

**07/02/2020 "See News Release 023 for any Concurrences and/or Dissents."**

**SUPREME COURT OF LOUISIANA**

**No. 2020-K-00109**

**STATE OF LOUISIANA**

**VS.**

**DERMAINE NORMAN**

On Writ of Certiorari to the Court of Appeal, Fifth Circuit, Parish of St. John the Baptist

**JOHNSON, C.J., dissents and assigns reasons:**

I would grant the writ and remand for a new trial, pursuant to *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020). Since Mr. Norman's October 2016 trial, the publicity surrounding non-unanimous jury verdicts grew exponentially. In 2018 the Louisiana legislature passed Act No. 722, causing a referendum on a constitutional amendment to ban non-unanimous juries. The subsequent statewide campaign to end non-unanimous juries generated significant publicity, in part due to the exposure of the racist origins of the Jim Crow era law. The campaign's success, with the approval by electors at a statewide election on November 6, 2018, likewise received significant local and national coverage. Four months later, the United States Supreme Court took up the constitutionality of non-unanimous jury verdicts when it granted the petition for a writ of certiorari in *Ramos v. Louisiana*, and the issue continued to generate local and national publicity and attention in the thirteen months during which the *Ramos* case was pending in the Supreme Court. Recently that media attention increased since the Supreme Court's April 20, 2020 decision declaring non-unanimous jury verdicts unconstitutional and this Court's subsequent resolution of a significant number of *Ramos*-affected cases. Against this backdrop, a process that asks any of the jurors to recall their vote

(or the votes of others) will be relying on memories necessarily tainted by subsequent events and we can have no confidence that it will produce an accurate result.

It appears that, through no fault of the defendant, the record was not properly preserved. Defendant objected before trial to the non-unanimous jury verdict and requested polling of the jury. We can have no confidence in the result of an inquiry into individual jurors' votes almost four years after trial. Therefore I dissent from the majority's recommended process to resolve the issue and would simply remand for a new trial.