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SUPREME COURT, U.S.

IN THE

Supreme Court of the United States

JERMAL WILLIAMS,

Petitioner,

v.

STATE OF LOUISIANA,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE STATE OF
LOUISIANA COURT OF APPEAL, FOURTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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SUPREME COURT, U.S.

QUESTION PRESENTED

Under the due process clause of the U.S. Constitution Amendment XIV, is La. R.S. 15:438 a higher standard of proof than *Jackson v. Virginia*, 443 U.S. 307 (1979) in Louisiana cases involving only circumstantial evidence?

PARTIES TO THE PROCEEDINGS BELOW

All parties appear in the caption of the case on the cover page.

LIST OF PROCEEDINGS

Louisiana Supreme Court

Nº. 2024-K-01376

*State of Louisiana v.
Jermal Williams*

Date of Final Opinion: February 19, 2025

Louisiana Court of Appeal, Fourth Circuit

Nº. 2024-KA-0105

*State of Louisiana v.
Jermal Williams*

Date of Final Opinion: October 9, 2024

Louisiana District Court (Orleans Parish)

Nº. 550-026

*State of Louisiana v.
Jermal Williams*

Date of Final Opinion: September 13, 2023

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Sup. Ct .R. 12.74

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OPINIONS BELOW

The opinion of the Louisiana Supreme Court, dated February 19, 2025, is included in the appendix at App.1a. The opinion is reported at *State v. Williams*, 2024-01376 (La. 2/19/25), 400 So.3d 921 (Mem). The ruling of the Louisiana Court of Appeal, Fourth Circuit, dated October 9, 2024, is included below at App.2a. The opinion is reported at *State v. Williams*, 2024-0105 (La.App 4 Cir. 10/9/2024), 400 So.3d 1194.

JURISDICTION

The judgment of the Louisiana Supreme Court was entered on February 19, 2025.

App.1a. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment XIV, Section 1 of the U.S. Constitution (Citizens of the United States) states that:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Louisiana Revised Statute, Section 15:438 states that:

The rule as to circumstantial evidence is: assuming every fact to be proved that the evidence tends to prove, in order to convict, it must exclude every reasonable hypothesis of innocence.

STATEMENT OF THE CASE

Late afternoon on New Year's Day 2020, Christopher McCann, a member of the murderous 3-N-G gang, was gunned down while driving his SUV in the 3400 block of South Claiborne Avenue. (Tr.1, V4, 26, 68); (Tr. II, V5, 93-94).¹ Surveillance video showed muzzle flashes emanating from the passenger side of a white Chevy Colorado pickup truck, as it pulled up next to McCann's vehicle. Two persons are discernible sticking their heads out of the truck's passenger side windows as the gunfire erupts. (Tr.1, V4, 76-77, 128-31). Numerous spent shell casings were found at the site of the shooting, including 26 casings consistent with those used in an AR-15 rifle, four casings consistent with those used in an AK-47 rifle, and a single 40 caliber Smith & Wesson casing. (Tr. II, V5, 27, 36-37, 42, 49-50).

Piecing together surveillance video from "blue light" security cameras, the pickup truck was tracked coming to the crime scene and then traveling to the Westbank, where video surveillance tracking was lost. (Tr.1, V4, 89-98). Two weeks later, on January 15, 2020, police discovered the pickup truck parked at an apartment complex on Woodland Highway in Algiers, prompting immediate surveillance activity, including both visual tracking and GPS tracking, which was obtained by search warrant issued in the afternoon of January 15, 2020. (Tr.1, V4, 99-100, 115, 119). The truck had a temporary license tag and was registered to a resident of LaPlace who had died two years earlier. (Tr. II, V5, 140; R. 129-33).

During two days of surveillance, more than one person was observed driving the truck. An unidentified person was observed driving it on January 15 and according to the

¹ All fact citations are to the transcript of Williams' trial (Tr.). See Sup. Ct .R. 12.7

search warrant applied for on January 16 for a particular apartment unit, the following representation was sworn to by lead detective Rayell Johnson:

After acquiring a signed warrant, a tracking device was affixed to the aforementioned Chevy Colorado. While under surveillance, the investigators observed the driver of the vehicle exit a residence at [the subject apartment unit]. While under surveillance, the subject was observed placing latex gloves over his hands before entering and driving the vehicle (Chevy Colorado). Investigators also observed what they believed to be a handgun protruding from the subject's right front pocket as he entered [the apartment unit].

