

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

TREVON WILEY — PETITIONER
vs.
DARREL VANNOY, WARDEN — RESPONDENT(S)

APPENDICES

The Supreme Court of the State of Louisiana

TREVON WILEY

No.2020-KP-01327

VS.

STATE OF LOUISIANA

IN RE: Trevon Wiley - Applicant Plaintiff; Applying For Supervisory Writ, Parish of Jefferson, 24th Judicial District Court Number(s) 07-6151, Court of Appeal, Fifth Circuit, Number(s) 20-KH-316;

March 23, 2021

Writ application denied.

SJC

JDH

JTG

WJC

JBM

Weimer, C.J., would grant and assigns reasons.
Griffin, J., would grant for reasons assigned by Chief Justice Weimer.

Supreme Court of Louisiana

March 23, 2021

Kylie Marjanovic
Chief Deputy Clerk of Court
For the Court



03/23/2021 "See News Release 011 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

NO. 2020-KP-01327

TREVON WILEY

VERSUS

STATE OF LOUISIANA

*ON SUPERVISORY WRIT TO THE 24TH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON*

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

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TREVON WILEY

NO. 20-KH-316

VERSUS

FIFTH CIRCUIT

STATE OF LOUISIANA

COURT OF APPEAL

STATE OF LOUISIANA

October 19, 2020

Susan Buchholz

First Deputy Clerk

IN RE TREVON WILEY

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE RAYMOND S.
STEIB, JR., DIVISION "A", NUMBER 07-6151

Panel composed of Judges Fredericka Homberg Wicker,
Jude G. Gravois, and John J. Molaison, Jr.

WRIT DENIED

Relator, Trevon Wiley, seeks review of the trial court's dismissal of his second application for post-conviction relief ("APCR") on August 3, 2020. Relator was convicted for second degree murder and aggravated burglary on August 9, 2009. In his APCR, he claims that the U.S. Supreme Court's recent holding in *Ramos v. Louisiana*, 590 U.S. --, 140 S.Ct. 1390, 206 L.Ed.2d. 583 (2020), entitles him to a new jury trial due to the non-unanimous verdict in his case.

Ramos v. Louisiana holds that the Sixth Amendment right to a jury trial—as incorporated against the states by the Fourteenth Amendment—requires a unanimous verdict to convict a defendant of a serious offense. According to *Ramos*, Louisiana will have to retry defendants who were convicted of serious offenses by non-unanimous juries and whose cases are still pending on direct appeal. To date, the Louisiana Supreme Court has not held that *Ramos v. Louisiana* should be given retroactive application. See, *Joseph v. Louisiana*, 19-1989 (La. 8/14/20), --- So.3d ----, 2020 WL 4731876; *State v. Sonnier*, 19-2066 (La. 8/14/20), --- So.3d ----, 2020 WL 4727074; *State v. Mason*, 19-01821 (La. 8/14/20), --- So.3d ----, 2020 WL 4731964.

In the instant case, the trial court correctly observed that relator had completed direct review when *Ramos* was decided. See, *State v. Wiley*, 10-811, (La. App. 5 Cir. 4/26/11), 68 So.3d 583, 586, *writ denied sub nom. State ex rel. Wiley v. State*, 2011-1263 (La. 3/30/12), 85 So.3d 106. Because relator's claim did not qualify as an exception to the time limitation of La. C.Cr.P. art. 930.8, we find no error in the trial court's denial of relator's APCR as untimely, nor do we find an

error in the trial court's conclusion that relator's APCR is successive under La. C.Cr.P. art. 930.4.

Gretna, Louisiana, this 19th day of October, 2020.

JJM
FHW
JGG

FILED: Aug 3, 2020

M. Richardson
DEPUTY CLERK

ORDER

This matter comes before the court on defendant's APPLICATION FOR POST-CONVICTION RELIEF, STAMPED AS FILED JULY 22, 2020.

On August 9, 2009, the defendant/petitioner was convicted of second degree murder and aggravated burglary. He was later sentenced to life imprisonment on the murder and to 30 years at hard labor for the aggravated burglary. His convictions were affirmed on direct appeal. *State v. Wiley*, (La.App. 5 Cir. 4/26/11), 68 So.3d 583, *writs denied*, (La. 4/7/17), 85 So.3d 583. Federal habeas corpus was also denied.

The petitioner sought post-conviction relief (PCR) with three claims. Post-conviction relief was denied on certain claims on October 29, 2013, and at the conclusion of an evidentiary hearing held on May 19, 2014, the remaining claim was denied. The Fifth Circuit denied writs as did the Supreme Court of Louisiana. In its per curiam decision, the Supreme Court specifically noted that the defendant had fully litigated a post-conviction relief application and that he had exhausted his right to collateral relief, unless he could meet a very narrow exception in post-conviction law.

The petitioner now files another PCR, claiming that a new Supreme Court of the United States case, *Ramos v. Louisiana*, __ U.S. __, 140 S.Ct. 1390, (2020) warrants relief. The *Ramos* decision affects cases not yet final. The Supreme Court emphasized that "the Court's decision today will invalidate some non-unanimous convictions where the issue is preserved *and the case is still on direct review*." *Id.* at 1419, emphasis added. The petitioner is not on direct review.

The petitioner's case is final. First, he has completed direct review of his trial, with no reversible errors found. He has also received and exhausted collateral review. The *Ramos* case does not apply to the petitioner's final conviction and does not provide an exception to mandatory procedural rules of post-conviction law. The court, therefore, finds defendant's application for post-conviction relief procedurally barred as untimely and successive, under LSA-C.Cr.P. art. 930.8 and 930.4.

Accordingly,

IT IS ORDERED BY THE COURT that the defendant's application for post-conviction relief be and is hereby **DENIED**.

Gretna, Louisiana this 3rd day of August, 2020.

J. Stein
JUDGE

PLEASE SERVE:

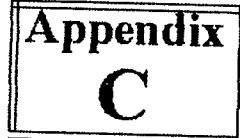
PRISONER: Trevon Wiley, DOC # 557602, Louisiana State Penitentiary, Angola, LA 70712

DEFENSE COUNSEL: Justin Caine Harrell, 1100 Poydras St., St. 2900, New Orleans, LA 70163

WARDEN: Darrel Vannoy, Louisiana State Penitentiary, Angola, LA 70712

DISTRICT ATTORNEY: Paul Connick, Thomas J. Butler, 200 Derbigny St., Gretna, LA 70053

ISSUED
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