

STATE OF LOUISIANA

NO. 21-KA-143

VERSUS

FIFTH CIRCUIT

ROJAE DUMAS

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-THIRD JUDICIAL DISTRICT COURT
PARISH OF ST. JAMES, STATE OF LOUISIANA
NO. 79,19, DIVISION "A"
HONORABLE JASON VERDIGETS, JUDGE PRESIDING

November 24, 2021

SUSAN M. CHEHARDY
CHIEF JUDGE

Panel composed of Judges Susan M. Chehardy,
Fredericka Homberg Wicker, and Hans J. Liljeberg

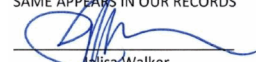
VACATED AND REMANDED

SMC

FHW

HJL

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS


Alisa Walker
Deputy, Clerk of Court

COUNSEL FOR PLAINTIFF/APPELLEE,
STATE OF LOUISIANA

Ricky L. Babin
Lindsey D. Manda
Donald D. Candell

COUNSEL FOR DEFENDANT/APPELLANT,
ROJAE DUMAS

Bruce G. Whittaker

CHEHARDY, C.J.

A nonunanimous jury convicted defendant, Rojae Dumas, of one count of manslaughter, a violation of La. R.S. 14:31. The trial court sentenced him to twenty-five years at hard labor, with credit for time served. Mr. Dumas appeals his conviction and sentence. Pursuant to *Ramos v. Louisiana*, 590 U.S. --, 140 S.Ct. 1390, 206 L.Ed.2d 583 (2020), we vacate Mr. Dumas' conviction and sentence and remand the matter to the trial court for a new trial.

On February 26, 2018, Mr. Dumas was indicted for the second degree murder of his step-father, Reynald Jackson, a violation of La. R.S. 14:30.1. Mr. Dumas was arraigned and pled not guilty on March 19, 2018. Trial commenced before a twelve-person jury on September 17, 2019, and concluded on September 19, 2019, with a non-unanimous verdict by a margin of eleven to one of the responsive verdict of guilty of manslaughter.

On November 18, 2019, the trial court sentenced Mr. Dumas to twenty-five years at hard labor in the custody of the Department of Corrections, with credit for time served. On December 17, 2019, Mr. Dumas filed a *pro se* motion to reconsider sentence, which was denied on December 26, 2019. A motion for appeal was granted that same day.

Mr. Dumas now comes before this Court on original appeal requesting that his conviction and sentence be vacated on grounds that the non-unanimous verdict violates his rights to due process and equal protection guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution. We agree.

In *Ramos, supra*, the United States Supreme Court held that the Sixth Amendment's right to a jury trial, as incorporated against the States under the Fourteenth Amendment, requires a unanimous jury verdict to convict a defendant of a serious offense in both federal and state courts. As a result, the State will have to retry any defendant convicted of serious offenses by non-unanimous juries and

whose cases are still pending on direct appeal. *State v. Spears*, 18-663 (La. App. 5 Cir. 1/13/21); 309 So.3d 1039, 1041. The instant case is currently pending on direct review of Mr. Dumas' conviction for manslaughter, therefore, the holding in *Ramos* applies. *State v. Cohen*, 19-949 (La. 1/27/21), 315 So.2d 202, citing *Griffith v. Kentucky*, 479 U.S. 314, 107 S.Ct. 708, 93 L.Ed.2d 649 (1987).

The record reflects that Mr. Dumas' conviction for manslaughter was by a 11-1 jury vote. Since the punishment for this offense necessitates confinement at hard labor, a jury concurrence of all 12 persons was required to render a verdict. Therefore, Mr. Dumas is entitled to a new trial.

DECREE

For the foregoing reasons, Rojas Dumas' conviction and sentence for manslaughter are vacated, and the matter is remanded to the trial court for a new trial.

VACATED AND REMANDED

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



FIFTH CIRCUIT

101 DERBIGNY STREET (70053)

POST OFFICE BOX 489

GRETNA, LOUISIANA 70054

www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

NANCY F. VEGA
CHIEF DEPUTY CLERK

SUSAN S. BUCHHOLZ
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400

(504) 376-1498 FAX

NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **NOVEMBER 24, 2021** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

21-KA-143

E-NOTIFIED

23RD JUDICIAL DISTRICT COURT (CLERK)
HON. JASON VERDIGETS (DISTRICT JUDGE)
DONALD D. CANDELL (APPELLEE)

LINDSEY D. MANDA (APPELLEE)

GRANT L. WILLIS (RESPONDENT)

MAILED

HONORABLE RICKY L. BABIN
(APPELLEE)
DISTRICT ATTORNEY
23RD JUDICIAL DISTRICT COURT
POST OFFICE BOX 66
CONVENT, LA 70723

BRUCE G. WHITTAKER (APPELLANT)
ATTORNEY AT LAW
LOUISIANA APPELLATE PROJECT
1215 PRYTANIA STREET
SUITE 332
NEW ORLEANS, LA 70130

HONORABLE JEFFREY M. LANDRY
(RESPONDENT)
ATTORNEY GENERAL
LOUISIANA DEPARTMENT OF JUSTICE
1885 NORTH 3RD STREET
6TH FLOOR, LIVINGSTON BUILDING
BATON ROUGE, LA 70802