Through the course of the investigation, the aforementioned subject was identified as Mr. Iman Calvin, black male, D.O.B. June 3, 1994. Mr. Iman Calvin is a known associate of the "Byrd Gang." The deceased victim, Chris McCann was a known associate of "3NG." Let it be noted "Byrd Gang" and "3NG" gangs have an ongoing feud.

R. 138 (misspellings and punctuation corrected).

Upon executing the warrant at the apartment unit from which Calvin was observed to have entered and exited, the police encountered Jermal Williams and his girlfriend. No other persons were present, but there were documents that belonged to a Jacobie Thompson, including his driver's license, social security card, credit card, and debit card. (Tr. II, V5, 74, 98-99). The police also discovered a handgun hidden in the attic, which forensic testing determined was the weapon that shot the bullet that came from the spent 40 caliber casing retrieved at the crime scene. (Tr.1, V4, 178).

After the police discovered the handgun, Williams admitted ownership and, acknowledging that he had a prior felony conviction, agreed to take his "lick." Police promptly arrested him for being a felon in possession of a firearm, but did not advise him that the search was part of a murder investigation. (Tr. II, V5, 81, 117). Williams also claimed, without supporting evidence, that the pickup truck was his, having purchased it the previous day at around 1:00 p.m., which would have been about an hour after the

police discovered the truck parked at the apartment complex. Damage to the truck had been crudely repaired with duct tape and white spray paint, items that were found in the apartment during the search, thus suggesting that the truck had been accessible to Williams for more than just a day. (Tr. II, V5, 80, 83).

Two pairs of gloves were seized, but no latex gloves were found. (Tr. II, V5, 75-76, 188-19, 132). Also found in the apartment were three cell phones. (Tr. II, V5, 135). The phones were "burner" phones such that there was no subscriber information for any of them, but based on the data contents of the phones, the investigators concluded that one of them was used by Williams. (Tr. II, V5, 137-39). Subsequent, forensic analysis indicated that at the time of the crime, the phone that the police connected Williams was pinging on cell towers not inconsistent with having traveled with the pickup truck at the time of the shooting. (Tr. II, V5, 35-45).

Two fingerprints were lifted from the magazine of the seized gun, and DNA swabs were taken from the trigger and the grip of the gun and from a live 40-caliber casing and a 45-caliber casing found in the apartment. (Tr. II, V5, 96-98, 120, 123-24). DNA swabs were also taken from six areas of the interior of the pickup truck, from both pairs of gloves found in the apartment, and from 15 of the spent shell casings found at the crime scene. (Tr. 1, V4, 46-47; Tr. II, V5, 87, 119-20, 125, 135). The police, however, declined to submit any of the lifted fingerprints or the numerous DNA samples for analysis and declined even to look for prints or DNA on any of the three cell phones. (Tr. II, V5, 97-98, 119-25, 135).

Eight months later, the State charged Williams with one count of second-degree murder, one count of obstruction of justice, and one count of being a felon in possession of a firearm. (R. 65-66). Following a two-day trial, a jury found Williams guilty of the lesser

offense of manslaughter and guilty as charged on the obstruction and felon in possession counts. (Tr. II, V5, 230). On October 6, 2023, the trial court sentenced Williams to concurrent terms of 35 years, 20 years, and 20 years, respectively. (R. 227).

Williams appealed arguing, *inter alia*, that the circumstantial evidence did not exclude the reasonable hypothesis that he was not among the persons in the truck during the commission of the crime. On October 9, 2024, the Louisiana Fourth Circuit Court of Appeal, by published opinion, rejected the arguments and affirmed the conviction. App.2a. The La. Supreme Court denied writs without reasons on February 19, 2025. App.1a.

