

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2024-KK-00399

VS.

VAN HOPKINS

IN RE: State of Louisiana - Applicant Plaintiff; Applying For Writ Of Certiorari,
Parish of West Feliciana, 20th Judicial District Court Number(s) 22-WFLN-237,
Court of Appeal, First Circuit, Number(s) 2023 KW 1246;

June 05, 2024

Writ application granted. See per curiam.

JDH
JLW
SJC
JBM
PDG

Genovese, J., dissents and would deny.
Crain, J., dissents and would deny.

Supreme Court of Louisiana
June 05, 2024

Katja Marjanovic
Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2024-KK-00399

STATE OF LOUISIANA

VS.

VAN HOPKINS

On Writ of Certiorari to the Court of Appeal, First Circuit, Parish of West Feliciana

PER CURIAM:

Writ granted. The State alleges that Marshall Rayburn, while wearing a court-ordered electronic ankle monitor, repeatedly breached the perimeter of the residence of Peggy Rayburn, from whom he had been ordered to stay away. Ultimately, Marshall Rayburn shot and killed Peggy Rayburn, and attempted to kill her neighbor Lanie Cathey. The State further alleges that defendant, as owner of the electronic monitoring company, was aware of the perimeter breaches but never attempted to inform law enforcement of them.

A grand jury indicted defendant for negligent homicide, La. R.S. 14:32(A)(1), based on defendant’s criminal negligence. Defendant filed a motion to quash the indictment, which the district court denied. The court of appeal reversed and quashed the indictment. *State v. Hopkins*, 23-1246 (La. App. 1 Cir. 2/27/24) (unpub’d). The court of appeal found that the conduct alleged by the State did not provide a legal basis for the crime charged. Judge Penzato dissented, observing that a motion to quash does not serve as a vehicle for asserting defenses to the merits of the charges against a defendant, and finding that the district court did not err by denying the motion to quash. We agree.

The motion to quash is essentially a mechanism by which to raise pre-trial pleas of defense, i.e., those matters which do not go to the merits of the charge. La.C.Cr.P. art. 531–534. It is treated much like an exception of no cause of action in a civil suit. *State v. Gerstenberger*, 260 La. 145, 255 So.2d 720 (1971). In considering a motion to quash, a court must accept as true the facts contained in the bill of information and in the bills of particulars and determine as a matter of law and from the face of the pleadings, whether a crime has been charged. While evidence may be adduced, such may not include a defense on the merits. *State v. Ponthieux*, 254 La. 482, 224 So.2d 462 (1969). The question of factual guilt or innocence of the offense charged is not raised by the motion to quash. *State v. Rembert*, 312 So.2d 282 (La. 1975); *State v. Patterson*, 301 So.2d 604 (La. 1974).

Here, defendant's arguments ultimately pertain to defendant's acts or omissions, the existence of a duty and its scope, and the degree of negligence, which issues relate to factual guilt or innocence, i.e. the merits of the charge. *Cf. State v. Legendre*, 362 So.2d 570, 571 (pre-trial motion to quash on grounds of a defense going to the merits appropriate remedy only if charges based "upon an allegation of fact which cannot conceivably satisfy an essential element of the crime"). Therefore, the district court did not err in denying defendant's motion to quash. Accordingly, we reverse the ruling of the court of appeal. We reinstate the indictment and the district court's ruling, which denied the motion to quash. We remand for further proceedings.

REVERSED AND REMANDED