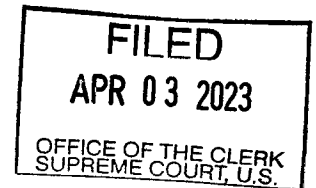


No. 22-7487

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



TRAVIS CARTER – PETITIONER

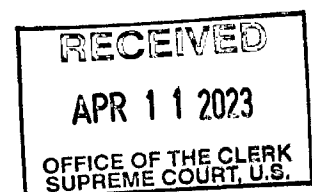
vs.

STATE OF LOUISIANA – RESPONDENT(S)

ON PETITION FOR DIRECT COLLATERAL REVIEW TO
THE STATE OF LOUISIANA SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

TRAVIS CARTER, D.O.C. #097219
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QUESTION(S) PRESENTED

1. Does the State of Louisiana have the express right to invoke the defense of “judicial economy” as a ruse for plausible deniability; especially when the State of Louisiana initially engineered the action in 1898 which resulted in the substantial and direct violations of the United States Constitutional guarantees?
2. Should the State of Louisiana be allowed to place a price tag on United States Constitutional rights?
3. Does this Court’s holding in Montgomery v. Louisiana, No. 14-280, 136 S.Ct. 718 (01/27/2016), a reasoned judgment, controls subsequent cases in a similar posture?
4. Is an unconstitutional criminal procedure the same as an unconstitutional statutory provision being an absolute nullity under this Court’s holding in Montgomery v. Louisiana, No. 14-280, 136 S.Ct. 718 (01/27/2016)?
5. Does the Louisiana Supreme Court’s judgment in State v. Reddick, 2021-01893 (La. 10/21/22), ___ So. 3d _____ on February 7, 2023 circumvent the Constitutional protections that are deeply engrained within the Sixth and Fourteenth Amendment to the United States Constitution?

LIST OF PARTIES

RULE 14.1(b) STATEMENT

☒ All parties to this proceeding appear in the caption of the case on the cover page.

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceedings in the court whose judgment is the subject of this petition is as follows:

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PETITION FOR DIRECT COLLATERAL REVIEW

Travis Carter respectfully petitions for a writ of certiorari and direct collateral review to review the opinion and judgment of the Louisiana Supreme Court.

OPINIONS BELOW

The opinion of the Supreme Court for the State of Louisiana rendered February 7, 2023 is published at State of Louisiana v. Travis Carter, No. 2023 WL 1793200.

JURISDICTION

The judgment of the Supreme Court of Louisiana was entered February 7, 2023. The petition is timely under **28 U.S.C. § 2101(d)** and Supreme Court Rules 13.1 and 13.3 because it is being filed within 90 days after denial of a timely sought writ of certiorari to the Supreme Court of Louisiana. This Court has jurisdiction to review the judgment of the Supreme Court of Louisiana pursuant to **28 U.S.C. § 1257(a)**.

CONSTITUTIONAL PROVISIONS, STATUTES INVOLVED

The Fourteenth Amendment to the United States Constitution provides in relevant part: “. . .nor shall any State deprive any person of life, liberty, or property, without due process of law ... and the equal protection of the laws.”

ACTION OF THE COURTS BELOW

Travis Carter’s Petition for Habeas Corpus that was filed into the First Judicial District Court, Parish of Caddo, State of Louisiana: Docket No. 111,497-1 on December 12, 2022. (See Appendix A) The trial court denied Travis Carter’s Petition for Writ of Habeas Corpus on December 20, 2022; noting specifically, that Carter was found guilty on October 16, 1980 by a 10-2 jury verdict of Aggravated Rape, a violation of **LA. R.S. 14:42**. (See Appendix B)

Carter timely filed Application for Supervisory Writs and Review, filed January 5, 2023. The Supreme Court for the State of Louisiana denied Carter’s application citing their decision on State v. Reddick, 2021-01893 (La. 10/21/22), ___ So. 3d ___ on February 7, 2023 is published at State of Louisiana v. Travis Carter, No. 2021-KP-01021; 2023 WL 1793200. (See Appendix D)

It is apparent that jurists of reason would disagree as Justices Genovese and Griffin would grant the application filed by Carter for the reasons assigned in State v. Reddick, 2021-01893 (La. 10/21/2S2), ___ So. 3d _____. (See Appendix D)

STATEMENT OF THE CASE

On October 16, 1980, Travis Carter was found guilty by a jury of Aggravated Rape. The jury rendered a 10-2 verdict finding Carter guilty of Aggravated rape. The jury rendered a unanimous verdict finding Carter guilty of Attempted First Degree Murder.