REASONS FOR GRANTING THE PETITION

This Honorable Court should grant this writ because in cases in Louisiana involving only circumstantial evidence the plain language of the law requires that every reasonable hypothesis of innocence be excluded in order to convict which maintains a defendant's right to due process of law. U.S. Const. Amend. XIV. This is a higher standard than *Jackson v. Virginia* and is recognized as such by this Honorable Court and other federal courts. The Louisiana Courts have decided to totally disregard that requirement and are not applying the law as intended by the legislature. The court's decisions do not square with the language of La. R.S. 15:438. The courts have taken both a legislative and a judicial function in assigning its own meaning to the statute. This Court has stated that the legislature says in a statute what it means and means in a statute what it says there. *Connecticut Nat. Bank v. Germain*, 503 U.S. 249, 253-54, 112 S.Ct. 1146, 117 L.Ed.2d 391 (1992). When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written, and no further interpretation made in search of the legislature's intent. La. Civil Code Art. 9.

A. The State's Case Against Williams was built entirely on Circumstantial Evidence.

Investigators knew that there were multiple shooters and no less than three people in the pickup truck when the shooting occurred. They had leads on the identities of at least two other persons associated with the truck and the apartment (Iman Calvin and Jacobie Thompson) and knew that an unknown person was seen driving the truck. They located three cell phones in the apartment, only one of which was alleged to have been associated with Williams. Yet, investigators declined to look for prints or DNA on the phones and declined to submit for analysis any of the lifted fingerprints or the numerous

DNA samples they had obtained during the investigation of this case. They claimed that any forensic analysis of the fingerprint and DNA evidence was unnecessary because Jermal Williams, and not Iman Calvin, was found in the apartment when it was searched and because Williams conceded "ownership" of the truck and the gun. (Tr. II, V5, 87, 97-98, 135).

This reasoning, of course, does not explain why DNA samples and fingerprints were nonetheless obtained in the first place, or, more importantly, why investigators were seemingly unconcerned with ascertaining the identities of any other perpetrators of this murder or with verifying that Williams' quick confession to owning the gun and the pickup truck was not a misguided attempt to cover for someone else. Such apparent disregard for solving the crime and getting dangerous persons off the streets of New Orleans supported the defense trial theory that the police compromised its function as investigators of the truth in order to ensure Williams' conviction. In other words, the State did not want to risk the case developed against Williams by any further evidence that other persons used Williams' truck, his apartment, his burner phone, or most significantly, the handgun found in the attic. (Tr. II, V5, 163-181).

But by limiting its investigation in this manner, the State also limited its case against Williams to one purely of circumstantial evidence, and "[t]he rule as to circumstantial evidence is: assuming every fact to be proved that the evidence tends to prove, in order to convict, it must exclude every reasonable hypothesis of innocence." La. R.S. 15 :438.

B. Williams' Case Presented a Reasonable Hypothesis of Innocence that Williams was not in the truck during the crime.

The State relied on Williams' uncorroborated claim of ownership of the gun and the truck, as well as the phone-tracking evidence to support its theory that Williams was

one of the shooters. But the other evidence presented by the State leaves open the reasonable possibility that someone else possessed the gun and the cell phone, leaving the question of Williams' presence at the crime scene entirely speculative. No eyewitnesses placed Williams at the scene of the murder. Thus, video evidence reveals that several persons were inside the pickup during the crime, and the police reported that several persons were seen driving the truck two weeks later. Moreover, the police reported, in a warrant affidavit, that Iman Calvin was observed bringing a handgun into the apartment, and Jacobie Thompson driver's license, social security card, credit card, and debit card were found in the apartment along with two cell phones that did not appear to belong to Williams.

Given all of this evidence of communal dominion over the apartment, the gun, and the pickup truck, the possibility remained that Williams was not among those in the pickup truck at the time of the murder. If that hypothesis is reasonable, as Williams maintains, then by the plain and unambiguous language of La. R.S. 15:438, the conviction cannot stand. As noted previously, the Louisiana courts do not ascribe to the plain meaning of the statutory language.

C. The Court of Appeal Fourth Circuit's Ruling and the denial of writs by the Louisiana Supreme Court without reasons conflicts with La. R.S. 15:438.

