

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2023-KK-00030

VS.

KENDALL BARNES & DERRICK GROVES

IN RE: State of Louisiana - Applicant Plaintiff; Applying For Supervisory Writ,
Parish of Orleans Criminal, Criminal District Court Number(s) 544-352, Court of
Appeal, Fourth Circuit, Number(s) 2023-K-0011;

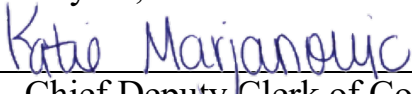
January 08, 2023

Writ granted. Stay denied. See Per Curiam.

WJC
SJC
JTG
JBM
PDG

Weimer, C.J., would deny the request for a stay but would order the filing of an
opposition prior to ruling.

Supreme Court of Louisiana
January 08, 2023



Chief Deputy Clerk of Court
For the Court

January 8, 2022

SUPREME COURT OF LOUISIANA

No. 2023-KK-00030

STATE OF LOUISIANA

VS.

KENDALL BARNES & DERRICK GROVES

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

PER CURIAM

Writ granted; stay denied. Under the circumstances, the trial court abused its broad discretion in applying the balancing test of Code of Evidence art. 403 to exclude evidence of the prison attack committed by the codefendants on the victim/witness. Whether evidence is merely cumulative is a factor to be considered in weighing the relative probative value of proffered evidence against its prejudicial effect. *State v. Tonubbee*, 420 So.2d 126, 133 (La. 1982). Here, however, the record does not support a determination that the evidence is merely repetitive and cumulative. *Cf. State v. Kelly*, 2001-0124 (La. 6/29/01), 791 So.2d 1286 (per curiam). Instead, the record reflects that the State met its burden under La.C.E. art. 404(B) of showing that the evidence is independently relevant to the question of identity. Accordingly, we reverse the trial court’s ruling excluding the evidence and we find the evidence is admissible at trial. We remand the matter for further proceedings consistent with the views expressed here. The State’s request for a stay is denied.

REVERSED AND REMANDED