

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2022-KK-01722

VS.

BRIAN DOUGLAS HORN

IN RE: State of Louisiana - Applicant Plaintiff; Applying For Writ Of Certiorari,
Parish of Desoto, 42nd Judicial District Court Number(s) 20,372, Court of Appeal,
Second Circuit, Number(s) 54,854-KW;

February 14, 2023

Writ application granted. See per curiam.

JTG

WJC

JBM

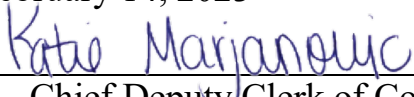
ERH

Weimer, C.J., dissents and would grant and docket.
Hughes, J., dissents and would grant and docket.
Griffin, J., dissents and would grant and docket.

Crichton, J., recused.

Retired Judge Eric Harrington appointed Justice ad hoc.

Supreme Court of Louisiana
February 14, 2023



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2022-KK-01722

STATE OF LOUISIANA

VS.

BRIAN DOUGLAS HORN

On Writ of Certiorari to the Court of Appeal, Second Circuit, Parish of Desoto

PER CURIAM:

Writ granted. The court of appeal erred in reversing the trial court’s pre-trial determination that defendant’s two prior convictions for sex offenses would be admissible pursuant to La. C.E. art. 404(B)(1) in this capital trial. *State v. Horn*, 54-854 (La. App. 2 Cir. 9/1/22)(unpubl.), *rehearing denied* (with one judge voting to grant the rehearing), (10/20/22).

Louisiana Code of Evidence Article 404(B)(1) provides for the admissibility of other crimes evidence if the state establishes an independent and relevant reason for its admission. *State v. Miner*, 17-1586, p. 1 (La. 1/4/18), 232 So.3d 551, 552 (citation omitted). It is the duty of the trial court in its gatekeeping function to determine the independent relevancy of such evidence. *State v. Altenberger*, 13-2518, p. 8 (La. 4/11/14), 139 So.3d 510, 515. The trial court must balance the probative value of the other crimes, wrongs, or acts evidence against its prejudicial effects before the evidence can be admitted. *State v. Henderson*, 12-2422, p. 2 (La. 1/4/13), 107 So.3d 566, 567-68 (citing La. C.E. art. 403). A trial court’s ruling on the admissibility of other crimes evidence will not be disturbed absent an abuse of discretion. *State v. Brown*, 18-01999, p. 39 (La. 9/30/21), 330 So.3d 199, 236, *cert. denied*, ___U.S.___, 142 S.Ct. 1702 (2022).

The trial court’s ruling was not based upon an erroneous application of the law or a clearly erroneous assessment of the evidence; thus, there is no basis for the

court of appeal finding that the trial court abused its discretion. As such, the appellate court erred in overturning the trial court's ruling. Accordingly, we reverse the ruling of the court of appeal, reinstate the trial court's ruling, and remand for further proceedings.