

IN THE SUPREME COURT OF PUERTO RICO

ROOM II

The town of Puerto Rico

Appealed

v.

Num. CC- 2020-0639

Camilo Arango Latorre

Petitioner

Dispatch room compose of the Associate Judge Mr. Martínez Torres as President, Associate Judge Mr. Kolthoff Caraballo, Associate Judge Mr. Feliberti Cintrón and Associate Judge Mr. Colón Pérez.

Resolution

San Juan, Puerto Rico, February 12, 2021

Once the petition for certiorari presented by the petitioning party has been attended, No Place Has Been Provided.

It was agreed by the court and certified by Secretary of the Supreme Court. The Associate Judge Mr. Colón Pérez would issue the order.

José Ignacio Campos Pérez
Secretary of the Supreme Court

EN EL TRIBUNAL SUPREMO DE PUERTO RICO
SALA II

El Pueblo de Puerto Rico

Recurrido

v.

NºCC-2020-0639

Camilo Arango Latorre

Peticionario

Sala de Despacho integrada por el Juez Asociado señor Martínez Torres como Presidente, el Juez Asociado señor Kolthoff Caraballo, el Juez Asociado señor Feliberti Cintrón y el Juez Asociado señor Colón Pérez.

RESOLUCIÓN

San Juan, Puerto Rico, a 12 de febrero de 2021.

Atendida la Petición de Certiorari presentada por la parte peticionaria, se provee No Ha Lugar.

Lo acordó el Tribunal y certifica el Secretario del Tribunal Supremo. El Juez Asociado señor Colón Pérez expediría para pautar.



José Ignacio Campos Pérez
Secretario del Tribunal Supremo

COMMONWEALTH OF PUERTO RICO

APPEALS COURT

PANEL 11

THE PEOPLE OF PUERTO RICO
APPEALED
v.
CAMILO ARANGO LATORRE
PETITIONER

CERTIORARI
FROM THE COURT OF
FIRST INSTANCE,
SUPERIOR CHAMBER OF
ARECIBO.

CRMINAL NUM:
CVI2009G0034, AND
OTHERS.
ON:
Art. 109 C. P. (1st grade),
And others.

Panel made up of its president, Judge Jiménez Veláquez, Judge Romero García, and Judge Méndez Miró.

Romero García, rapporteur Judge.

RESOLUTION

In San Juan, Puerto Rico, on November 5, 2020

The petitioning party, Mr. Camilo Arango Latorre, filed his appeal on August 5, 2020. In it, he requested that this appeal forum revoke the Resolution issued on July 9, 2020 by means of which the Court of First Instance, Superior Chamber of Arecibo, denied his request for a new trial. This was submitted under the recent regulations established in Ramos v. Louisiana, op. of April 20, 2020, 140 S. CT. 1930, 590US - (2020), and Pueblo v. Torres Rivera, op. of May 8, 2020, 2020 TSPR 42, the retroactive application of which is requested by the petitioning party.

After evaluating the petition for certiorari presented on September 23, 2020, we conclude that we were not persuaded that the primary forum had made any error, justifying our intervention at this stage of the proceeding. Consequently, We Deny the issuance of the writ of certiorari.

Judge Méndez Miró disagrees with a written opinion.

Be notified.

It was agreed by the court and certified by the Clerk of the Court of Appeals.

Lcda. Lilia M. Oquendo Solís

Clerk of the Court of Appeals.

Commonwealth of Puerto Rico
APPEALS COURT
PANEL II

THE PEOPLE OF PUERTO RICO
Appealed
Vs.
CAMILO ARANGO LATORRE
Petitioner

Certiorari
coming from
Court of
First
Instance, Superior Chamber of
Arecibo
Case No. :
CVI2009G0034
On:
Art. 106 CP (1er
degree) and others

Panel made up of its president, Judge Jiménez
Velázquez, Judge Romero García and Judge Méndez
Miró

DISSENTING OPINION OF JUDGE MÉNDEZ MIRÓ

In San Juan, Puerto Rico, on November 5, 2020.

