

In the Supreme Court of the United States

RASHAN WILLIAMS,
Petitioner

v.

STATE OF LOUISIANA,
Respondent.

On Petition for Writ of Certiorari to the Supreme Court of Louisiana

BRIEF IN OPPOSITION

JEFF LANDRY
Attorney General
ELIZABETH BAKER MURRILL*
Solicitor General
*Counsel of record
SHAE MCPHEE
Deputy Solicitor General
Louisiana Department of Justice
1885 N. Third St.
Baton Rouge, LA 70802
(225) 326-6766
murrille@ag.louisiana.gov

WARREN MONTGOMERY
District Attorney
MATTHEW CAPLAN
Assistant District Attorney
St. Tammany Parish
701 North Columbia Street
Covington, LA
(985) 809-8398

QUESTION PRESENTED

Whether this Court's decision in *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020), applies to cases on state collateral review, where the State follows the retroactivity framework established in *Teague v. Lane*, 489 U.S. 288 (1989).

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

INTRODUCTION

In *Ramos v. Louisiana*, this Court held that a conviction based upon a non-unanimous verdict—in state or federal court—violates the Sixth and Fourteenth Amendments. Petitioner Rashan Williams was convicted of second-degree murder by a split jury vote. But *Ramos*'s holding cannot benefit Williams here for two reasons: (1) his conviction and sentence became final many years before this Court issued its decision in *Ramos*; and (2) his case arises from *state* post-conviction review. Under this Court's precedent, and especially in light of its recent decision in *Edwards v. Vannoy*, Williams' claim clearly fails on the merits, and so there is no important question for the Court to answer.

Under this Court's jurisprudence, new constitutional rules apply to convictions that are not final. *See Griffith v. Kentucky*, 479 U.S. 314 (1987). But Williams' conviction and sentence became final in 2003—long before this Court handed down its decision in *Ramos*. Under *Teague v. Lane* and subsequent cases, new rules generally do not apply retroactively to cases that are final unless the new rules are *substantive*. In *Edwards v. Vannoy*, this Court observed that the *Ramos* rule was *procedural*, and the Court held that the rule did not apply retroactively under *Teague*'s watershed exception for new procedural rules. Indeed, the Court went further and held for the first time that "[n]ew procedural rules do not apply retroactively on federal collateral review." No. 19-5807, 2021 WL 1951781, at *9 (U.S. May 17, 2021). In other words, "[t]he watershed exception is moribund." *Id.* This alone is reason enough to deny certiorari.

But there is another reason to deny certiorari. This case arises from a *state* collateral proceeding, and Williams asks this Court to decide whether *Ramos* "applies to cases on State collateral review." Pet. i. If Williams is asking this Court to require Louisiana to retroactively apply *Ramos* as a matter of *state law*, the Court should deny certiorari because this Court does not resolve questions of state law. (The Louisiana Supreme Court has declined to directly answer the question of whether the *Ramos* rule is retroactive in state collateral proceedings.) To be sure, in *Montgomery v. Louisiana*, this Court expressly reserved the question of whether a new procedural rule must be applied retroactively by the States under the federal constitution. 577 U.S. 190, 200 (2016), *as revised* (Jan. 27, 2016) ("[T]he constitutional status of *Teague*'s exception for watershed rules of procedure need not be addressed here."). But now that the watershed exception is "moribund," there is no need to ever address that question.

Edwards resolved all the outstanding legal questions that Williams raised here. The Court should deny his petition.

STATEMENT OF THE CASE

Factual Background

In mid-1998, numerous eye-witnesses saw Williams point and shoot a gun at Keaton Morris outside a bar. *See State v. Williams*, No.2001 KA 0457, at pp. 2–3 (La. App 1st Cir. Nov. 14, 2001) (unpublished); *accord Williams v. Cain*, No. CIV.A. 06-0224, 2009 WL 1269282, at *3–4 (E.D. La. May 7, 2009), *aff'd*, 359 F. App'x 462 (5th Cir. 2009). Morris suffered four gunshot wounds and died. Stray bullets injured several of the witnesses.

Procedural History

In late 1999, a split jury found Williams guilty of second-degree murder.[1] The trial court sentenced Williams to life imprisonment without the possibility of parole.

