

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2022-KK-00382

VS.

MARLON COLEMAN

IN RE: Marlon Coleman - Applicant Defendant; Applying For Supervisory Writ,
Parish of Orleans Criminal, Criminal District Court Number(s) 544-714, Court of
Appeal, Fourth Circuit, Number(s) 2022-K-0002;

June 08, 2022

Writ application granted. See per curiam.

JDH

SJC

JTG

PDG

Weimer, C.J., dissents and assigns reasons.

Crain, J., dissents.

McCallum, J., dissents.

Supreme Court of Louisiana

June 08, 2022



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2022-KK-00382

STATE OF LOUISIANA

VS.

MARLON COLEMAN

On Supervisory Writ to the Criminal District Court, Parish of Orleans

PER CURIAM:

Writ granted. Defendant, Marlon Coleman, filed a motion to suppress the statement he made to Corporal Correa of the Louisiana State Fire Marshal's Office. At the hearing on the motion to suppress, Corporal Correa testified as to the manner in which Defendant was advised of his *Miranda* rights as follows:

So [Defendant] was advised of his rights. He was advised that he did not have to speak with us if he didn't wish. He was advised that he would be issued an attorney if he couldn't afford one. He was advised that he could stop speaking at any time even if he had declined, I mean, even if he had waived his rights. He was advised that he has the right to, I'm sorry, he has the right to also—we also advised him that he doesn't have to speak to us at any time.

Corporal Correa testified that he recorded the interview on a digital voice recorder and recalled using a Statement of Rights form to advise Defendant. However, the State did not offer or introduce the voice recording, the form used to advise Defendant, or a signed waiver of rights. Accordingly, Corporal Correa's testimony was the only evidence supporting the State's contention that Defendant was properly advised of his *Miranda* rights. From that testimony, it is not possible to determine whether Defendant was correctly advised.

For a confession to be admissible, the State bears the heavy burden to show that before he was questioned, Defendant was advised of his constitutional rights and executed a knowing and intelligent waiver of those rights. *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966); *State v. Brown*, 16-0998, p. 50

(La. 1/28/22), — So.3d —; La. Const. art. I, §13; La.C.Cr.P. art. 703(D). *Miranda* requires that,

[p]rior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The defendant may waive effectuation of these rights, provided the waiver is made voluntarily, knowingly and intelligently.

384 U.S. at 444, 86 S.Ct. at 1612.

Based on the showing by the State at the suppression hearing, there was no evidence that Defendant was informed of his right to have counsel present before and during questioning, nor was there evidence that he was advised of the consequence of not remaining silent. The State did not carry its burden to show that Defendant was properly advised of his rights pursuant to *Miranda* before he made the statement.

Accordingly, we find that the trial court abused its discretion when it concluded that Corporal Correa’s testimony “established enough basis that the *Miranda* warnings were given,” and denied the motion to suppress the statement made by Defendant. The appellate court erroneously found that the testimony “as to the gist of the *Miranda* warnings” read to Defendant was sufficient. *State v. Coleman*, 22-0002, p. 2 (La. App. 4 Cir. 2/15/22).

The ruling of the court of appeal is reversed and the motion to suppress his statement is granted.

REVERSED.