

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No.2020-KK-00711

VS.

CALVIN SMITH

IN RE: Calvin Smith - Applicant Defendant; Applying For Writ Of Certiorari, Parish of Orleans Criminal, Criminal District Court Number(s) 546-919, Court of Appeal, Fourth Circuit, Number(s) 2020-K-0039;

October 20, 2020

Writ application granted. See per curiam.

JDH

BJJ

JLW

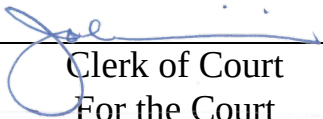
SJC

JTG

JHB

Crain, J., dissents.

Supreme Court of Louisiana
October 20, 2020



Clerk of Court
For the Court

10/20/20

SUPREME COURT OF LOUISIANA

No. 2020-KK-0711

STATE OF LOUISIANA

V.

CALVIN SMITH

**ON SUPERVISORY WRIT TO THE CRIMINAL
DISTRICT COURT FOR THE PARISH OF ORLEANS**

PER CURIAM

Writ granted. The State bears the burden of proving the admissibility of evidence seized without a warrant when the legality of a search or seizure is placed at issue by a motion to suppress evidence. LSA-C.Cr.P. art. 703(D). Based on the testimony of the officers and the bodycam footage admitted into evidence, the trial court found the State's claim of an inventory search to not be credible. The issue of a protective sweep was apparently not raised in the trial court, but would nevertheless not seem to be applicable where, as here, the defendant was in handcuffs in a police car when the search was conducted. Furthermore, the offense for which the defendant was initially stopped in this case was illegally tinted windows, for which no evidence would likely be found in the vehicle.

Accordingly, the ruling of the court of appeal is reversed, the trial court's ruling, granting the defendant's motion to suppress, is reinstated, and this matter is remanded for further proceedings.

REVERSED AND REMANDED.