I respectfully disagree. I would have declared with 1 ~~gar~~
the petition of Mr. Camilo Arango Latorre (Mr. Arango)
and ordered a new trial under Ramos v.

Louisiana, 140 S. Ct. 1390 (2020) and Pueblo v. towers
Rivera, 2020 TSPR 42. I maintain that Mr. Arango has
right to request a new trial for lack of
unanimously in the jury's verdict despite the fact that his
appeal process concluded.

As a matter of law, Ramos v. Louisiana,
above, extended the right to a unanimous verdict to the
cases pending review. However, the More
Alto Federal recognized the possibility that this rule
can be applied to final and firm cases of reaching the

recognized by Associate Judge Luis Estrella Martínez in his expressions in *Pueblo v. Torres Rivera*, *supra*. two As is known, in *Teague v. Lane*, 489 U.S. 288 (1989), the Federal Supreme Court developed a standard to determine whether a rule of criminal procedure newly recognized is retroactive to cases in collateral review. That is, to cases in which the appeal process would have concluded.

For starters, the *Teague* standard requires determine if the rule that was adopted is new. A rule new is defined as "a rule that was not dictated by precedent existing at the time the defendant's conviction became final. "Whorton v. Bockting, 549 U.S. 406, 416 (2007); *Saffle v. Parks*, 494 U.S. 484, 488 (1990). In this case, there is no doubt that the rule adopted in *Ramos v. Louisiana*, *supra*, --and by the Court Supreme Court of Puerto Rico in *Pueblo v. Torres Rivera*, above - is a new rule. This, then, recognize that the Sixth Amendment to the Federal Constitution requires that a jury verdict is unanimous in all states expressly revoked the precedents of *Apodaca v. Oregon*, 406 U.S. 404 (1972) and *Johnson v. Louisiana*, 406 u.s. 356 (1972). Once your new character is established, so that applies to cases in collateral review, this rule has

to be: (1) noun; or (2) a watershed rule. A watershed rule refers to a rule of procedure criminal that involves fundamental elements of the fairness and correctness of the procedure. Whorton, *supra*, p. 416; Shaffle, *supra*, p. 495; Teague, *supra*, p. 311. Consono, the elements of a water hed rule are: (a) that the rule is necessary to prevent the impermissible high risk of an inaccurate conviction; and (b) that alters the understanding of one of the elements fundamentals of a fair procedure. Whorton, *supra*, P. 418.

As explained by the Federal Supreme Court in *Schriro v. Summerlin*, 542 U.S. 348, 352 (2004), so Generally, the new procedural rules do not apply retroactively because its effect on a conviction is speculative. Now, retroactive effect is given to those rules "implicating the fundamental fairness and accuracy of the criminal proceeding. That a new procedural rule is 'fundamental' in some abstract sense is not enough; the rule must be one 'without which the likelihood of an accurate conviction is seriously diminished '". (Citations omitted) (Emphasis supplied). say, in addition to being a fundamental rule, the rule has to be anchored in that, without it, the accuracy of the conviction would be significantly reduced.

Ramos v. Louisiana, *supra*, stated that unanimity in A verdict is the fundamental principle behind a trial by jury. Faced with such a constitutional imperative, it is necessary to conclude that the accuracy and reliability of a verdict that is not unanimous are significantly reduced. In simpler words, a guilty verdict that is not unanimous is, for definition, inaccurate.

This, in turn, is linked to the obligation that the evidence proves guilt beyond doubt reasonable. Under this standard, the State has the burden to convince each of the members of the jury, without except that there is no doubt about the need to deprive an individual of his freedom. The purpose of this constitutional imposition was, precisely, require an extraordinary level of certainty to prevent misconceptions. Thus, uphold the validity of a verdict for an amount less than all the members of the jury destroys this standard of proof, for there cannot be a fault of reasonable doubt if one or more of the jurors has doubt about guilt. 3

Again, the criminal law requires:

(a) proof beyond a reasonable doubt; (b) a presumption of innocence; and (c) unanimity in the

impermissible high risk of inaccurate convictions and is, hence, a watershed rule.