Williams' conviction and sentence became final—and many years passed—before, in 2019, he sought post-conviction relief in the Louisiana 22nd Judicial District Court. *See* Pet. App. B. Williams challenged his non-unanimous jury verdict on collateral review. After observing that this Court had granted certiorari in *Ramos*, the state district court denied relief. The intermediate court of appeals affirmed. Pet. App. C.

While Williams' application for discretionary review was pending before the Louisiana Supreme Court, this Court handed down its decision in *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020). *Ramos* held that a conviction—in state or federal court—based upon a non-unanimous verdict violates the Sixth and Fourteenth Amendments. That decision applied to all cases pending on direct review. Shortly after handing down *Ramos*, the Court a**Error! Bookmark not defined.**lso granted certiorari in *Edwards v. Louisiana* to answer the question of "whether this Court's decision in *Ramos v. Louisiana* applies retroactively to cases on federal collateral review." 140 S. Ct. 2737, 2738 (2020) (internal citation omitted).

Because Williams' case is no longer on direct review, the Louisiana Supreme Court denied his writ application—along with the applications of many petitioners seeking post-conviction relief on similar grounds. *See* Pet. App. D.

---

[1] *See* La. Rev. Stat. 14:30.1.

Williams now seeks a writ of certiorari from this Court. He asks this Court to consider whether *Ramos* should apply retroactively on state collateral review. While Williams' petition was pending before this Court, this Court denied relief in *Edwards v. Louisiana*—holding that the new procedural rule in *Ramos* did not satisfy *Teague*'s second exception.

REASONS FOR DENYING THE PETITION

I. TO THE EXTENT WILLIAMS ASKS THIS COURT TO DECIDE A QUESTION OF STATE LAW, CERTIORARI IS UNWARRANTED.

Williams asks this Court to decide whether *Ramos* "applies to cases on State collateral review, where the State follows the retroactivity framework in *Teague v. Lane*, 489 U.S. 288 (1989)." Pet. i. To the extent that Williams is asking this Court to resolve a matter of Louisiana law, this Court should deny his petition.

This Court has said many times that States alone have the power to determine the content, meaning, and application of state law. *See, e.g.*, *DIRECTV, Inc. v. Imburgia*, 577 U.S. 47, 47 (2015) ("State courts are the ultimate authority on that state's law."); *Dickerson v. United States*, 530 U.S. 428, 431 (2000) ("Federal courts hold no supervisory authority over state judicial proceedings and may intervene only to correct wrongs of constitutional dimension."); *Huddleston v. Dwyer*, 322 U.S. 232, 233 (1944) ("The decisions of the highest court of a state on matters of state law are in general conclusive upon the Supreme Court of the United States.").

And this Court has further explained that whether to provide retroactive relief in a state collateral proceeding—at least where this Court has not declared a new rule retroactive—is a question of state law. In *Danforth v. Minnesota*, the Court

observed that its cases about "civil retroactivity" demonstrate that the "remedy a state court chooses to provide its citizens for violations of the Federal Constitution is primarily a question of state law." 552 U.S. 264, 288 (2008). "Federal law simply 'sets certain minimum requirements that States must meet but may exceed in providing appropriate relief." *Id.* (quoting *Am. Trucking Assns., Inc. v. Smith*, 496 U.S. 167, 178–79 (1990) (plurality opinion)). Although this Court has "ample authority to control the administration of justice in the federal court—particularly in their enforcement of federal legislation—[the Court has] no comparable supervisory authority over the work of state judges." *Danforth v. Minnesota*, 552 U.S. 264, 289 (2008) (citing *Johnson v. Fankell*, 520 U.S. 911 (1997)).

The fact that a State has purported to adopt the retroactivity standard this Court articulated in *Teague v. Lane*—as the Louisiana Supreme Court has done—*see State ex rel. Taylor v. Whitley*, 606 So. 2d 1292, 1297 (La. 1992) (adopting *Teague* for state collateral review)—does not transform the issue into a federal question warranting this Court's review. On the contrary, this Court has held:

> If a state court chooses merely to *rely* on federal precedents as it would on the precedents of all other jurisdictions, then it need only make clear by a plain statement in its judgment or opinion that the federal cases are being used only for the purpose of guidance, and do not themselves compel the result that the court has reached.

