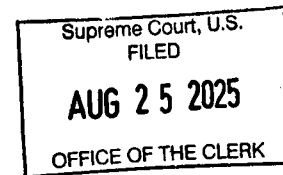


# ORIGINAL

**26-5652**

No. \_\_\_\_\_



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IN THE  
SUPREME COURT OF THE UNITED STATES

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VINCENT SMITH  
*Petitioner*

vs.

DARRELL VANNOY, WARDEN  
*Respondent*

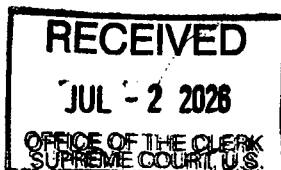
ON PETITION FOR A WRIT OF CERTIORARI TO  
THE SUPREME COURT OF THE STATE OF LOUISIANA

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PETITION FOR WRIT OF CERTIORARI

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VINCENT SMITH, #96122  
PRO SE PETITIONER  
MAIN PRISON WEST-WALNUT-3  
LOUISIANA STATE PENITENTIARY  
ANGOLA, LOUISIANA 70712



### QUESTIONS PRESENTED

- (1) Whether the lower court's decision conflicts with decisions rendered by other courts?
- (2) Whether significant unresolved issues of law are involved in the case presented for review?
- (3) Whether the controlling precedent upon which the lower court's decision is based should be overruled?
- (4) Whether the lower court' has erroneously interpreted or applied the relevant law?
- (5) Whether the lower court's decision is a far departure from proper judicial proceedings such that it constitutes an abuse of powers?

## LIST OF PARTIES

( ) All parties in the caption of the case on the cover page.

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Petitioner ("Mr. Smith") respectfully prays that a writ of certiorari issue to review the order of the Supreme Court for the State of Louisiana's affirmation of state Application for Post-Conviction Relief set forth in U.S.C. § 1257(a)

### OPINIONS BELOW

The opinion of the Twenty-Fourth Judicial District Court, Parish of Jefferson, State of Louisiana, appears at Appendix "A" to this petition and is reported as follows:

"This matter comes before the Court on Mr. Smith's APPLICATION FOR POST CONVICTION RELIEF, STAMPED AS FILED JUNE 14, 2024.

On May 25, 1995, Petitioner was convicted after a trial by jury of the second degree murder of his girlfriend. His conviction and life sentence were upheld on direct appeal in *State v. Smith*, 95-734 (La. App. 5 Cir. 1/20/96), 668 So.2d 1260, writ denied, 98-KH-1406 (La. 10/16/98), 726 So.2d 899. In addition, more than twenty applications for post conviction relief have been denied by the district court. Writ denials from the Louisiana Fifth Circuit Court of Appeal and the Supreme Court of Louisiana have followed.

Petitioner now files a document entitled "*Application for Post Conviction Relief*." He does not file the required form or provide certain mandatory information. In his brief, he contends that changes in statute in 2006 warrant relief.

The court will not address the merits of his claim because this application for post conviction relief remains untimely. Under the clear language of LSA-C.Cr.P. art. 930.8, Petitioner had two years (previously three) from the date of his conviction and sentence became final to file an application for post conviction relief, unless he proved an exception to the time limitations of LSA-C.Cr.P. Art. 930.8(A). Petitioner does not claim any valid exceptions, and fails to prove any adequate proof to properly establish any enumerated exceptions for delayed filing

in this case. An additional basis for denial of post conviction relief is the bar to repetitive and successive applications contained in LSA-C.Cr.P. Art. 930.4.

The court finds that this application, the petitioner's twentieth, for post conviction relief is barred from further judicial review as repetitive, untimely, and successive.

Accordingly, IT IS ORDERED BY THE COURT that this application for post conviction relief be and is hereby DENIED."

The opinion of the Fifth Circuit Court of Appeal appears at Appendix "B" to this petition and, to the best of Mr. Smith's knowledge, has been reported as follows:

"Relator, Vincent Smith, seeks supervisory review of the trial court's June 24, 2024, order denying his application for post conviction relief (APCR). He contends that the trial court erred by denying his APCR because he is entitled to relief based on a 2006 amendment to the law governing justifiable homicide. Relator's conviction for second degree murder became final in 1998. *State v. Smith*, 95-734 (La. App. 5 Cir. 1/30/96), 668 So.2d 1260, 1269, writ denied, 98-1406 (La. 10/16/98), 726 So.2d 899. First, we find that relator failed to comply with Uniform Rules-Courts of Appeal Rule 4-5 as he failed to provide a copy of the APCR filed with the trial court, as well as the notice of intent and return date order required by Rules 4-2 and 4-3. In addition, relator filed his APCR well outside of the prescriptive period set forth in La. C.Cr.P. 930.8, and failed to establish the existence of any of the limited exceptions to the prescriptive period provided in that article. Accordingly, we find no error in the trial court's ruling that found relator's APCR to be untimely, repetitive, and successive.

