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Guest column: It's time to end our discriminatory jury rule in Louisiana

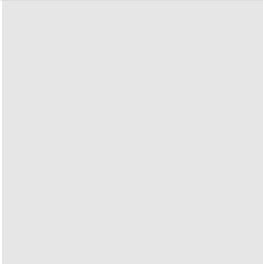
William C. Snowden SEP 22, 2017 - 6:00 PM



Arrested at 17, Kia Stewart spent 10 years in prison, working the fields of Angola, for a crime he did not commit. A jury convicted him by a vote of 10 to 2 based on the testimony of one lone — and mistaken — eyewitness. The Innocence Project of New Orleans conducted an investigation and uncovered 18 witnesses who either saw the crime and said that Kia was not the shooter, heard the real perpetrator confess, or confirmed his alibi.

Today, Kia is a free man. But only in Louisiana or Oregon would Kia ever have been convicted by a vote of 10 to 2 and sentenced to life in prison. In all other 48 states and in the federal courts, felony convictions must be unanimous. These jurisdictions place a burden on prosecutors to prove their cases beyond all reasonable doubts. In Louisiana and Oregon, that burden of proof is diminished because a person can be convicted even though some jurors have reasonable doubts, as the two jurors in Kia's case did.

On Monday, the U.S. Supreme Court will consider whether to hear arguments about the unconstitutionality of non-unanimous verdicts in *Dale Lambert v. State of Louisiana*. Mr. Lambert, like Kia Stewart, was convicted of second-degree murder by a jury vote of 10-2. The framers of the U.S. Constitution intended that juries in felony cases be unanimous, but the architects of the Louisiana Constitution had other ideas. In 1898, Louisiana changed its constitution to allow for non-unanimous jury verdicts in our criminal justice system. According to constitutional convention delegate Thomas Semmes, the mission of the convention was “to establish the supremacy of the white race in this state.”

Story Continued Below

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The less-than-unanimous verdict scheme was a derivative of the Black Codes, which restricted newly freed slaves during the Reconstruction era. It was intentionally created to make it easier to convict black people and disenfranchise the black vote in the jury deliberation room. The purpose was to deny suffrage and citizenship — to silence the voices of minorities. Fourteen years prior to this white supremacist convention, a Confederate statue honoring Robert E. Lee was erected in New Orleans. Present at this dedication was the president of the Confederacy Jefferson Davis and Confederate Gen. P.G.T. Beauregard — both of whom would have their own New Orleans statues erected in 1911 and 1915, respectively.

These symbols of the Confederacy stood tall in New Orleans for decades as a tribute, reminder and honor to the cornerstone of what the Confederacy stood for as explained by Confederate Vice President Alexander Stephens: “... that the negro is not equal to the white man; that slavery subordination to the superior race is his natural and normal condition.” These words do not embody the present-day core values of New Orleans nor the United States of America. The time is now for these Confederate statues and statutes to be eliminated from our parks and our prosecutions. Mayor Mitch Landrieu removed the Confederate statues in New Orleans, and the State Legislature needs to do its part, too, to reconcile our racist past.

Louisiana is well-known for being the prison capital of the world. But it is also one of the leading states in exonerations. Orleans Parish has the highest number of exonerations of any parish or county in the country. To date, there have been more than 10 exonerees wrongfully convicted via a non-unanimous verdict. If our system does not work for the innocent, it will not work for any of us. We need unanimity, according to the American Bar Association, to produce more accurate and reliable verdicts.

The Supreme Court should take Lambert's case and invalidate the non-unanimous jury rule. Barring court action, the Legislature should right this wrong and pass a constitutional amendment requiring unanimous jury verdicts. Doing so will continue the justice reform efforts the Legislature began this year. It will also signal to Louisianians that the Confederate history of this state, whether in statue or statute form, shall no longer occupy a role in our criminal justice system.

William C. Snowden is a supervising attorney at the Orleans Public Defenders and founder of The Juror Project.

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