



For Immediate Release
Saturday, June 6, 2020

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North Carolina Supreme Court Issues Landmark Decision on Racial Discrimination in Death Penalty Cases

Yesterday, North Carolina's Supreme Court issued a decision in *State v. Burke*, ruling that Rayford Burke, a Black man sentenced to death by an all-white jury, may challenge his death sentence under North Carolina's Racial Justice Act (RJA) with substantial claims that race was a significant factor during the selection of his capital jury. The [NAACP Legal Defense and Educational Fund, Inc. \(LDF\)](#), which filed an [amicus brief](#) in support of Mr. Burke in February 2019 and [presented oral arguments](#) before the North Carolina Supreme Court on his behalf, commends the court's decision.

In its decision, the North Carolina Supreme Court determined that the retroactive repeal of the RJA violates the ex post facto clauses of both the United States Constitution and the North Carolina State Constitution. The court also issued a similar decision yesterday in a companion case, *State v. Ramseur*. Following these rulings, a trial court must now hear any RJA claim filed by a capital defendant before the RJA's repeal in 2013, including those of Mr. Burke and Mr. Ramseur. This means that over 100 people on North Carolina's death row may now challenge their death sentences as racially discriminatory under the RJA.

"By allowing Mr. Burke to pursue his substantial claims of jury discrimination in his case, the North Carolina Supreme Court made clear that our judicial system must not tolerate racial discrimination of any kind — especially when imposing the death penalty," said Jin Hee Lee, LDF's Senior Deputy Director of Litigation. "In this historic moment, when the entire nation is grappling with the entrenched racial bias in our criminal justice system, it is imperative for our courts to root out these injustices if they are to have any legitimacy in the eyes of the public."

In our amicus brief, LDF urged the North Carolina Supreme Court to allow Mr. Burke to pursue his claims of jury discrimination. These claims included compelling statistical evidence of prosecutors disproportionately striking Black prospective jurors in Mr. Burke's county, his prosecutorial district, his judicial division, and across the entire state of North Carolina. In Mr. Burke's own trial, the prosecution deliberately excluded qualified Black prospective jurors to secure an all-white jury. During closing arguments presented to this jury, prosecutors referred to Mr. Burke as "a big black bull."

Following his sentencing, Mr. Burke filed claims under the RJA, a state law that allowed defendants to challenge death sentences if race played a significant role in the decision to seek or impose the death penalty, including decisions to exercise peremptory challenges during jury selection. A trial court dismissed Mr. Burke's RJA claims because the RJA

was repealed in 2013. LDF's brief urged the court to hear Mr. Burke's claims despite the RJA repeal in order to maintain the integrity of the judicial process, which would be jeopardized by any taint of racial bias. This is especially important in North Carolina, which has a long and documented history of excluding Black citizens from jury service in its state courts.

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Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation's first civil and human rights law organization. LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF's Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF.

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