This writ application is denied."

The opinion of the Supreme Court of the State of Louisiana appears at Appendix "C" to this petition and, to the best of petitioner's knowledge, has been reported as follows:

"Writ application denied--Applicant has previously exhausted his right to state collateral review and fails to show any exception permits has successive filing. *See State ex rel. Smith v. State*, 2017-1851 (La. 12/15/17), 231 So.3d 608."

### JURISDICTION

The Supreme Court of the State of Louisiana, denied Mr. Smith's Application for Supervisory Writ on May 29, 2025. No petition for rehearing was filed in this case. Accordingly, the jurisdiction of this Court is invoked under Direct Collateral Review pursuant to 28 U.S.C. § 1257(a)

### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fourteenth Amendment to the United States Constitution, Section 1:

... 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.

28 U.S.C. § 1257

(a): Final judgments or decrees rendered by the highest court of a state in which a decision could be had, may be reviewed by the supreme court by writ of certiorari where the validity of a statute of any state is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, where any title, right, privilege, or immunity is specifically set up or claims

under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

### **STATEMENT OF THE CASE AND FACTS**

According to the state's theory probationer was responsible for the dath of Johnmie Mae Payne. On November 17, 1994, Ms. Payne was found in the rear bedroom of her apartment at 7525 Airline Highway, dead from multiple gunshot wounds. After further investigation, Mr. Smith was named as a suspect and a warrant was issued for his arrest. Mr. Smith was indicted on December 8, 1994, by the Jefferson Parish Grand Jury for second degree murder. On May 23, 24, and 25 of 1995, he was found guilty as charged. On June 22, 1995, the trial court sentenced Mr. Smith to life imprisonment without benefit of parole, probation, or suspension of sentence.

mr. Smith is imprisoned being held in custody by the respondent Darrell Vannoy, warden under a judicial court order of the 24th Judicial District Court of Jefferson Parish result in form but illegally obtained in violation of his federal constitutional rights.

### **REASONS FOR GRANTING THE PETITION**

The 2006 amendment in the justifiable homicide statute is a substantive change in the law and should be applied retroactive to Mr. Smith's case, which makes him actual or factual innocence:

This is the law by our United States Supreme Court: on the other hand, this should be an exception for delay filing:

### ASSIGNED ERRORS

(1) THE 2006 AMENDMENT TO THE JUSTIFIABLE HOMICIDE STATUTE IS A SUBSTANTIVE CHANGE IN THE LAW AND SHOULD BE APPLIED RETROACTIVE TO MR. SMITH'S CASE.

(2) THE TRIAL COURT AND THE LOUISIANA FIFTH CIRCUIT COURT OF APPEAL DENYING MR. SMITH'S WRIT APPLICATION WAS AN ERRONEOUS APPLICATION OF THE LAW TO FACTS AND CONTRARY TO CLEARLY ESTABLISHED LAW AS ANNOUNCED BY THE UNITED STATES SUPREME COURT.

### ISSUES PRESENTED

(1) WHETHER THE 2006 AMENDMENT TO THE JUSTIFIABLE HOMICIDE STATUTE IS A SUBSTANTIVE CHANGE IN THE LAW AND SHOULD BE APPLIED RETROACTIVE TO MR. SMITH'S CASE

(2) WHETHER THE TRIAL COURT AND THE LOUISIANA FIFTH CIRCUIT COURT OF APPEAL DENYING MR. SMITH'S WRIT APPLICATION WAS AN ERRONEOUS APPLICATION OF THE LAW TO FACTS AND CONTRARY TO CLEARLY ESTABLISHED FEDERAL LAW AS ANNOUNCED BY THE UNITED STATES SUPREME COURT

### SUMMARY OF THE ARGUMENT

The effect of the 2006 amendment has a substantive function and should be applied retroactive, however, it is not. The United States Supreme Court has held: The question whether a particular ruling is retroactive is itself a question of federal law. It is basic that when it comes to any such question of federal law it is the province and duty of this court to say what law is.

State courts are the final arbiters of their own state law. This Court is the final arbiter of federal law. State courts are therefore bound by your ruling on whether your

cases constituting federal law are retroactive. *Danforth v. Minnesota*, 552 U.S. 264, 126 S.Ct. 1029, 169 L.Ed.2d 859 (2208). No circumstances call more for the invocation of a rule of complete retroactivity than when the conduct being penalized is constitutionally immune from punishment.

