

STATE OF LOUISIANA

NO. 20-KH-440

VERSUS

FIFTH CIRCUIT

JULES ROBERTSON

COURT OF APPEAL

STATE OF LOUISIANA

March 15, 2021

Susan Buchholz

First Deputy Clerk

IN RE STATE OF LOUISIANA

**APPLYING FOR SUPERVISORY WRIT FROM THE FORTIETH JUDICIAL DISTRICT COURT,
PARISH OF ST JOHN THE BAPTIST, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
KIRK A. VAUGHN, JUDGE PRO TEMPORE, DIVISION "B", NUMBER 09,91**

Panel composed of Judges Fredericka Homberg Wicker,
Robert A. Chaisson, and Hans J. Liljeberg

WRIT GRANTED; JUDGMENT VACATED

Relator, the State of Louisiana, seeks review of the trial court's judgment granting defendant, Jules Robertson, a new trial in light of the United States Supreme Court's recent holding in *Ramos v. Louisiana*, 590 U.S. ___, 140 S.Ct. 1390, 206 L.Ed.2d 583 (2020). For the following reasons, we grant the writ.

On February 18, 2011, Defendant was convicted of second degree murder of Nekeshia Joseph and attempted second degree murder of Ron James in violation of La. R.S. 14:30.1 and 14:27:30.1 following a jury trial with a 10-2 verdict. On April 18, 2011, defendant was sentenced to life imprisonment at hard labor without benefit of probation, parole, or suspension of sentence for his second degree murder conviction and to twenty-five years imprisonment at hard labor without benefit of probation, parole, or suspension of sentence for his attempted second-degree murder conviction. On May 31, 2012, this Court affirmed defendant's convictions and sentences. *State v. Robertson*, 11-1017 (La. App. 5 Cir. 5/31/12), 98 So. 3d 401, 403, *writ denied*, 12-1432 (La. 1/11/13), 106 So.3d 547.

On September 18, 2020, nearly eight years after his convictions and sentences became final, defendant filed an application for post-conviction relief in the trial court, claiming that his non-unanimous jury verdict was unconstitutional and insufficient to sustain his convictions and sentences in light of the United States Supreme Court's *Ramos* decision. On November 5, 2020, the trial judge granted defendant's application for post-conviction relief, ordering that defendant is entitled to a new trial pursuant to the United State Supreme Court's pronouncement in the *Ramos* decision.

La. C.Cr.P. art. 930.8 (A)(2) permits a defendant to seek post-conviction relief outside of the applicable time limitations if “the claim ... is based upon a final ruling of an appeal court establishing a theretofore unknown interpretation of constitutional law *and petitioner establishes that this interpretation is retroactively applicable to his case[.]*” (Emphasis added). *Ramos*, which held that a defendant who is tried for a serious crime has a right to a unanimous jury verdict, applies only to cases pending on direct appeal and to future cases. 140 S.Ct. at 1407. The majority in *Ramos* specifically declined to decide whether the right to jury unanimity applies to now-final convictions and sentences, believing that issue is best left for another day. *Id.*¹ Additionally, the Louisiana Supreme Court has given no indication that it intends to apply *Ramos* retroactively. Should the United States Supreme Court or the Louisiana Supreme Court determine in the future that the right to a unanimous jury verdict applies to now-final judgments, defendant may be able to satisfy the requirements of La. C.Cr.P. art. 930.8 (A)(2) necessary for filing an application for out-of-time relief. However, at this time, defendant is not entitled to a new trial. Accordingly, the state’s writ is granted and the November 5, 2020 trial court judgment is vacated.

Gretna, Louisiana, this 15th day of March, 2021.

FHW
RAC
HJL

¹On May 4, 2020, less than a month after issuing *Ramos*, the United States Supreme Court granted a writ of certiorari in *Edwards v. Vannoy*, 140 S.Ct. 2737, 2738 (2020), limited to the question: “Whether this Court’s decision in *Ramos v. Louisiana*, 590 U.S. ---- (2020), applies retroactively to [a] case on federal collateral review.” The *Edwards* case was argued before the U.S. Supreme Court on December 2, 2020 but a decision has not yet been rendered.

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
ROBERT A. CHAISSON
STEPHEN J. WINDHORST
HANS J. LILJEBERG
JOHN J. MOLAISSON, JR.

JUDGES



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SUSAN BUCHHOLZ
FIRST DEPUTY CLERK

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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **03/15/2021** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

20-KH-440

E-NOTIFIED

40th District Court (Clerk)
Honorable Kirk A. Vaughn, Judge Pro Tempore (DISTRICT JUDGE)
Honorable Nghana Lewis (DISTRICT JUDGE)
Justin C. Harrell (Respondent) Honorable Bridget A. Dinvaut (Relator)
Orenthal J. Jasmin (Relator)
Grant L. Willis (Respondent)

MAILED

Honorable Jeffrey M. Landry (Respondent)
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