Now, if logic dictates that the lack of unanimity in the jury's verdict creates a high risk of inaccurate convictions, how can the application be denied retroactive to this rule --only-- because of the relationship time between its adoption and the time it was issued a sentence? How is it justified to recognize this right constitutional - exclusively - to a certain part of the population? · It, .a. my_. judgment, upset the bases more fundamentals of a just order.

From my point of view, the rule of *Ramos v. Louisiana*, above, altered our understanding of the elements fundamentals of justice in criminal proceedings.

Extend to the states the requirement of unanimity in a verdict, regardless of their constitutions or jurisprudence, shook the foundations of what was fair procedure in Louisiana, Oregon, and Puerto Rico. This is precisely the essential element of a watershed rule: a rule that, in order to ensure a fair trial, compels states to provide and ensure a basic and essential element in your criminal proceedings.

I am aware that the Federal Supreme Court highlights that the *Teague v. Lane*, *supra*, is

trust in our justice system. I am clear and I do not turn my back on the imperative of the State in confer finality to sentences and convictions. However, the goal of the criminal system is not purpose of the sentences, but to obtain justice. Not there is justice when a remedy is denied to those individuals who were convicted with a verdict that today for today it is unconstitutional.

A handwritten signature in black ink, enclosed in a roughly oval-shaped outline. The signature appears to read "Gina R. Méndez Miró".

Gina R. Méndez Miró
Juez de Apelaciones

COMMONWEALTH OF PUERTO RICO
APPEALS COURT

THE PEOPLE OF PUERTO

RICH,

Appealed,

v.

CAMILO ARANGO

TOWER,

Petitioner.

CERTIORARI from the Court
first instance,

Superior Room of
Arecibo.

Criminal no.:

C Vl2009G0034, and
others.

On:

Art. 109 C.P. (1st
degree), and others.

Panel made up of its president, Judge Jiménez Velázquez,
Judge

Romero García and Judge Méndez Miró.

Romero García, rapporteur judge.

RESOLUTION

In San Juan, Puerto Rico, on November 5, 2020.

The petitioning party, Mr. Camilo Arango Latorre,
presented his

appeal on August 5, 2020. In it, he requested that this
appeal forum

.., . . . •, revoke the Resolution issued on July 9, 2020, by
which the

Court of First Instance, Superior Chamber of Arecibo,
denied his request

new trial

. Esta was presented under the recent regulations
established in Ramos v. Louisiana, op. of April 20, 2020,
140 S.Ct.

1390, 590 US _ (2020), and Pueblo v. Torres Rivera, op.
May 8

2020, 2020 TSPR 42, whose retroactive application
requests the part
petitioner.

For its part, on September 23, 2020, the People of Puerto
Rico

appeared through the Attorney General's Office through
his

Having evaluated the briefs of the appearing parties, this Court

conclude as follows.

It is known that this appellate forum will not intervene with the

exercise of the discretion of the Court of First Instance, except in "Lin

gross abuse of discretion or that the court [acted] with prejudice

and bias, or that he [was wrong] in the interpretation or application of any procedural norm or substantive law, and that

our intervention at this stage will avoid substantial damage.

"Lluch v.

Spain Service, 117 DPR 729, 745 (1986).

assessed the petition for certiorari presented on September 23,

2020, we concluded that we were not persuaded that the primary forum had

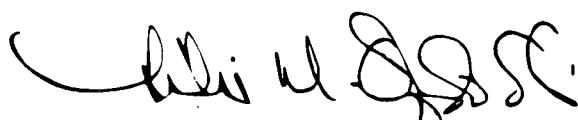
made any mistake, justifying our intervention at this stage of the procedures. Consequently, we deny the issuance of the writ of certiorari.

Judge Méndez Miró disagrees with a written opinion.

Be notified.

It was agreed by the Court and certified by the Secretary of the Court of

Appeals.



Lcda. Lilia M. Oquendo Solis

Secretaria del Tribunal de Apelaciones

**Additional material
from this filing is
available in the
Clerk's Office.**