Since this would be the case at hand Mr. Smith is a classic example of a victim of miscarriage of justice. Accordingly, the 14th Amendment to the federal constitution states: "No person 'shall' be denied due process of law."

The word "shall" is mandatory, meaning the courts lack discretion as to the operation of this section. The clause prohibits the state from denying to any person within its jurisdiction the equal protection of law.

#### LAW AND ARGUMENT

##### (1) THE 2006 AMENDMENT TO THE JUSTIFIABLE HOMICIDE STATUTE IS A SUBSTANTIVE CHANGE IN THE LAW AND SHOULD BE APPLIED RETROACTIVE TO MR. SMITH'S CASE

The 2006 amendment created a right to stand on ground by proving that a person who is not engaging in unlawful activity and who is in a place where he or she has a right to be shall have no duty to retreat before using force, violence or deadly force and may stand his or her ground and meet force with force.

This bill would provide immunity from criminal prosecution prohibiting a finder of fact(s) from considering the possibility of retreat as a factor in determining whether the person who used force or violence or deadly force did so reasonably. *Smith v. Wells*,

209 So.3d 709 (La. 12/8/15).

In the case at hand Mr. Smith defense at trial was self-defense. The 2006 amendment to the justifiable homicide statute has a substantive function this occurred when it alter the range of conduct the statute punishes rendering Mr. Smith formerly unlawful conduct lawful.

This rule must be applied retroactively because it necessarily carry a significant risk: that Mr. Smith stands convicted of an act that the law does not make criminal or face a punishment that the law cannot impose upon him. Mr. Smith have demonstrated that he is either actual or factual innocence, which is an exception to the procedural bar(s) the trial court and the Louisiana Fifth Circuit Court of Appeal have applied to Mr. Smith's claim.

In *Sehrino v. Summerlin*, 542 U.S. 348, 124 S.Ct. 2519, 159 L.Ed.2d 442 (2004), the court held: New substantive rules apply retroactively because they carry a significant risk that a defendant stands convicted of an act that the law does make criminal or faces a punishment that the law cannot impose upon him. This includes decisions that narrow the scope of a criminal statute by interpreting its term as well a constitutional determination that place particular conduct or person covered by a statute beyond the state power to punish.

A conviction or sentence impose in violation of a substantive rule of constitutional law is not just erroneous but contrary to the law and as a result void and it follows as a

general principle that a court has no authority to leave in place a conviction or sentence became final before the rule was announced. *Montgomery v. Louisiana*, 577 U.S. 190, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016). In the case at hand for these reasons Mr. Smith is void and illegal. It follows that a court has no authority to leave in place a conviction or sentence that violates a substantive rule.

This Court has held: Multiple cases can render a ~~new~~<sup>NSW</sup> rule retroactive only if the holdings in those cases necessarily dictate retroactivity of the new rule. *Tyler v. Cain*, 533 U.S. 656, 121 S.Ct. 2478, 150 L.Ed.2d 632 (2001) *United States v. Vargas-Soto*, 35 F.4th 979 (2022). And to show this Mr. Smith rely on the following cases:

*Miller v. Alabama*, 567 U.S. 132, S.Ct. 2455, 183 L.Ed.2d 407 (2012). *Miller* determined that sentencing a child to life without parole is excessive for all but the rare juvenile offender whose crime irreparable corruption. It rendered life without parole an unconstitutional penalty for a class of defendant because of their status. Juvenile offender whose crime reflect the transient immaturity of youth. *Miller*, therefore announced a substantive rule of Constitutional law, which like other substantive rule is retroactive because it necessarily carries a significant risk that a defendant her the vast majority of juvenile offenders face a punishment the law cannot impose upon him. *Scheriro supra*, at 352, 124 S.Ct. 2516. In *Welch v. United States*, 578 U.S. 120, 136 S.Ct. 1257, 194 L.Ed.2d 367 (2016), Supreme Court's Justice Kennedy held that the definition of prior violent felony in the residual clause of the ACCA was

unconstitutionally vague under due process principles announced a substantive rule applied retroactively on collateral review. *Montgomery v. Louisiana*, 577 U.S. 190, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016). The Supreme Court Justice Kennedy held that the Supreme Court has jurisdiction to review a state collateral review courts failure to give retroactive effect to a new rule which the Constitution requires to be applied retroactively.

In the case at hand, the possibility of a valid result does not exist where a substantive rule has eliminated a statute power to proscribe Mr. Smith's conduct or impose a given punishment. Even the use of impeccable fact-finding procedures could not legitimate a verdict were the conduct being penalized is constitutionally immune from punishment. *United States Coin & Currency*, 401 U.S. 715, 724, 91 S.Ct. 1041, 28 L.Ed.2d 434 (1991). Nor could the use of flawless sentencing procedures legitimate a punishment where the constitution immunizes the defendant from the sentence impose.

