

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No.2020-KK-00934

VS.

HAROLD ALVIN CAMPBELL

IN RE: State of Louisiana - Applicant Plaintiff; Applying For Supervisory Writ,
Parish of Calcasieu, 14th Judicial District Court Number(s) 14144-19, Court of
Appeal, Third Circuit, Number(s) KW 20-00240;

November 10, 2020

Writ application granted. See per curiam.

BJJ

JLW

SJC

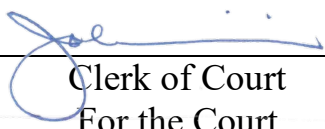
WJC

JHB

Hughes, J., dissents.

Genovese, J., dissents.

Supreme Court of Louisiana
November 10, 2020


Clerk of Court
For the Court

11/10/20

SUPREME COURT OF LOUISIANA

No. 2020-KK-00934

STATE OF LOUISIANA

VERSUS

HAROLD ALVIN CAMPBELL

**ON SUPERVISORY WRIT TO THE FOURTEENTH
JUDICIAL DISTRICT COURT, PARISH OF CALCASIEU**

PER CURIAM

Writ granted. On May 1, 2019, Lake Charles police officers responded to a 911 call in which a child reported that her father had just shot her mother. Officers found defendant outside the residence. He was unarmed. They secured him and an officer asked, “What happened?” Defendant replied, “I couldn’t take it anymore.” Officers placed defendant in a police vehicle and transported him to the Lake Charles Police Department. During the transport, defendant spontaneously began talking to himself, so an officer advised him of his rights pursuant to *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).

Defendant filed a motion to suppress his statements, which the district court denied. The court of appeal granted defendant’s writ application in part to reverse the district court’s ruling only with regard to the statement defendant made outside of the residence.¹ *State v. Campbell*, 20-0240 (La. App. 3 Cir. 7/8/20) (unpub’d). The court of appeal found that the volatile, emergency situation was abated when the officers secured defendant, and therefore the officers should have *Mirandized* him first. The court of appeal erred.

The public safety exception to *Miranda* allows the admission as evidence of

¹ The court of appeal found that the district court did not err in refusing to suppress defendant’s spontaneous statements made while he was being transported to the police station.

statements given by a defendant before being given *Miranda* warnings when a situation posing a threat to the public safety exists. *New York v. Quarles*, 467 U.S. 649, 655–60, 104 S.Ct. 2626, 2631–33, 81 L.Ed.2d 550 (1984). Relying on and quoting from *United States v. Lim*, 897 F.3d 673 (5th Cir. 2018), the court of appeal found here that the emergency had abated and therefore the public safety exception in *Quarles* did not apply. See *Campbell*, 20-0240, p. 1 (“the environment encountered by the officers no longer posed ‘the type of emergency, volatile situation that the public safety exception is designed to serve’”).

While it is true that both defendant here and Chhay Lim while handcuffed were asked a question by officers without being *Mirandized*, any similarity between the cases ends there. Lim, a lawful permanent resident of the United States, faced removal after serving three years in prison for rape. When Immigrations and Customs Enforcement officers executed the removal warrant, they arrested Lim as he answered his front door but allowed him to reenter his residence to dress. At that time, they asked him whether there were any weapons in the home, to which he responded affirmatively. Lim’s wife and children were sequestered in one room while Lim showed the officers where the weapons were located. The Fifth Circuit found, “There was no concern for the general safety of the public, given that the public did not have access to Lim’s residence, and no violent crime had immediately preceded the arrest.” *Lim*, 897 F.3d at 691.

In contrast, officers here were responding to a child’s report of a shooting during a domestic disturbance. They did not know where the weapon was, where the child was, who else might be in the residence, or whether the child or anyone else had access to the weapon. Officers asked the first person they encountered at the scene what happened, and immediately ceased questioning him when he made an inculpatory statement. This is precisely the sort of ongoing volatile emergency in which the United States Supreme Court found that “the need for answers to questions

in a situation posing a threat to the public safety outweighs the need for the prophylactic rule protecting the Fifth Amendment's privilege against self-incrimination.” *Quarles*, 467 U.S. at 657, 104 S.Ct. at 2632. As the United States Supreme Court declined to do in *Quarles*, we “decline to place officers in the untenable position of having to consider, often in a matter of seconds, whether it best serves society for them to ask the necessary questions without the *Miranda* warnings and render whatever probative evidence they uncover inadmissible, or for them to give the warnings in order to preserve the admissibility of evidence they might uncover but possibly damage or destroy their ability to obtain that evidence and neutralize the volatile situation confronting them.” *Id.*, 467 U.S. at 657–658, 104 S.Ct. at 2632.

Therefore, we grant the State’s application. We reverse the court of appeal to the extent that court found the district court erred in denying defendant’s motion to suppress his statement made outside of the residence. We reinstate the district court’s ruling, which denied defendant’s motion to suppress. We remand to the district court for further proceedings consistent with the views expressed here.

REVERSED AND REMANDED