Michigan v. Long, 463 U.S. 1032, 1041 (1983) (emphasis added). And, when adopting *Teague*'s standard to guide state courts in collateral proceedings, the Louisiana Supreme Court went out of its way to say that it was "not bound to adopt the *Teague* standards." *See Whitley*, 606 So. 2d at 1297. Thus, Louisiana courts merely use

Teague as guidance.

Moreover, in *Danforth*, the Court explained that "States that give broader retroactive effect to this Court's new rules of criminal procedure do not do so by misconstruing the federal *Teague* standard. Rather, they have developed state law to govern retroactivity in state postconviction proceedings." 552 U.S. at 288–89 (citing *State v. Whitfield*, 107 S.W.3d 253, 268 (Mo. 2003)). It is entirely plausible—and allowable under *Danforth*—that this Court could deny relief under *Teague* but that a state court could grant relief under *Teague*. A corollary of this rule is that a state court, for the purposes of state law, could deny relief under *Teague*'s second exception,[2] even if this Court granted relief under *Teague*'s second exception.

To the extent Williams raises a state-law issue, this Court is without jurisdiction to decide the matter. "If a state-law basis for the judgment is adequate and independent, then this Court lacks jurisdiction because its review of the federal question would be purely advisory." *Coleman v. Thompson*, 501 U.S. 722 (1991).

The Louisiana Supreme Court has had many, many opportunities to decide whether to apply *Ramos* retroactively as a matter of state law. And it has denied every request—at least forty-three denials.[3] Of course, the Louisiana Supreme Court

---

[2] This Court held in *Montgomery v. Louisiana* that a state court could not fail to grant relief under *Teague*'s first exception where this Court had granted relief under that exception. 577 U.S. 190, 200 (2016).

[3] *See, e.g.*, *State v. Dotson*, 2019-01828 (La. 6/3/20), 296 So.3d 1059; *Silva v. Vannoy*, 2019-01861 (La. 6/3/20), 296 So.3d 1033; *Lionel Jones v. State*, 2019-01900 (La. 6/3/20), 296 So. 3d 1060; *State v. Rochon*, 2019-01678 (La. 6/3/20), 296 So.3d 1028; *State v. Young*, 2019-01818 (La. 6/12/20), 2020 WL 3424876 (involved request for polling slips to file PCR); *State v. Brown*, 2020-00276 (La. 6/22/20), 297 So.3d 721; *State v. McKnight*, 2020-00873 (La. 7/17/20), 299 So.3d 64; *Dennis v. Vannoy*, 2019-01794 (La. 7/24/20), 299 So.3d 54; *State v. Essex*, 2020-00009 (La. 8/14/20), 300 So.3d 843; *State v. Cook*, 2020-00001 (La.

could decide to grant relief someday, but in light of this Court's decision in *Edwards*, that option remains the prerogative of that court alone.

II. *EDWARDS* FORECLOSES THE POSSIBILITY OF RELIEF.

If Williams is asking this Court instead to require state courts to apply *Ramos* retroactively under the federal constitution, the Court should deny certiorari. This Court's recent opinion in *Edwards* disposed of all the important, outstanding legal issues presented by Williams' petition.

By way of background, this Court explained in *Montgomery v. Louisiana* "that when a new *substantive* rule of constitutional law controls the outcome of a case, the *Constitution* requires state collateral review courts to give retroactive effect to that rule." 577 U.S. at 200 (emphasis added). But the Court limited its holding only to new substantive rules and left open the question of whether the Constitution requires

