

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

ALBERT WOODFOX

CIVIL ACTION

VERSUS

NO. 06-789-JJB-CN

BURL CAIN, WARDEN, LOUISIANA
STATE PENITENTIARY, ET AL

ORDER

On February 15, 2011, this Court held oral arguments on whether the Court should hold an evidentiary hearing on Petitioner's claim for grand jury foreman discrimination. The Court finds that the Louisiana First Circuit Court of Appeals' conclusion that Petitioner could not use general population statistics to establish a prima facie case constituted an "unreasonable application of clearly established law as determined by the Supreme Court." See *Casteneda v. Partida*, 430 U.S. 482, 494, 498-99 (1977) (stating that a plaintiff may utilize general population statistics to establish a prima facie case of grand jury discrimination and that statistics relating to the population eligible to serve as jurors are to be used by the state to rebut the accuracy of general population statistics after the petitioner has established a prima facie case). Therefore, AEDPA deference to the Louisiana First Circuit Court of Appeals is unwarranted. 28 U.S.C. § 2254(d)(1) & (2).

It is hereby ORDERED that the Court will hold an evidentiary hearing as to Petitioner's grand jury foreman discrimination claim. The parties are instructed to contact the Court for scheduling.

Signed in Baton Rouge, Louisiana this 16th day of February 2011.



HONORABLE JAMES J. BRADY
MIDDLE DISTRICT OF LOUISIANA