

STATE OF LOUISIANA

*

NO. 2019-KA-0248

VERSUS

*

COURT OF APPEAL

BREYIANA BROWN

*

FOURTH CIRCUIT

*

STATE OF LOUISIANA

APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 531-281, SECTION "E"
Honorable Keva M. Landrum-Johnson, Judge

Judge Roland L. Belsome

ON REMAND FROM THE LOUISIANA SUPREME COURT

(Court composed of Judge Roland L. Belsome, Judge Daniel L. Dysart, Judge Joy Cossich Lobrano)

LOBRANO, J., CONCURS IN THE RESULT.

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**VACATED AND REMANDED
OCTOBER 14, 2020**

RLB

DLD

This matter is on remand from the Louisiana Supreme Court pursuant to the United States Supreme Court’s recent decision in *Ramos v. Louisiana*, 590 U.S. — —, 140 S.Ct. 1390, 206 L.Ed.2d 583 (2020) (holding that jury verdicts in state felony trials must be unanimous). *State v. Brown*, 19-KA-0248, 2020 WL 1056803 (La. App. 4 Cir. 03/04/2020), writ granted in part, 20-K-0442, 2020 WL 5904879 (La. 10/06/20). For the reasons that follow, we vacate Breyiana Brown’s manslaughter conviction and remand for further proceedings.

RELEVANT FACTS AND PROCEDURAL HISTORY

Defendant, Breyiana Brown, was convicted of manslaughter by a non-unanimous jury.¹ This Court affirmed her manslaughter conviction. *See State v. Brown*, 19-KA-0248, 2020 WL 1056803, at *8 (La. App. 4 Cir. 03/04/2020). Defendant sought review by the Louisiana Supreme Court. During the pendency of her writ application, the United States Supreme Court issued its ruling in *Ramos*. Thereafter, the Louisiana Supreme Court granted Defendant’s writ application specifically regarding the issue of the non-unanimous manslaughter verdict.

¹ Defendant was also convicted of obstruction of justice, possession with the intent to distribute and illegal possession of a stolen firearm by a unanimous jury. Those convictions are now final and not the subject of this remand.

Brown, 19-KA-0248, 2020 WL 1056803 (La. App. 4 Cir. 03/04/2020), writ granted in part, 20-K-0442, 2020 WL 5904879 (La. 10/06/20).

DISCUSSION

On appeal, one of Defendant's assignments of error challenged the constitutionality of her manslaughter conviction by a non-unanimous jury verdict. Under *Ramos*, jury verdicts for felony convictions must be unanimous.

Ramos v. Louisiana, 590 U.S. —, 140 S.Ct. 1390, 206 L.Ed.2d 583 (2020).

Since Defendant's case was pending on direct review when *Ramos* was decided, the United States Supreme Court's decision is applicable. See *Schriro v.*

Summerlin, 542 U.S. 348, 351, 124 S.Ct. 2519, 2522, 159 L.Ed.2d 442 (2004)

(observing that "[w]hen a decision of [the United States Supreme Court] results in a 'new rule,' that rule applies to all criminal cases still pending on direct review").

Therefore, because Defendant's conviction was based on a non-unanimous jury verdict, her manslaughter conviction is vacated.

CONCLUSION

For the foregoing reasons, Defendant's manslaughter conviction is vacated and the matter remanded for further proceedings.

VACATED AND REMANDED