

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No.2021-K-00205

VS.

CALVIN M. WILLIAMS, JR.

IN RE: Calvin M. Williams, Jr. - Applicant Defendant; Applying For Writ Of Certiorari, Parish of Orleans Criminal, Criminal District Court Number(s) 546-573, Court of Appeal, Fourth Circuit, Number(s) 2020-KA-0403;

June 08, 2021

Writ application granted. See per curiam.

PDG

JLW

JDH

SJC

JTG

WJC

JBM

Weimer, C.J., additionally concurs and assigns reasons.

Crichton, J., additionally concurs and assigns reasons.

Genovese, J., additionally concurs for the reasons assigned by Chief Justice

Weimer, Justice Crichton, and Justice McCallum.

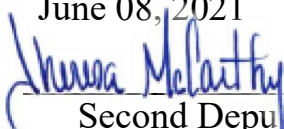
Crain, J., concurs and assigns reasons.

McCallum, J., concurs and assigns reasons.

Griffin, J., additionally concurs for the reasons assigned by Chief Justice Weimer, Justice Crichton, and Justice McCallum.

Supreme Court of Louisiana

June 08, 2021



Second Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2021-K-00205

STATE OF LOUISIANA

versus

CALVIN M. WILLIAMS, JR.

JUN 08 2021

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



PER CURIAM:

Granted. After the trial court granted defendant's motion to exclude a cellphone video that the State failed to authenticate, the State dismissed the prosecution during jury selection before the jury was sworn. On the next day, the State reinstituted the prosecution. Defendant then filed a motion to quash, which the trial court granted. The court of appeal reversed, finding that the trial court abused its discretion in granting defendant's motion to quash. *State v. Williams*, 2020-0403 (La. App. 4 Cir. 12/16/20), 312 So.3d 1148. Judge Love dissented and found the State entered its order of nolle prosequi to evade the trial court's evidentiary ruling. *Williams*, 2020-0403, p. 3, 312 So.3d at 1153 (Love, J., dissenting). We agree.

As in *State v. Reimonenq*, 2019-0367 (La. 10/22/19), 286 So.3d 412, the evidence was properly excluded by the trial court, and the State, by using the vast authority provided by La.C.Cr.P. arts. 61 and 691, evaded the trial court's evidentiary ruling without seeking appellate review. Inherent in justice and the concept of fundamental fairness is ensuring a "balance of forces between the accused and his accuser." *Wardius v. Oregon*, 412 U.S. 470, 474, 93 S. Ct. 2208, 2212, 37 L. Ed. 2d 82

(1973). As in *Reimonenq*, the State's exercise of its statutory right under La.C.Cr.P. arts. 61 and 691 to dismiss and reinstitute charges against defendant upset this "balance of forces" to such a degree that it violates defendant's right to due process and fundamental fairness. Thus, under the circumstances presented here, we find the trial court did not abuse its discretion in granting defendant's motion to quash. Therefore, we reverse the opinion of the court of appeal and we reinstate the trial court's ruling.

REVERSED