

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2024-KK-00565

VS.

DAVID KLUMP

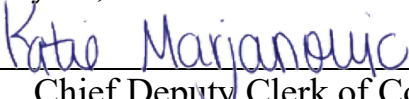
IN RE: David Klump - Applicant Defendant; Applying For Supervisory Writ, Parish of Orleans Criminal, Criminal District Court Number(s) 559-506, Court of Appeal, Fourth Circuit, Number(s) 2024-K-0213;

May 17, 2024

Writ application granted. See per curiam.

SJC
JLW
JDH
JTG
WJC
JBM

Griffin, J., dissents in part.

Supreme Court of Louisiana
May 17, 2024


Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2024-KK-00565

STATE OF LOUISIANA

VS.

DAVID KLUMP

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

PER CURIAM:

Writ granted. A motion to quash may be granted when “[t]he indictment fails to charge an offense which is punishable under a valid statute.” La. C.Cr.P. art. 532(1). 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. *State v. Perez*, 464 So.2d 737, 739 (La. 1985). As a general matter, a motion to quash does not serve as a vehicle for asserting defenses on the merits. *Id.*, 464 So.2d at 739–40. However, an exception to this rule exists where the State has alleged or admitted facts under which a lawful conviction for the charged offense is not possible. *State v. Legendre*, 362 So.2d 570 (La. 1978). In *Legendre*, this Court held that an indictment based on “an allegation of fact which cannot conceivably satisfy an essential element of the crime,” must be quashed in order to avoid compelling the accused “to withstand the rigors of a jury trial with no expectation that a conviction can be supported by such an allegation.” *Id.*, 362 So.2d at 571.

In this case, the State charged defendant with four counts of misdemeanor crimes and four counts of felony crimes. The four felony counts are based on a claim that defendant called the alleged victim of the misdemeanor crimes claiming to be a “representative” of defendant. The State accuses defendant of asking the alleged victim to take down a social media post containing an image of defendant and stating

that defendant was contemplating legal action if the image was not removed from the social media account. Based on these alleged actions, the State charged defendant with obstruction of justice, La. R.S. 14:130.1; unlawful practice of law, La. R.S. 37:213(A); public intimidation, La. R.S. 14:122; and witness intimidation La. R.S. 14:129.1. Assuming the facts alleged by the State to be true, we find the State cannot conceivably satisfy the elements of any of the four felony offenses. Accordingly, we reverse the ruling of the trial court denying defendant's motion to quash as to these four offenses. We remand the matter to the trial court for further proceedings in connection with the four remaining misdemeanor charges.

REVERSED AND REMANDED.