

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2023-K-00969

VS.

DEMARIOUS HICKS

IN RE: State of Louisiana - Applicant Plaintiff; Applying For Writ Of Certiorari,
Parish of Madison, 6th Judicial District Court Number(s) 185,577, Court of Appeal,
Second Circuit, Number(s) 55,010-KA;

February 06, 2024

Writ application granted. See per curiam.

JDH
JLW
SJC
JTG
WJC
JBM

Griffin, J., dissents and assigns reasons.

Supreme Court of Louisiana
February 06, 2024

Katio Marjanovic
Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2023-K-00969

STATE OF LOUISIANA

VS.

DEMARIOUS HICKS

On Writ of Certiorari to the Court of Appeal, Second Circuit, Parish of Madison

PER CURIAM

Writ granted. The United States Supreme Court determined in *Ramos v. Louisiana*, 590 U.S. —, 140 S.Ct. 1390, 206 L.Ed.2d 583 (2020), that the Sixth Amendment right to jury trial, as incorporated against the States by way of the Fourteenth Amendment, requires a unanimous verdict to convict a defendant of a serious offense. Here, in a trial conducted after *Ramos* was decided, the district court instructed jurors that they could reach a verdict by 10-2 vote. However, jurors were not polled and it is not known whether the verdict was unanimous. The erroneous jury instruction alone does not constitute a structural error and defendant must show he suffered harm from it before the conviction will be reversed. *See generally State v. Hongo*, 96-2060, p. 4 (La. 12/02/97), 706 So.2d 419, 421; *see also Weaver v. Massachusetts*, 582 U.S. 286, 137 S.Ct. 1899, 198 L.Ed.2d 420 (2017). Accordingly, we grant the State’s application and reverse the court of appeal’s decision, which set aside the jury’s verdict and remanded for a new trial. We reinstate the verdict and remand to the district court, which is ordered to conduct further proceedings to ascertain whether the verdict was unanimous. *See generally State v. Norman*, 2020-109 (La. 7/2/20), 297 So.3d 738 (per curiam). Thereafter, if the trial court finds no error or that any error was harmless, defendant can appeal that ruling.

REVERSED AND REMANDED