

REDDICK V. LOUISIANA



Quotes from Respondent's Brief, Filed Monday May 2, 2022

INTRODUCTION

This Court has a historic opportunity to provide a remedy for a constitutional violation of a magnitude of importance rarely before any court. For Louisiana, the significance of this case rivals a case like the storied *Brown v. Board of Education*, 347 U.S. 483 (1954)—or, if handled differently, the shameful *Plessy v. Ferguson*, 163 U.S. 537 (1896). Pg 7

[I]n 1898, our Jim Crow era government intentionally enshrined into the Louisiana Constitution a practice intended to silence the voices of Black jurors and convict more Black people. Almost 100 years later, Reginald Reddick—a Black man—went to trial, and the State convicted him through that very practice.

STATEMENT OF CASE

Two jurors voted to acquit Reginald Reddick of second degree murder. Despite significant evidence of his innocence—and the non-unanimous jury verdict—the unconstitutional system in place allowed for his conviction.

THE HISTORY OF JIM CROW JURY VERDICTS

The Louisiana Separate Car Act of 1890 that led to the *Plessy v. Ferguson* decision in 1896. That decision infamously lent federal approval to the segregation and subjugation of Black citizens... Emboldened..., Louisiana convened a constitutional convention—with 134 all-White male delegates... Convention President Ernest Benjamin Kruttschnitt made it clear: “Our mission was, in the first place, to establish the supremacy of the white race in this State to the extent to which it could be legally and constitutionally done.” Judge Thomas Semmes, Chair of the Convention’s Judiciary Committee, stated its purpose clearly: “We [are] here to establish the supremacy of the white race”

B. Reginald Reddick’s Jim Crow jury conviction

In January of 1997, Reginald Reddick went to trial for the second degree murder of Albert Moliere. None of [the 13 recovered finger] prints matched Mr. Reddick and there was no DNA evidence.

Two jurors did not believe the State met its burden of proof to convict Mr. Reddick. Due to Louisiana’s Jim Crow jury law, Mr. Reddick was nonetheless found guilty and sentenced to life in prison.

SUMMARY OF ARGUMENT

[T]he U.S. Supreme Court crucially left the door open to this Court finding Ramos retroactive. Edwards (“States remain free, if they choose, to retroactively apply the jury-unanimity rule as a matter of state law in state post-conviction proceedings”.)

The State would have this Court forego the inquiry encouraged by the U.S. Supreme Court Such an approach would leave hundreds of individuals convicted by Jim Crow juries without any remedy.

Mr. Reddick asksthat Jim Crow laws are not allowed to continue to inflict harm in the 21st century.

ARGUMENT

1. Ramos ended “an engine of discrimination.”

Louisiana’s non-unanimous jury rule was born from the Jim Crow era. Louisiana enacted the law to silence the voices of jurors and convict more Black people...

a. It is indisputable Louisiana’s non-unanimity law emerged from delegates’ racist intent.

There can be no doubt that the constitutional and statutory provisions allowing for non-unanimous jury verdicts were expressly designed to discriminate against Black residents on the basis of race. The new rule announced in *Ramos* is in direct response to explicit racism.

b. The State seeks to uphold the Jim Crow impacts Ramos criticized.

“[T]he non-unanimous jury is today the last of Louisiana’s Jim Crow laws.” *Ramos*, 140 S. Ct. at 1418 (J. Kavanaugh concurring). That the State still seeks to defend the last of Louisiana’s Jim Crow laws and the pernicious effects the non-unanimity rule had on Louisianans is shocking to the concept of ordered liberty and fundamental fairness.

2. Ramos ensured that convictions have lawful verdicts.

The *Ramos* Court proclaimed that a “verdict, taken from eleven, [i]s no verdict at all.” Louisiana had been giving the appearance of a jury system. There would be jury selection. That jury would hear the evidence. A judge would instruct that jury. They would deliberate. At that point, Louisiana departed from 48 other states.

Ramos is not, merely about *having* a jury. [I]n *Ramos*, there was no lawful verdict from any factfinder, because a non-unanimous verdict is “no verdict at all.” Instead, the factfinder came back *without a verdict* and the court considered it a *guilty* verdict.

[T]wo parts of a criminal case are sacrosanct: (1) the opportunity for a meaningful trial before a conviction, and (2) the factfinder’s determination of guilt or innocence.... Without *Ramos*, there is an impermissible risk of conviction where the jury *did not come to a verdict at all*.

3. Ramos operates to prevent inaccurate convictions.

More than half of Louisiana’s exonerations from the relevant pool of cases involved wrongful convictions decided by non-unanimous juries.

This means a person is more likely to be wrongfully convicted by a non-unanimous jury verdict than by a unanimous jury. Despite this evidence, the State continues to misunderstand the role that the non-unanimous jury verdict has in wrongful convictions.

ARGUMENT CONTINUED

B. The trial court correctly found Ramos retroactive under *Taylor*.

1. Louisiana presently uses *Taylor* to decide retroactivity.

a. Ramos meets the *Taylor* standard.

