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LDF Media
212-965-2200 / media@naacpldf.org

LDF Files Brief Calling for Rayford Burke to Have the Chance to Challenge Racial Bias in His Death Sentence

The NAACP Legal Defense and Educational Fund, Inc. (LDF) today filed an [amicus brief](#) urging the North Carolina Supreme Court to allow Rayford Burke the opportunity to prove that racial bias impermissibly influenced jury selection and infected his death sentence. The brief argues that the prosecution discriminated against prospective Black jurors in Mr. Burke's trial, and uses exhaustive statistical evidence to show that Black North Carolinians were systematically prevented from serving on capital juries across the state, including in the judicial division, prosecutorial district, and county of the case.

"Rooting out racial discrimination from jury selection – particularly in death penalty cases – is essential to the integrity and legitimacy of the judicial process," said LDF Senior Deputy Director of Litigation [Jin Hee Lee](#). "Allowing racial bias in Mr. Burke's case to go unchallenged would be tantamount to condoning racial bias in the administration of justice. The Court must affirm its unwavering commitment to fundamental fairness and racial equality by affording Mr. Burke the opportunity to prove that discrimination tainted his death sentence."

LDF's brief, like the [one filed](#) in *State v. Robinson* and three other appeals pending before the North Carolina Supreme Court, chronicles the tragic history of pervasive racial discrimination in North Carolina's death penalty and jury selection process. The brief also explains how the integrity of North Carolina's judicial process is at risk should such systemic jury discrimination continue unchecked by the courts, especially with the life-or-death consequences of a capital case. Beyond Mr. Burke, the Court's decision in this case will also determine whether many others who have been sentenced to death will get to present their evidence of racial bias.

Systemic discrimination in the administration of the death penalty remains largely outside the reach of the courts due to the U.S. Supreme Court's 1987 ruling in *McCleskey v. Kemp*, which limited the ability of defendants to prove racial discrimination with statistical evidence. LDF litigated *McCleskey* and continues to believe that the case was wrongly decided. The North Carolina Legislature,

however, responded to the *McCleskey* ruling by passing the North Carolina Racial Justice Act (RJA). The RJA bars race from being a significant factor in the decision to seek or impose the death penalty, including decisions to exclude potential jurors based on race, and allows statistical evidence to prove claims of racial bias. A subsequent legislature's repeal of the RJA does not make the issue of remedying racial discrimination in capital cases any less urgent, especially given the compelling statistical evidence that has now come to light.

Mr. Burke challenged the racial discrimination in his case before the RJA was repealed, and LDF's brief argues that his claims of racial bias should still be considered. A trial court has already found that one prospective Black juror in Mr. Burke's case was excluded for reasons that did not lead similar white prospective jurors from being struck from the jury. LDF's brief notes that even after controlling for race-neutral factors, the odds of prosecutors striking potential Black jurors in Mr. Burke's prosecutorial district were 11.8 times greater than people of all other races. The probability of that disparity happening in a race-neutral jury selection process is less than one in one thousand.

LDF urges the North Carolina Supreme Court not to ignore the striking statistical evidence of systemic racial discrimination in jury selection, as well as other evidence of racial bias specific to Mr. Burke's case, and to allow Mr. Burke to present his arguments in a court of law.

Read the entire brief [here](#).

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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 and 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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