

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No.2020-CK-00290

VS.

IN THE INTEREST OF H.J.

IN RE: H.J. - Applicant Defendant; Applying For Writ Of Certiorari, Parish of Orleans Criminal, Orleans Parish Juvenile Court Number(s) 2019-038-03-DQ, Court of Appeal, Fourth Circuit, Number(s) 2020-C-0047;

March 16, 2021

Writ application granted. See per curiam.

PDG

JLW

JDH

SJC

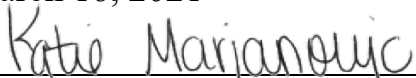
JTG

WJC

JBM

Supreme Court of Louisiana

March 16, 2021



Chief Deputy Clerk of Court
For the Court

03/16/21

SUPREME COURT OF LOUISIANA

No. 2020-CK-00290

STATE OF LOUISIANA

IN THE INTEREST OF H.J.

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
FOURTH CIRCUIT, PARISH OF ORLEANS**

PER CURIAM:

Writ granted. To be entitled to a recess to secure the presence of a witness, a party must show the actual necessity for the witness and the materiality of his expected testimony, a probability that the witness will be available at the time to which the trial is deferred and due diligence in attempting to procure the witness for trial. *State v. Jackson*, 450 So.2d 621, 631 (La. 1984); La.C.Cr.P. art. 709. The state failed to make such a showing, and thus the juvenile court did not abuse its discretion in denying the state's motion for a recess of the juvenile's adjudication. The decision to grant or deny a recess is within the sound discretion of the trial judge and will not be overturned on appellate review absent a clear abuse of discretion. *State v. Gordy*, 380 So.2d 1347 (La. 1980); *State v. Robertson*, 358 So.2d 931 (La. 1978). The decision of the court of appeal is reversed, the juvenile court's denial of the state's motion for a continuance is reinstated, and the case is remanded to the juvenile court for further proceedings.

REMANDED