[T]he *Ramos* non-unanimity rule is watershed. It is the only case since *Gideon* to fundamentally change what it means to have a trial in Louisiana. *Gideon*... is a hallmark of what makes a watershed rule, a bedrock principle of our criminal justice system: the accused shall have counsel

[T]he *Gideon* Court found [prior decisions] to be an aberration, and its decision applying the right to counsel to the states to be a restoration of constitutional principles necessary “to achieve a fair system of justice.” This is also what occurred in *Ramos*; the Court repudiated [prior] decision:

a. *Gideon* rejected the relevance of international legal practices.

The State’s argument that *Ramos* is different from *Gideon* because other countries have non-unanimous jury systems echoes an argument that the Court rejected in *Gideon*, saying simply that “[t]he right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, *but it is in ours.*”

b. The unanimity tradition in the U.S. is so deep that depriving Louisianans of this right is abhorrent.

The tradition of unanimity is just as deep as the right to counsel, if not deeper. When James Madison picked up his quill and began drafting the Sixth Amendment, and when the states ratified the same, the idea of jurors dissenting and a conviction still occurring was unthinkable.

The State would have this Court not even conduct

its own inquiry into the nature of *Ramos* under Louisiana law, instead requesting that this Court subrogate its duty and merely adopt the *Edwards* reasoning unthinkingly. Doing so would abdicate an important state right to the federal government.

2. The *Edwards* Court specifically invited this Court to make an independent determination of retroactivity.

Alternatively, this Court should add an exception to its retroactivity standard.

[T]his case has the potential to be comparable to *Brown v. Board*—or to *Plessy v. Ferguson*. If Louisiana’s...deprives hundreds of individuals of a constitutional trial based on a Jim Crow law, then this Court will be directly responsible for continuing the impacts of Jim Crow through, and even beyond, the natural lives of those who remain in prison based on unconstitutional convictions.

3. Louisiana’s Constitution should influence the retroactivity standard.

Louisiana’s retroactivity standard should be altered, as necessary, in the spirit of repudiating completely the harm that a Jim Crow law has visited upon a segment of Louisiana’s population. This ... has deprived hundreds of Louisianans of any confidence in the fairness of the judicial process .

Failing to apply *Ramos* retroactively to Mr. Reddick and others like him would violate the letter and spirit of Louisiana’s Declaration of the Right to Individual Dignity and the jurisprudence implementing it. .

ARGUMENT CONTINUED

4. Any finality considerations should favor Mr. Reddick.

[I]t is clear that the retroactive application of *Ramos* will not overly burden Louisiana’s justice system. This Court’s ruling in favor of Petitioner would likely ...increas[e] the number of criminal cases in Louisiana by less than 2%. ... *one* additional jury trial per year per assistant district attorney, spread over two years.

If witnesses are unavailable, Louisiana’s rules provide that the courts can order the transcripts to be read into the record. La. Code Evid. Ann. § art. 804(1). If memories have faded, witnesses can have their recollections refreshed on the stand. La. Code Evid. Ann. § art. 612(B). After *Gideon*

The goal of our criminal justice system is not finality for finality’s sake; we do not speed toward a resolution merely to preserve judicial momentum. Finality is of importance because once fair evidence has been produced, a fair verdict reached and a fair sentence proscribed, we can have trust that our imperfect system has at least been adjudicated fairly. But when one of those phases is not only imperfect but grossly repugnant, designed to maintain unfairness of the most insidious kind, finality becomes a frivolous concern that only seeks to pervert our notions of law and order.

5. Louisiana has state-specific interests in the retroactivity of *Ramos*.

Today, Louisiana has the highest incarceration rate in the United States. It leads the nation in life without the possibility of parole sentences.. “In Louisiana, almost one in five of the people serving these life without the possibility of parole sentences, received such a sentence because of a non-unanimous jury verdict, ratified by that 1898 Constitutional Convention.”

This Court must also be mindful of the impact of continued legal enforcement of a Jim Crow law in our state on the confidence of its citizenry, specifically Black Louisianans. In 2015, the National Center for State Courts reported that only 32% of Black Americans believe state courts provide equal justice to all. Trust in our judicial system is paramount—without trust, people lose interest in participating and lose respect for our democracy.

Louisiana residents know that a Jim Crow law persisted and systematically denied the rights of countless Black and other minorit[es] for over one hundred years, ... this law was able to do so in secret and under the guise of “efficient” law and order. Black Louisianans may accept that our criminal system was unaware that Jim Crow endured, but if the justice system refuses to repudiate it when given the opportunity, the impact will be profound.

The failure to find *Ramos* retroactive...serves as a permeant reminder that the rights of Black Louisianans are not inalienable and are not guaranteed.

6. Mr. Reddick Proposes the “Jim Crow” retroactivity test.

The United States has put in significant effort to remove Jim Crow laws from its books. Changing a Jim Crow law takes work, and that is work that the courts, voters, and legislators have been willing to do. Where we struggle is in finishing the job we start.

Mr. Reddick and his family are carrying a weight from 1898, and the only way to lift that weight is to finally give Mr. Reddick an opportunity for a constitutional trial.

