

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2024-KK-00212

VS.

WILBERT THIBODEAUX

IN RE: Wilbert Thibodeaux - Applicant Defendant; Applying For Supervisory Writ,
Parish of St. Mary, 16th Judicial District Court Number(s) 13-190149, Court of
Appeal, First Circuit, Number(s) 2023 KW 1188;

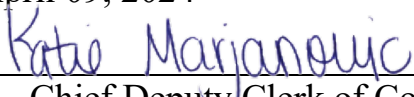
April 09, 2024

Writ application granted. See per curiam.

JBM
JDH
SJC
PDG

Weimer, C.J., would deny.
Genovese, J., would deny.
Crain, J., concurs.

Supreme Court of Louisiana
April 09, 2024



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2024-KK-00212

STATE OF LOUISIANA

VS.

WILBERT THIBODEAUX

On Supervisory Writ to the 16th Judicial District Court, Parish of St. Mary

PER CURIAM.

Granted. Under the circumstances of this case, the trial court erred in failing to conduct an in camera inspection of the 2013 grand jury testimony. While we recognize the “long established policy that the secrecy of grand jury proceedings should be carefully maintained,”¹ La. C.Cr.P. art. 434.1 B requires the disclosure “to the defendant [of] material evidence favorable to the defendant that was presented to the grand jury.” As we explained in *State v. Ross*, 13-0175, p. 7 (La. 3/25/14), 144 So.3d 932, 937-38:

A party seeking disclosure [of grand jury transcripts] has the burden of proving a “compelling necessity” for the material sought, and the need must be demonstrated “with particularity.” That is, the party seeking disclosure must prove that, without access to the grand jury materials, the party’s case would be “greatly prejudiced” or that an “injustice would be done.”

A general request for grand jury testimony that “would reveal exculpatory evidence,” does not meet the requirement of a particularized need. *Id.* at 938. However, where there is a specific request stated with particularity, a trial court may review grand jury transcripts in camera to determine whether they contain

¹ *State v. Ross*, 13-0175, p. 6 (La. 3/25/14), 144 So.3d 932, 937.

information favorable to a defendant. *State v. Francis*, 18-1395, p. 1 (La. 9/21/18), 252 So.3d 875, 876.

Although a trial court has discretion in deciding whether to conduct an in camera inspection, courts have frequently found error in the failure to do so. *See, e.g., State v. Higgins*, 02-1241 (La. 5/6/02), 821 So.2d 1281 (“The court is ordered to inform the defendant prior to trial whether the grand jury transcripts reviewed via *in camera* inspection reveal any evidence favorable to the accused which is material to guilt or innocence under *Brady*”); *State v. Ates*, 418 So.2d 1326, 1329 (La. 1982) (“The defendant’s request was specific, i.e., ‘prior statements of [a witness], for purposes of impeachment. . . .’ [I]n this case, the trial judge should have made an in camera inspection for material inconsistencies and *Brady* information in the requested statements of [the witness], for use during cross-examination.”); *See also, State v. Grubbs*, 93-2559, p. 6 (La. App. 4 Cir. 10/25/94), 644 So.2d 1105, 1111 (“The trial court should have conducted an in camera inspection of the grand jury testimony.”); *State v. Marco*, 577 So.2d 328, 330 (La. App. 4 Cir. 1991) (“it appears that defendant is entitled to an in camera inspection of the witness statements.”).

These cases are consistent with *State v. Peters*, 406 So.2d 189, 191 (La.1981), where this Court made clear that “an in-camera inspection by the trial judge is a proper means of accommodating the secrecy of the grand jury and at the same time protecting defendant's constitutional rights of confrontation and due process.”

Here, the defendant’s Motion for Production and In Camera Inspection of Grand Jury Testimony sought, *inter alia*, “any and all testimony before the grand jury which would point to evidence of [his] mental illness at or near the time of the offense and/or anyone’s knowledge of [his] mental illness at or near the time of the offense.” This is the type of specific request made with particularity that warrants an in camera inspection by the trial court. We further find compelling defendant’s argument that, given the length of time that has elapsed since the offenses, evidence

concerning his then-mental state “from the witnesses close in time to the event is crucial to the issue of his sanity at the time of the offense.”

Accordingly, we grant the writ application and reverse the judgments of the lower courts. We remand this matter to the trial court for an in camera inspection of the grand jury transcripts for any testimony or evidence regarding defendant’s mental state at the time of the offenses.