

# SUPREME COURT OF LOUISIANA

## State v. Harris

245 So. 3d 1036 (La. 2018) · Decided June 15, 2018

### SUMMARY

The Louisiana Supreme Court held that the district court abused its discretion by conducting an ex parte proceeding on the respondent's request for state funding of expert witness services in connection with a Miller hearing. The court vacated the funding authorization and remanded for an open and contradictory hearing, concluding that the respondent had not shown substantial prejudice from the State's participation.

### CASE DETAILS

|                    |                                                                                                                                                                                                                                                     |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT              | Supreme Court of Louisiana                                                                                                                                                                                                                          |
| JURISDICTION       | Louisiana                                                                                                                                                                                                                                           |
| DECIDED            | June 15, 2018                                                                                                                                                                                                                                       |
| DISPOSITION        | vacated                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE | The Louisiana Supreme Court granted a writ application and reviewed a district court order authorizing state funding for expert witness services after the funding request was considered ex parte in connection with a prospective Miller hearing. |
| STANDARD OF REVIEW | Abuse of discretion for the district court's decision to conduct the funding proceedings ex parte.                                                                                                                                                  |
| PRECEDENTIAL VALUE | Published Louisiana Supreme Court opinion                                                                                                                                                                                                           |
| PARTIES            | State v. Harris                                                                                                                                                                                                                                     |

### TOPICS

criminal procedure

due process

post-conviction relief

appellate procedure

standard of review

### PRACTICE AREAS

criminal procedure

constitutional law

post-conviction relief

appellate procedure

### QUESTIONS PRESENTED

1. Whether the district court abused its discretion by conducting an ex parte hearing on Harris's request for state funding of expert witness services without a showing of good cause or substantial particularized

prejudice.

2. Whether the Supreme Court could determine whether Harris was entitled to the requested expert funding when the ex parte proceedings were not transcribed and were not filed under seal.

## HOLDINGS

1. The district court abused its discretion because Harris failed to show that litigating his request for state-funded expert services in an open and contradictory hearing would cause substantial prejudice or otherwise be unfair.
2. The court could not determine whether Harris was entitled to the requested funds because the ex parte proceedings were not transcribed and were not filed under seal for appellate review.

## KEY QUOTATIONS

*“This elementary principle, grounded in significant part on the Fourteenth Amendment’s due process guarantee of fundamental fairness, derives from the belief that justice cannot be equal where, simply as a result of his poverty, a defendant is denied the opportunity to participate meaningfully in a judicial proceeding in which his liberty is at stake.”* (245 So. 3d at 1037)

*“The district court here abused its discretion in conducting the proceedings ex parte.”* (245 So. 3d at 1038)

*“Therefore, we vacate the district court’s ruling authorizing funds, and we remand for an open and contradictory hearing on respondent’s request for state funding of expert witness services.”* (245 So. 3d at 1038)

## FACTUAL BACKGROUND

Respondent sought substantial public funding for expert witness services to assist in demonstrating eligibility for a parole-related hearing under *Miller v. Alabama* and *Montgomery v. Louisiana*. He asserted generally that disclosure of his mitigation strategy to the State would be unfair. The district court conducted the proceedings ex parte and authorized funding, but the record did not show particularized prejudice or provide a transcript sufficient for appellate review.

## PROCEDURAL HISTORY

Harris sought state funding for expert witness services and requested that the funding determination be made ex parte. The district court conducted ex parte proceedings and authorized the funds. The Louisiana Supreme Court held that Harris had not shown the particularized or substantial prejudice necessary to justify excluding the State, vacated the funding ruling, and remanded for an open and contradictory hearing.

## DISPOSITION

vacated

## REMAND INSTRUCTIONS

The district court must conduct an open and contradictory hearing on Harris's request for state funding of expert witness services.

#### CASES CITED

- State v. Touchet, 642 So. 2d 1213 (La. 1994)
- Montgomery v. Louisiana, 577 U.S. 190 (2016)
- Miller v. Alabama, Miller v. Alabama, 567 U.S. 460 (2012)
- Ake v. Oklahoma, 470 U.S. 68 (1985)
- State v. Phillips, 343 So. 2d 1047 (La. 1977)
- Williams v. Florida, 399 U.S. 78 (1970)
- State v. Brown, 192 So. 3d 720 (La. 2016) (Crichton, J., concurring)