---

8/14/20), 300 So.3d 838; *State v. Parish*, 2020-00072 (La. 8/14/20), 300 So.3d 861; *Joseph v. State*, 2019-01989 (La. 8/14/20), 300 So.3d 824; *State v. McGuire*, 2019-01632 (8/14/20), 300 So.3d 830; *State v. Johnson*, 2019-02075 (La. 8/14/20), 300 So.3d 858; *State v. Spencer*, 2019-01318 (La. 8/14/20), 300 So.3d 855*; *Lawson v. State*, 2019-02074 (La. 8/14/20), 300 So.3d 858*; *State v. Triplett*, 2019-01718 (La. 8/14/20), 300 So.3d 827; *Vincent Smith v. Louisiana*, 2019-02080 (La. 8/14/20), 300 So.3d 859; *State v. Rashan Williams*, 2020-00069 (La. 8/14/20), 300 So.3d 860; *State v. Withers*, 2020-00258 (La. 8/14/20), 300 So.3d 860; *State v. Wardlaw*, 2020-00004 (La. 8/14/20), 300 So.3d 859; *State v. Mason*, 2019-01821 (La. 8/14/20), 2020 WL 4726952; *State v. Mims*, 2019-2088 (La. 8/14/20), 300 So.3d 867; *State v. Sonnier*, 2019-02066 (La. 8/14/20), 300 So.3d 857; *State v. Pittman*, 2019-01354 (La. 8/14/20), 300 So.3d 856; *State v. Carter*, 2019-02053 (La. 8/14/20), 300 So.3d 856*; *State v. Williams*, 2019-02010 (La. 8/14/20), 300 So.3d 856; *Hernandez v. Vannoy*, 2019-02034 (La. 8/14/20), 300 So.3d 857*; *State v. Eaglin*, 2019-01952 (La. 8/14/20), 300 So.3d 840*; *State v. Kidd*, 2020-00055 (La. 8/14/20), 300 So.3d 828; *State v. Joseph*, 2020-01989 (La. 8/14/20), 300 So.3d 824; *State v. Barrett*, 2019-01718 (La. 8/14/20), 300 So.3d 827*; *State v. Harris*, 2020-00291 (La. 9/8/20), 301 So.3d 13; *State v. Skipper*, 2020-00280 (La. 9/8/20), 301 So.3d 16; *State v. Sims,* 2020-00298 (La. 9/8/20), 301 So.3d 17; *State v. Jackson*, 2020-00037 (La. 9/8/20), 301 So.3d 33; *State v. Hawthorne*, 2020-00586 (La. 9/29/20), 2020 WL 5793105; *State v. Alcus Smith*, 2020-00621 (La. 9/29/20), 2020 WL 5793717; *State v. Johnson*, 2020-00052 (La. 9/29/20), 2020 WL 5793805; *Givens v. State Through Attorney General's Office*, 2020-00268 (La. 10/6/20), 2020 WL 5904873; *Cassard v. Vannoy*, 2020-00020 (La. 10/6/20), 2020 WL 5905099; *State v. Brooks*, 2020-00378 (La. 10/14/20), 2020 WL 6059695; *State v. Moran*, 2020-00623 (La. App. 10/14/20), 2020 WL 6059685.

state courts to apply new watershed procedural rules retroactively on collateral review. *Id.*

Before this Court handed down its decision in *Edwards*, it was theoretically possible that the Court could declare the *Ramos* rule to be watershed and extend *Montgomery* by constitutionalizing *Teague*'s second exception—like it did for *Teague*'s first exception. In that scenario, Williams could have received relief.

But *Edwards* significantly altered the legal landscape. There, this Court held that (1) *Ramos* announced a new procedural rule, (2) the *Ramos* rule did not satisfy *Teague*'s second exception, and (3) *Teague*'s second exception is now "moribund." 2021 WL 1951781, at *9. Together, these holdings preclude the possibility of relief for Williams in this Court. And because this Court will never identify a new watershed rule of criminal procedure, the question of whether the federal Constitution requires States to apply such rules retroactively on collateral review will remain unanswered.

At bottom, although state courts are obliged to retroactively apply new substantive rules on post-conviction review, there is no such constitutional requirement for new rules of criminal procedure. The Court should deny certiorari.

CONCLUSION

The Court should deny Williams' petition for certiorari.

Respectfully submitted,

/s/ *Elizabeth Baker Murrill*
JEFF LANDRY
Attorney General
ELIZABETH BAKER MURRILL*
Solicitor General
*Counsel of record

SHAE MCPHEE
Deputy Solicitor General
Louisiana Department of Justice
1885 N. Third St.
Baton Rouge, LA 70802
(225) 326-6766
murrille@ag.louisiana.gov

WARREN MONTGOMERY
District Attorney
MATTHEW CAPLAN
Assistant District Attorney
St. Tammany Parish
701 North Columbia Street
Covington, LA
(985) 809-8398