The Fourth Circuit acknowledged the circumstantial nature of the evidence upon which the State built its case. App.8a. The Fourth Circuit also agreed "that it is possible that Williams was not in the truck" but concluded that the factors supporting that hypothesis, "when taken together, do not form a hypothesis of innocence of such strength that no rational juror could have found proof of Williams's guilty beyond a reasonable

doubt." App.9a. In other words, a hypothesis of innocence must not only be reasonable, it must sufficiently overpower whatever circumstantial evidence supports a guilty verdict.

The Fourth erroneously limited La. R.S. 15:438 to only a "guideline added to the due process requirement enunciated by [this Honorable] Court in *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). App.8a-9a. The circuit rejected the facts that raised a reasonable hypothesis that Williams was not in the truck. Williams argued that: (1) other people went in and out of [his] apartment; (2) other people were seen driving his truck, [which showed that Williams did not have exclusive access to the vehicle]; (3) other phones were found in his apartment, and; (4) a credit card, driver's license, and social security card belonging to someone else was found in [his] apartment. App.9a.

The Fourth Circuit followed precedence from the Louisiana Supreme Court in affirming Williams' conviction. The precedence from the Louisiana Supreme Court is flawed and requires intervention from this Honorable Court. The Louisiana Federal Courts have recognized that La. R.S. 15:438 requires a different more stringent standard and have declined to extend that standard to habeas petitioners instead relying only on the *Jackson* and AEDPA standards; many Louisiana federal cases cite *Schrader v. Whitley*, 904 F.2d 282, 284 (5th Cir. 1990), *cert denied*, 498 U.S. 903, 111 S.Ct. 265, 112 L.Ed.2d 221 (1990). This Court in *Jackson v. Virginia*, also emphasized the difference between the need to rule out every hypothesis and the *Jackson* standard in noting:

Only under a theory that the prosecution was under an affirmative duty to rule out every hypothesis except that of guilt beyond a reasonable doubt could this petitioner's challenge be sustained. That theory the Court has rejected in the past. *Holland v. United States*, 348 U.S. 121, 140 [1954]. We decline to adopt it today.

Jackson v. Virginia, 443 U.S. 307, 326 (1979).

In other words, *Jackson* itself provides that any sufficiency rule that includes a "hypothesis of innocence" formulation is inconsistent with the rule announced in that case, and since *Jackson* was decided, other courts uniformly recognized that a circumstantial-evidence rule similar to that codified in La. R.S. 15:438 exceeds the evidentiary minimum constitutional threshold established in *Jackson*.²

Instead of agreeing that the rule, by its plain meaning imposes a burden of proof greater than the constitutional minimum established in *Jackson*, The La. Supreme Court has engrafted unwritten limitations on that language to conclude that the statute does not provide a "separate test" but merely provides a "guideline" for *Jackson* review. In other words, the La. Supreme Court has effectively repealed the statute by judicial fiat. Therefore, under the La. Supreme Court's interpretation of the statute, a reasonable hypothesis of innocence compels an acquittal only if the evidence does not otherwise support the conviction. But if the evidence does not otherwise support the conviction, then the existence of hypothesis of innocence is irrelevant. The La. Supreme Court's interpretation likewise renders meaningless the legislative directive for circumstantial evidence, though the legislative decision for the statute to apply only to circumstantial evidence was surely purposeful. In any case, nothing in the plain meaning of the language of the statute suggests that the reasonableness of a hypothesis of innocence is qualified by the quality of the remaining circumstantial evidence.

² See, e.g. *United States v. Shi*, 991 F.3d 198, 209 (D.C. Cir. 2021); *United States v. Brown*, 603 F.2d 1022, 1024 (1st Cir. 1979); *United States v. Burgos*, 94 F.3d 849, 858 (4th Cir. 1996); *United States v. Crandell*, 72 F.4th 455, 492 (5th Cir. 2023); *United States v. Seaton*, 45 F.3d 108, 110 (6th Cir. 1995); *United States v. Jones*, 56 F.4th 455, 492 (7th Cir. 2022); *United States v. Talbert*, 710 F.2d 528, 530 (9th Cir. 1983); *United States v. Hooks*, 780 F.2d 1526, 1531 (10th Cir. 1986); *United States v. Kincherlow*, 88 F.4th 897, 904 (11th Cir. 2023).

CONCLUSION

For these reasons, the petition for a Writ of Certiorari should be granted.

Respectfully submitted this 16th day of May, 2025.

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