

LOUISIANA COURT OF APPEAL, FOURTH CIRCUIT

State of Louisiana v. Kendall Gordon

No. 2024-KA-0244 · No. 2024-KA-0244 · Decided January 9, 2026

SUMMARY

In this dissent, Judge Herman would affirm the trial court's denial of Kendall Gordon's petition for compensation for wrongful conviction under La. R.S. 15:572.8. The dissent concludes that the DNA evidence did not exclude Gordon, credibility concerns surrounded a witness's recantation, and the trial court was not manifestly erroneous in finding that Gordon failed to establish factual innocence by clear and convincing evidence.

CASE DETAILS

COURT	Louisiana Court of Appeal, Fourth Circuit
WRITING FOR THE COURT	Karen K. Herman; Roland L. Belsome; Sandra Cabrina Jenkins
JURISDICTION	Louisiana Court of Appeal, Fourth Circuit
DECIDED	January 9, 2026
DOCKET	2024-KA-0244
DISPOSITION	affirmed
PROCEDURAL POSTURE	Dissent from the majority's reversal of the trial court's denial of Gordon's petition for compensation for wrongful conviction under La. R.S. 15:572.8.
STANDARD OF REVIEW	Manifest error, with great weight afforded to the trial court's factual findings. The appellate court's role is to determine whether the trial court's judgment was reasonable based on the record as a whole, not whether the appellate court would have reached the same conclusion.
PRECEDENTIAL VALUE	Published dissenting opinion; no independent binding precedential holding
PARTIES	State of Louisiana v. Kendall Gordon

TOPICS

[post-conviction relief](#)[standard of review](#)[burden of proof](#)[appellate procedure](#)[remedies](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court manifestly erred in denying Gordon compensation under La. R.S. 15:572.8 after finding that he had not proved factual innocence by clear and convincing evidence.
2. Whether the record supported the trial court's credibility assessment of Darceleen Commodore's recantation.
3. Whether the absence of reasons for judgment required reversal of the trial court's denial of wrongful-conviction compensation.

HOLDINGS

1. Judge Herman would hold that the trial court did not manifestly err in finding that Gordon failed to establish factual innocence by clear and convincing evidence and would affirm the denial of compensation.
2. Judge Herman would hold that the trial court was not unreasonable in finding credibility issues concerning Commodore's recantation, particularly in light of evidence that she faced threats from the street.
3. Judge Herman would hold that La. R.S. 15:572.8 does not require the trial court to provide reasons for judgment on an application for wrongful-conviction compensation.

KEY QUOTATIONS

“In reviewing an application for compensation for wrongful conviction pursuant to La. R.S. 15:572.8, an appellate court “must afford great weight to the findings of the trier of fact and apply the manifest error standard.””

“In reviewing for manifest error, the appellate court’s role “is not to decide whether [it] would have reached the same conclusion, but rather to determine whether the trial court’s judgment was reasonable based on the record as a whole.””

“Therefore, to meet this burden of proof, Gordon had to show that it was “highly probable or much more probable than not” that he did not commit the crime for which he was convicted nor any other crimes based upon the same set of facts.”

FACTUAL BACKGROUND

Gordon sought wrongful-conviction compensation after his conviction was set aside. DNA testing did not outright exclude Gordon as a contributor to DNA recovered from a firearm, cartridges, clothing, and a plastic glove. The principal identification witness, Darceleen Commodore, initially identified Gordon as one of the perpetrators but later recanted, and the record contained evidence of possible threats from the street concerning her identification.

PROCEDURAL HISTORY

Gordon petitioned the trial court for compensation for wrongful conviction. After receiving testimony and evidence, including DNA evidence and testimony concerning a witness's recantation, the trial court denied compensation. The majority reversed on remand, while Judge Herman would have affirmed the trial court's judgment.

DISPOSITION

affirmed

CASES CITED

- State v. Ruano, 2019-0709, p. 4 (La. App. 4 Cir. 3/4/19), 294 So. 3d 44, 46
- State v. Ford, 50,525, p. 5 (La. App. 2 Cir. 5/18/16), 193 So. 3d 1242, 1244
- Ballard v. State, 2024-0606, p. 19 (La. App. 4 Cir. 3/14/25), 414 So. 3d 800, 810
- State v. Walter, 2024-0420, p. 11 (La. App. 4 Cir. 4/29/25), 414 So. 3d 1009, 1016-17
- Jones v. State, 2022-01455, p. 6 (La. 5/5/23), 362 So. 3d 341, 345
- In re Williams, 2007-1380, p. 5 (La. App. 1 Cir. 2/20/08), 984 So. 2d 789, 793

OPINION

HERMAN, J, dissenting.

