

TRAVIS CARTER, Petitioner

DOCKET NO,

FILED

VERSUS

FILED

STATE OF LOUISIANA
Respondent

CLERK OF COURT

DEC 12 2022

NANCY JENKINS
DEPUTY CLERK

PETITION FOR HABEAS CORPUS RELIEF FOR
CONSTITUTIONAL ERRORS IN RE 111,497

MAY IT PLEASE THE COURT

NOW INTO COURT comes Travis Carter, hereinafter Petitioner, who moves this Honorable Court to entertain his Petition herein regarding his convictions obtained in the First Judicial District Court under Docket Number 111,497 which are reviewable for the following reasons below

1

A state court may not deny federal right, when parties in controversy are properly before it. 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)

Petitioner avers, he is properly before this Court, and presents the following arguments below

2

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 conviction for one count of Aggravated Rape, a violation of LSA-R S 14 42 obtained under Docket Number 111,497 is, being a non-unanimous verdict, unconstitutional See also State v Howard, 15th Judicial District Court No

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

4

Petitioner argues, that La C Cr P , Art 782 is an unconstitutional statute
And, as such, Petitioner's conviction for Aggravated Rape by a less than
unanimous (10/2) verdict is illegal and void for drastically lowering the standard of
reasonable doubt

CONCLUSION

Wherefore, for the reasons and law above, Petitioner moves this Court to
hold an evidentiary hearing with the District Attorney and after due proceedings,
enter judgment granting relief of his convictions obtained in this Court under
Docket number 111,497, in accordance with the provisions of La C Cr P Art
930 10

Respectfully submitted this 7th day of December, 2022,

ON THE SHOWING MADE, THE
REQUESTED RELIEF CANNOT
BE GRANTED
Donald E. Hathaway, Jr.
JUDGE DONALD E. HATHAWAY, JR.
SIGNED 11/16/22 IN SHREVEPORT, LA

Travis Carter
Travis Carter DOC#097219
Walnut - 2, La State Penitentiary
Tunica Trace 17544, Hwy 66
Angola, LA 70712

5-27-21 BW

STATE OF LOUISIANA

NUMBER 111,497; SECTION 1

VERSUS

FIRST JUDICIAL DISTRICT COURT

TRAVIS CARTER

CADDO PARISH, LOUISIANA

FILED
JUN 21 2021
C. WASHINGTON
CADDO PARISH DEPUTY CLERK

RULING

On October 16, 1980, Petitioner was convicted by a jury of aggravated rape and attempted first degree murder. The jury verdict was unanimous for Petitioner's attempted first degree murder conviction. The jury verdict was ten to two for Petitioner's aggravated rape conviction. Petitioner was sentenced to life imprisonment at hard labor for aggravated rape and was sentenced fifty (50) years at hard labor for attempted first degree murder. The Court ordered these sentences to be run consecutively. Petitioner's convictions and sentences were affirmed on appeal. *State v. Carter*, 412 So.2d 540 (La. 4/5/82).

Currently before the Court is Petitioner's Application for Post-Conviction Relief, filed on January 21, 2021. The State filed its procedural objection on April 14, 2021. This Court signed a Motion to Reconsider Stay of Post-Conviction Relief Proceedings on May 6, 2021, granting a stay until the United States Supreme Court renders a decision in *Edwards v. Vannoy*. On May 17, 2021, the United States Supreme Court decided *Edwards v. Vannoy*. This Court will now issue a ruling on these proceedings. For the following reasons, Petitioner's Application is **DENIED**.

Petitioner claims that he is entitled to post-conviction relief due to the fact that he was convicted by a non-unanimous jury. Petitioner bases his argument on the decision in *Ramos v. Louisiana*, 590 U. S. ----, 140 S.Ct. 1390, 206 L.Ed.2d 583 (2020). *Ramos* declared non-unanimous jury verdicts to be unconstitutional. Petitioner is alleging that the ruling set forth in *Ramos* should be applied retroactively to cases where the jury verdict was non-unanimous, such as his own. Petitioner further argues that his application is timely as it meets the exception provided under La. C. Cr. P. Art. 930.8(A)(2), which states:

A. No application for post-conviction relief, including applications which seek an out-of-time appeal, shall be considered if it is filed more than two years after the judgment of conviction and sentence has become final under the provisions of Article 914 or 922, unless any of the following apply:

(2) The claim asserted in the petition is based upon a final ruling of an appellate court establishing a theretofore unknown interpretation of constitutional law and petitioner establishes that this interpretation is retroactively applicable to his case, and the petition is filed within one year of the finality of such ruling.

A recent decision by the United States Supreme Court in *Edwards v. Vannoy*, 590 U. S. -- --, 141 S.Ct. 1547 (2021), determined whether or not the ruling in *Ramos* shall apply retroactively on collateral review. In order for a new procedural rule to apply retroactively on collateral review, it must meet the watershed rule set forth in *Teague v. Lane*, 489 U. S. 288, 109 S. Ct. 1060, 103 L. Ed. 2d 334 (1988). The United States Supreme Court in *Edwards* held that the jury unanimity rule established in *Ramos* does not meet the watershed exception, and thus will not apply retroactively on collateral review. Therefore, the merits of Petitioner's argument are invalid and his application is untimely filed as it does not meet the time delays set forth in La. C. Cr. P. Art. 930.8.

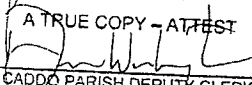
Accordingly, Petitioner's Application for Post-Conviction Relief is **DENIED**.

IT IS ORDERED that the Clerk of Court provide a copy of this Ruling to Petitioner and the Caddo Parish District Attorney.

Signed this 21st day of May, 2021, in Shreveport, Caddo Parish, Louisiana.


JUDGE DONALD HATHAWAY
DISTRICT COURT JUDGE

ENDORSED FILED
B. WASHINGTON, Deputy Clerk

MAY 27 2021
A TRUE COPY - ATTEST

CADDO PARISH DEPUTY CLERK

DISTRIBUTION:

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WESTLAW

State v. Carter

Supreme Court of Louisiana. February 7, 2023 --- So.3d ---- 2023 WL 1793200 (Mem) 2021-01021 (La. 2/7/23) (Approx. 1 page)

2023 WL 1793200
Supreme Court of Louisiana.

STATE of Louisiana

v.

Travis CARTER

No. 2021-KP-01021

February 7, 2023

Applying For Supervisory Writ, Parish of Caddo, 1st Judicial District Court Number(s)
111,497.

Opinion

*1 Writ application denied. See State v. Reddick, 2021-01893 (La. 10/21/22), --- So.3d
-----.

Genovese, J., would grant in part for the reasons assigned in State v. Reddick, 2021-01893
(La. 10/21/22) ---So.3d.-----.

Griffin, J., would grant. See State v. Reddick, 2021-01893 (La. 10/21/22), --- So.3d -----
(Griffin, J., dissenting).

All Citations

--- So.3d ----, 2023 WL 1793200 (Mem), 2021-01021 (La. 2/7/23)

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APPENDIX B