"no circumstances call more for the invocation of a rule of retroactivity" Since this would be the case at hand the state is enforcing a penalty on Mr. Smith that is barred by the federal constitution the result of his conviction and sentence is by the definition unlawful.

(2) THE TRIAL COURT AND THE LOUISIANA FIFTH CIRCUIT COURT OF APPEAL DENYING MR. SMITH'S WRIT APPLICATION WAS AN ERRONEOUS APPLICATION OF THE LAW TO FACTS AND CONTRARY TO CLEARLY ESTABLISHED LAW AS ANNOUNCED BY THE UNITED STATES SUPREME COURT.

On or about June 14, 2024, Mr. Smith filed an application for post conviction relief. Claim (1) that the 2006 amendment to justifiable homicide statute should have been applied retroactive in his case. The trial court denied the claim on the following grounds:

“Petitioner does not claim any valid exception, and fails to provide any adequate proof to properly establish any enumerated exception for delayed filing in this case. An additional basis for post conviction relief is the bar of repetitive and successive application contained in LSA-Cr.P. Art. 930.4 and 930.8. The court finds that this application, the petitioner's twentieth for post conviction relief is barred from further judicial review as repetitive and untimely and successive.”

The Louisiana Fifth Circuit Court of Appeal thereafter denied Mr. Smith's claim stating the following: “Accordingly, we find in the trial court's ruling that found relator's APCR to be untimely and successive.”

The above ruling is contrary to the law. *Montgomery v. Louisiana*, 577 U.S. 190, 1136 S.Ct. 718, 193 L.Ed.2d 599 (2016), demands a different outcome. The court held: “The constitution requires state post conviction courts to adopt *Teague's* exception for so called “substantive” new rules and to provide state law remedies for the “violation of those rules to prisoners whose sentence long ago became final.” this conscription into federal services of state post conviction courts is nothing short of astonishing.

In the case at hand, Mr. Smith's conviction for second degree murder became final in 1998. *State v. Smith*, 95-734 (La. App. 5 Cir. 1/30/96), 668 So.2d 1260. Mr. Smith

seeks the benefit of a new rule. The 2006 amendment to justifiable homicide has a substantive function this occurred when it prohibit a finder of fact from considering the possibility of retreat as a factor in determining whether the person who used force or violence or deadly force did so reasonably which calls into question the guilty verdict in this case.

Our United States Supreme Court held: new substantive rules apply retroactively because they necessarily carry a significant risk that a defendant stands convicted of an act that the law does not make criminal or faces a punishment that the law cannot impose upon him.

This is also includes decision that narrows the scope of a criminal statute by interpreting its terms as well as constitutional determination that place a particular conduct or person covered by a statute beyond the state power to punish. *Schriro v. Summerlin*, 542 U.S. 348, 1124 S.Ct. 2519, 159 L.Ed.2d 442 (2004).

“As a general matter the petitioner in an application for post conviction relief shall have the burden of proving that relief should be granted. La.C.Cr.P. Art. 930.2; La.C.Cr.P. Art. 930.3, set forth the grounds upon which relief shall be granted.”

The word “shall” is mandatory, meaning the courts lack discretion as to the operation of this section.

Art. 930.3 Grounds:

If the petitioner is in custody after sentence for conviction for an offense relief

[shall] be granted only of the following grounds:

1. the conviction was obtained in violation of the constitution of the United States or the state of Louisiana.

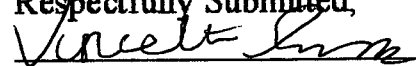
The trial court and the Louisiana Fifth Circuit Court of Appeal applied 930.8 and 930.4 to Mr. Smith's claim.

The substantive change to the justifiable homicide constitutionally immunize Mr. Smith from criminal prosecution. Mr. Smith is either actual innocence or factual innocence which is an exception to the time bar in this case.

#### CONCLUSION

In 1994 Mr. Smith was convicted of second degree murder. His defense at trial was "self defense." The substantive function to the 2006 amendment of justifiable homicide carry a significantly risk that Mr. Smith stands convicted of an act that the law does not make a criminal. Mr. Smith prays that this Honorable Court hear his case.

Respectfully submitted this 5th day of August, 2025.

Respectfully Submitted,  
  
Vincent Smith, #96122  
Main Prison West, Walnut 3  
Louisiana State Penitentiary  
Angola, Louisiana 70712

Date: August 5, 2025