

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No.2021-KK-01465

VS.

REGINALD H. JONES

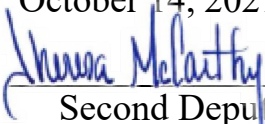
IN RE: Reginald H. Jones - Applicant Defendant; Applying For Supervisory Writ,
Parish of Orleans Criminal, Criminal District Court Number(s) 530-889, Court of
Appeal, Fourth Circuit, Number(s) 2021-K-0487;

October 14, 2021

Writ granted; relief denied. See per curiam.

SJC
JLW
JDH
JTG
WJC
JBM
PDG

Supreme Court of Louisiana
October 14, 2021



Second Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2021-KK-01465

STATE OF LOUISIANA

VS.

REGINALD H. JONES

On Supervisory Writ to the Criminal District Court, Parish of Orleans

PER CURIAM:

Writ granted; relief denied. Applicant Reginald Jones was found guilty of aggravated assault with a firearm, possession of a firearm by a convicted felon, and obstruction of justice. He was sentenced to 20 years imprisonment at hard labor for each offense. The court of appeal affirmed. *State v. Jones*, 18-0973 (La. App. 4 Cir. 2/27/19), 314 So.3d 1. The United States Supreme Court granted certiorari, vacated the court of appeal's judgment, and remanded to the court of appeal for further consideration in light of *Ramos v. Louisiana*, 590 U.S. —, 140 S.Ct. 1390, 206 L.Ed.2d 583 (2020). The United States Supreme Court's ruling reads in its entirety:

On petition for writ of certiorari to the Court of Appeal of Louisiana, Fourth Circuit. Motion of petitioner for leave to proceed in forma pauperis and petition for writ of certiorari granted. Judgment vacated, and case remanded to the Court of Appeal of Louisiana, Fourth Circuit for further consideration in light of *Ramos v. Louisiana*, 590 U.S. —, 140 S.Ct. 1390, 206 L.Ed.2d 583 (2020).

Jones v. Louisiana, 141 S.Ct. 1041 (2021).

On remand, the court of appeal found that *Ramos* applies because the convictions were not yet final when that decision was issued. However, the court of appeal found the record insufficient to determine whether the verdicts were non-unanimous. Therefore, the court of appeal remanded to the district court to examine the jury polling slips, determine whether the verdicts were unanimous, and then issue

a per curiam stating the results. *State v. Jones*, 2018-0973 (La. 2/3/21), 314 So.3d 20.

Before the court of appeal remanded to the district court, and after the district court denied applicant's initial motion to set a bond, applicant filed a motion to reconsider that denial in which applicant sought to be immediately released from custody. According to the applicant, the ruling of the United States Supreme Court should be construed as vacating all three convictions and sentences and finally ending this prosecution. Therefore, there was no longer any lawful reason to imprison him. The district court denied applicant's motion to reconsider and the court of appeal denied writs.

Thereafter, applicant applied to this court seeking priority attention. At the outset, we observe that there is no Double Jeopardy prohibition against retrying defendant on convictions that are ultimately vacated in accordance with *Ramos*, contrary to the applicant's assertion. *See generally Lockhart v. Nelson*, 488 U.S. 33, 38, 109 S.Ct. 285, 289, 102 L.Ed.2d 265 (1988) ("It has long been settled ... that the Double Jeopardy Clause's general prohibition against successive prosecutions does not prevent the government from retrying a defendant who succeeds in getting his first conviction set aside, through direct appeal or collateral attack, because of some error in the proceedings leading to conviction."); *see also Victor v. Robinson*, Civil Action No. 20-3194 (E.D. La. 2021), available at 2021 WL 2482520.

We grant the application but deny relief because we do not agree that the United States Supreme Court vacated all three convictions and sentences when it issued the order, reproduced above, which vacated the judgment and remanded to the court of appeal. Notably, the writ of certiorari is directed at the court of appeal rather than the court of conviction. Furthermore, the United States Supreme Court remanded to the court of appeal to reconsider its affirmance in light of *Ramos*; it did not remand to the district court for retrial. The ruling states: "Judgment vacated." It

does not state convictions or sentences vacated. If the United States Supreme Court intended to vacate the convictions, it could have done so more plainly. Finally, if the United States Supreme Court had vacated the convictions, there would have been no necessity of remanding to the court of appeal to reconsider its ruling affirming them. Accordingly, applicant's claim that there is no basis for his continued imprisonment lacks merit.

Applicant also, in conjunction with his motion to reconsider, filed a motion to recuse the prosecutor, the District Attorney, and, in fact, "the entire prosecutorial arm of the State of Louisiana" from opposing applicant's motion to be immediately released. That motion to recuse arises from the fact that the prosecutor, now employed by the Orleans Parish District Attorney, was previously associated with the Promise of Justice Initiative, which organization represented the applicant previously. While there may or may not be valid grounds to recuse the specific prosecutor from further participation in this case, those grounds would not be attributable to the District Attorney or his other assistants, *see generally State v. Edwards*, 420 So.2d 663, 673 (La. 1982), and certainly do not require the statewide recusal that the applicant seeks. Finally, the district court determined that the motion to recuse the prosecutor from opposing applicant's motion was moot after the court denied the motion without hearing argument from the prosecutor. We find no error in that determination.

Accordingly, we grant the application, deny relief, and remand to the district court for further proceedings in accordance with the court of appeal's instructions previously in *State v. Jones*, 2018-0973 (La. 2/3/21), 314 So.3d 20.

REMANDED