STATE OF LOUISIANA * NO. 2024-KA-0244 VERSUS * COURT OF APPEAL KENDALL GORDON * FOURTH CIRCUIT * STATE OF LOUISIANA * * ***** KKH HERMAN, J. DISSENTS AND ASSIGNS REASONS I respectfully dissent from the majority and would affirm the trial court’s decision to deny Kendall Gordon’s petition for wrongful conviction compensation.

In reviewing an application for compensation for wrongful conviction pursuant to La. R.S. 15:572.8, an appellate court “must afford great weight to the findings of the trier of fact and apply the manifest error standard.” State v. Ruano, 2019-0709, p. 4 (La. App. 4 Cir. 3/4/19), 294 So.3d 44, 46 (citing State v. Ford, 50,525, p. 5 (La. App. 2 Cir. 5/18/16), 193 So.3d 1242, 124); see also Ballard v. State, 2024-0606, p. 19 (La.

App. 4 Cir. 3/14/25), 414 So.3d 800, 810, writ denied, 2025-00450 (La. 6/3/25), 410 So.3d 789. In reviewing for manifest error, the appellate court’s role “is not to decide whether [it] would have reached the same conclusion, but rather to determine whether the trial court’s judgment was reasonable based on the record as a whole.” State v. Walter, 2024-0420, p. 11 (La.

App. 4 Cir. 4/29/25), 414 So.3d 1009, 1016–17 (citing Ruano, 2019-0709, p. 4, 294 So.3d at 46; Ford, 50,525, p. 8, 193 So.3d at 1248-49). La. R.S. 15:572.8(A)(2) requires proof of factual innocence by clear and convincing evidence for the petitioner to be entitled to compensation.

Therefore, to meet this burden of proof, Gordon had to show that it was “highly probable or much more probable than not” that he did not commit the crime for which he was convicted nor any

other crimes based upon the same set of facts. *Jones v. State*, 2022-01455, p. 6 (La. 5/5/23), 362 So.3d 341, 345; La. R.S. 15:572.8(B).

Moreover, this Court has acknowledged that implicit in the Legislature's inclusion of the factual innocence requirement is its intent that "compensation will not be awardable in every matter in which post-conviction relief has been granted." *Ruano*, 2019-0709 (La. App. 4 Cir. 3/4/19), 294 So.3d at 47 (citing *In re Williams*, 2007-1380, p. 5 (La. App. 1 Cir. 2/20/08), 984 So.2d 789, 793).

I find that the record supports the trial court's conclusion to decline Gordon compensation under La. R.S. 15:572.8. The DNA analysis expert, David Hansen, testified that he could not "outright exclu[de]" Gordon as a contributor to the DNA recovered from the firearm, the cartridges, the white tee-shirt collar, the armpit of the black tee-shirt, or the plastic glove.

Thus, the DNA evidence did not exonerate Gordon as a perpetrator. Additionally, while the majority states that it is "with near certainty" that Darceleen Commodore's initial identification of Gordon "was in error," we find that there are credibility issues regarding Darceleen's recantation. Hours after the crime, Darceleen described Gordon and identified him as one of the perpetrators via photographic lineup.

She also knew Gordon from the neighborhood and had met him a few times prior to the incident. Subsequently Darceleen indicated that she had misidentified Gordon as perpetrator, however, she also testified that there were "threats from the street" regarding her identification of Gordon.

Although Darceleen insisted that there were no direct threats made against her and that it did not affect her testimony, we cannot say that the trial court was unreasonable in concluding otherwise.¹ 1 Notably, both the trial judge at the criminal trial and the trial judge at the compensation hearing apparently found Darceleen's recantation not credible. Furthermore, the majority appears to question whether the trial court applied the appropriate standard of review because it failed to provide reasons for judgment.

However, there is nothing in La. R.S. 15:572.8 that requires the trial court to provide reasons for judgment on an application for compensation for wrongful conviction. Moreover, the record shows that subsequent to receiving testimony and evidence on the petition for compensation, the trial court heard closing arguments and took the matter under advisement for several months prior to rendering its decision to decline compensation.

The record thus suggests that the trial court reached its conclusion after due consideration. Considering that the DNA test results did not outright eliminate Gordon; the credibility issues surrounding Darceleen's recantation; and the vast deference bestowed upon the trial court in findings of fact, I cannot find that the trial court was manifestly erroneous in concluding Gordon failed to establish he is factually innocent by clear and convincing evidence.

I find that the trial court's decision was reasonable based on the record as a whole. Accordingly, I would affirm the trial court's judgment denying Gordon's petition for compensation.

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