

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2022-KK-01651

VS.

KENNETH SMITH

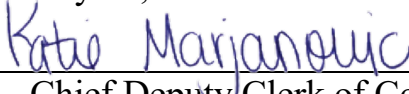
IN RE: State of Louisiana - Applicant Plaintiff; Applying For Writ Of Certiorari,
Parish of East Baton Rouge, 19th Judicial District Court Number(s) 12-17-0241,
Court of Appeal, First Circuit, Number(s) 2022 KW 0748;

January 25, 2023

Writ application granted in part. See per curiam.

WJC
JLW
SJC
JBM
PDG

Hughes, J., dissents and assigns reasons.
Genovese, J., would grant in part for the reasons assigned by Chief Judge
Whipple's dissent.

Supreme Court of Louisiana
January 25, 2023


Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2022-KK-01651

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VS.

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On Writ of Certiorari to the Court of Appeal, First Circuit,
Parish of East Baton Rouge

PER CURIAM

Writ granted. The court of appeal opinion is reversed in part to reinstate that portion of the trial court’s ruling allowing into evidence Jamoriya Ben’s inconsistent explanations to investigating officers about his gunshot wound. Those statements are not being offered for the truth of the matter asserted. *See* La. Code Evid. art. 801C. The court of appeal opinion is further reversed in part to reinstate that portion of the trial court’s ruling allowing into evidence Ben’s statements in the recorded telephone calls (1) requesting or referencing direct and indirect communications with “Ken,” and (2) directing others to retrieve Ben’s cell phone. *See* La. Code Evid. art. 801D(3)(b). In all other respects, the writ application is denied.