As to the Aggravated Rape conviction, Carter was sentenced to life imprisonment at hard labor without benefit of parole, probation or suspension of sentence. Carter was also sentenced to be confined at hard labor for a period of fifty (50) years for the Attempted First Degree Murder conviction.

The court ordered these sentences to be served consecutively and Carter's convictions and sentences were affirmed on appeal, State v. Carter, 412 So.2d 540 (La. 4/5/1982).

REASONS FOR GRANTING THE WRIT

1. Carter argues: it is not proper for the State of Louisiana to invoke the defense of “judicial economy” as a ruse for plausible deniability; especially when the State of Louisiana engineered the action which resulted in the Substantial and direct violations of the United States Constitutional guarantees.
2. The State of Louisiana should not be allowed to place a price tag on United States Constitutional rights.
3. Carter argues that this Court’s holding in Montgomery v. Louisiana, No. 14-280, 136 S.Ct. 718 (01/27/2016) is a reasoned judgment that controls subsequent cases in a similar posture.

ARGUMENT 1.

It is not proper for the State of Louisiana to invoke the defense of “judicial economy” as a ruse for plausible deniability; especially when the State of Louisiana engineered the action which resulted in the Substantial and direct violations of the United States Constitutional guarantees.

The Sixth Amendment right to jury trial is fundamental to the American scheme of justice and is incorporated into the States under the provisions of the Fourteenth Amendment.

Justice Gorsuch writing for the Ramos Court noted: “In 48 States and Federal Court, a single juror’s vote to acquit is enough to prevent a conviction. But not in Louisiana.” . . . “So if the Sixth Amendment’s right to jury trial requires a unanimous verdict to support a conviction in federal court, it requires no less in state court.” . . . “On what ground would anyone have us leave Mr. Ramos in prison for the rest of his life? Not a single member of this Court is prepared to say Louisiana secured his conviction constitutionally under the Sixth Amendment. No one before us suggests that the error was harmless.”

Petitioner argues that Mr. Ramos’s “life, liberty, or property” is not greater or more valuable than his; Ramos v. Louisiana, No. 18-5924, 590 U.S. _____, rendered April 20, 2020.

This Louisiana Supreme Court’s decision in Reddick violated the right to the equal protection of the laws guaranteed by the Due Process Clause of the Fourteenth Amendment. “. . . like the right to procedural due process.” See: Carey v. Phipps, 98 S.Ct. 1042, 1053 (1978) – the right to equal treatment guaranteed by the Constitution is not co-extensive with any substantive rights to the benefits denied the party discriminated against.” Heckler v. Mathews, 104 S.Ct. 1387 (1984); “The Equal Protection Clause of the Fourteenth Amendment provides that **“no State shall . . . deny to any person within its jurisdiction the equal**

protection of the laws.” (emphasis added) “. . . rights created by the first section of the Fourteenth Amendment are, by its terms guaranteed to the individual. The rights established are personal rights.” “. . . It is the judicial system, rather than the legislative process that is best equipped to identify past wrongdoers and to fashion remedies that will create the conditions that presumably would have existed had no wrong been committed.” . . . “It is beyond dispute that any public entity, state or federal, has a compelling interest in assuring that public dollars, drawn from the tax contributions of all citizens, do not serve to finance the evil of private prejudice.” City of Richmand v. J.A. Croson, Co., 109 S.Ct. 706 (1989), citing Yick Wo v. Hopkins, 6 S.Ct. 1064 (1886).

ARGUMENT 2.

The State of Louisiana should not be allowed to place a price tag on United States Constitutional rights.

The Due Process Clause of the Fourteenth Amendment provides: “Nor shall any State deprive any person of life, liberty, or property, without due process of law. . .” This clause “raises no impenetrable barrier to the taking of a person’s possessions,” or liberty, or life. Fuentes v. Shelvin, 92 S.Ct. 1983, 1994 (1972). Procedural due process rules are meant to protect persons not from deprivation of life, liberty, or property. “. . . procedural due process rules are shaped by the risk of

error inherent in the truth-finding process.” Mathews v. Eldridge, 96 S.Ct. 893 (1976).

Such rules “minimize substantively unfair or mistaken deprivations of life, liberty, or property by enabling persons to contest the basis upon which a state proposes to deprive them of protected interests. Fuentes v. Shelvin, 92 S.Ct. at 1994, *Cf. New York Life Ins. V. Brown*, 84 F.3d 137 (U.S. 5th Cir. 5/15/96), “Under our system of justice, the opportunity to be heard is the most fundamental requirement. Mullane v. Central Hanover Bank & Trust Co., 70 S.Ct. 652, 657 (1950). (“The fundamental requisite of due process of law is the opportunity to be heard.”) This, the Petitioner has never been afforded, and prays for the relief to which he is entitled.

