

No. 20-7523

IN THE SUPREME COURT OF THE UNITED STATES

JOSEPH M. BRYANT,

Petitioner

vs.

STATE OF LOUISIANA,

Respondent

On Petition for a Writ of Certiorari
To The Louisiana Court of Appeal, Second Circuit

**BRIEF IN RESPONSE
BY THE
STATE OF LOUISIANA**

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QUESTION PRESENTED

Whether this Court's decision in *Ramos v. Louisiana*, 140 S.Ct. 1390 (2020), requires reversal of a non-unanimous jury conviction in a case pending on direct review?

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TABLE OF AUTHORITIES

Cases

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INTRODUCTION

A twelve-person jury convicted Petitioner Joseph M. Bryant of attempted aggravated rape and armed robbery. Each conviction was rendered by a 10-2 vote. His case remained on direct appeal at the time this Court issued the Opinion in *Ramos v. Louisiana*, 140 S.Ct. 1390 (2020). Pursuant to *Ramos, supra*, and *Griffith v. Kentucky*, 479 U.S. 314 (1987), the State of Louisiana agrees he is entitled to a new trial.

STATEMENT OF THE CASE

Bryant was charged by bill of information with attempted aggravated rape and armed robbery. He pleaded not guilty to both counts. After a two-day trial, a twelve-person jury convicted him of the charges of attempted aggravated rape¹ and armed robbery². The State concedes that each verdict was reached by a 10-2 vote. Petitioner was subsequently adjudicated a third felony habitual offender. The court sentenced him to serve life imprisonment at hard labor on each charge without benefit of parole, probation, or suspension of sentence.

Bryant appealed, and in June 2019, the Second Circuit Court of Appeal affirmed his conviction, but vacated his habitual offender adjudication and sentence and remanded for sentencing as a second felony offender. Pet. App. A. In July 2019, the trial court sentenced Petitioner as a second felony offender to 65 years at hard labor without benefit of probation, parole, or suspension of sentence on each count.

In October 2019, the Louisiana Supreme Court denied the writ application seeking review of the Second Circuit decision affirming his conviction. *Appendix "A"*. Then, in March 2020, the Second Circuit Court of Appeal affirmed Petitioner's new sentences. Pet. App. B. The next month, and before the Louisiana Supreme Court denied his writ application seeking review

¹ La. R.S. 14:42 and La. R.S. 14:27.

² La. R.S. 14:64.

of his new sentences (Pet. App. C), the Court held that the Sixth Amendment requires jury verdicts in felony cases to be unanimous and the Court incorporated that guarantee against the States. See *Ramos v. Louisiana*, 140 S.Ct. 1390 (2020).

The petition for certiorari followed.

CONCESSION OF ERROR

In *Griffith v. Kentucky*, this Court explained that “failure to apply a newly declared constitutional rule to criminal cases pending on direct review violates basic norms of constitutional adjudication.” 479 U.S. 314, 322 (1987); see also *Teague v. Lane*, 489 U.S. 288, 311 (1989) (plurality opinion). Bryant was convicted by a non-unanimous 10-2 jury verdict, and his sentences were pending on direct review at the time this Court issued the *Ramos* opinion. In light of this Court’s holding in *Ramos*, the State concedes that the Court should grant certiorari, vacate the lower court judgment, and remand for further proceedings.

Respectfully submitted,

s/ James E. Stewart, Sr.

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