ARGUMENT 3.

This Court’s holding in Montgomery v. Louisiana, No. 14-280, 136 S.Ct. 718 (01/27/2016) is a reasoned judgment that controls subsequent cases in a similar posture.

Petitioner argues that with the advent of Ramos v. Louisiana, No. 18-5924, 590 U.S. _____, rendered April 20, 2020, striking down the procedures wherein a non-unanimous jury verdict was rendered as unconstitutional, along with the procedure for obtaining such through a trial court’s jury instruction, a Petition for Writ of Habeas Corpus is the proper format where his convictions are now null and

void; and amount to a structural defect in the trial procedure which also nullifies the criminal proceedings in Petitioner's instant case now before this Honorable Court. Montgomery v. Louisiana, No. 14-280, 136 S.Ct. 718 (01/27/2016).

In State of Louisiana v. Julio Melendez, No. 2021-K-0597, (La. App. 4th Cir. 11/10/2021), this Court of Appeal determined that Ramos, was retroactive.

It is Petitioner's assertion that this court's ruling is correct and follows the United States Supreme Courts holding in Danforth v. Minnesota, 128 S.Ct. 1029 (2008) where the U.S. Supreme Court noted the states have a broader discretion in applying new rules of criminal procedure retroactively.

A State court's refusal to entertain Petitioner's constitutional claims violates the Supremacy Clause of the Federal Constitution. U.S.C.A.. Const. Art. 6, cl.2. See, *e.g.* Howlett v. Rose, 110 S.Ct. 2430 (1990).

In light of the United States Supreme Court's decision in Ramos v. Louisiana, No. 18-5924, 590 U.S. _____, rendered April 20, 2020, Petitioner's convictions for one count of Aggravated Rape, a violation of **LSA-R.S. 14:42** obtained under Docket Number 111,497-1, being non-unanimous verdict, is unconstitutional. See also: State v. Howard, 15th Judicial District Court No. 163534; State v. Maxie, 11th Judicial District Court No. 13-CR-72522.

The reasoning behind the fact that retroactivity is correct is because prior to the Louisiana Legislature's referendum in 1898 – lowering the unanimous jury

verdict to 9-3 required for a conviction – it was mandatory that a unanimous jury verdict be obtained. In 1974 the Louisiana Legislature raised the requirement for a conviction to 10-2; hence under the federal constitution a non-unanimous jury verdict was still unconstitutional as not requiring a unanimous jury verdict.

Additionally, a state court may not deny federal rights, when parties in controversy are properly before it. See: Arizona v. United States, 567 U.S. 387, 132 S.Ct. 2492 (06/25/2012); State of Louisiana v. Alexis, No. 2013-K-1271, 126 So.3d 453 (LA 10/15/2013); 88 Georgetown L.C. 2085, July 2000 (09/21/2021); all holding that the federal constitutions protections are preemptory and over-ride all state constitutions; codal and statutory provisions which fail and fall short of said protections.

Retroactivity is no longer an issue in this matter. See also: Montgomery v. Louisiana, No. 14-280, 136 S.Ct. 718, judgment rendered January 25, 2016; revised January 27, 2016. In Montgomery, the U.S. Supreme Court noted that a conviction under an unconstitutional law is not merely erroneous, but is illegal and void; and as such the retroactive application of substantive rules of federal constitution does not implicate a State's weighty interests in ensuring the finality of convictions.

Carter argues that **La.C.Cr.P. Art. 782** at the time of his trial, and as concluded in Ramos, *Id.* is an unconstitutional statute and criminal procedure.

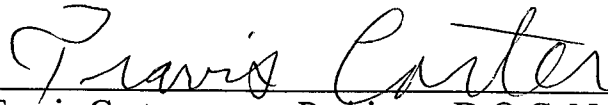
Hence, Carter's conviction for Aggravated Rape by less than an unanimous jury verdict is illegal and void were such a conviction drastically lowered the standard of reasonable doubt.

CONCLUSION

In light of the Oregon Supreme Court's holding and judgment in Jacob Keith Watkins v. Richard Ackley, __ P.3d ____, 370 OR. 604 decided 12/30/2022, Carter asserts that the Louisiana's State Supreme Court should not remain the only court, and therefore the state in these United States to trample upon the constitutional rights of its citizens.

Carter asserts the Honorable Justices of this Court should grant the writ and reinstate to all citizens of the State of Louisiana the Constitutional rights invested within the Sixth Amendment to the United States Constitution which are applicable to the State of Louisiana through the Fourteenth Amendments right to due process of law and to the equal protection of the law; which are in force and employed by all of the other forty-nine (49) states.

Respectfully submitted by:


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