

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NUMBER 2013 KW 0696

VERSUS

OLIVER JAMES

JUN 19 2013

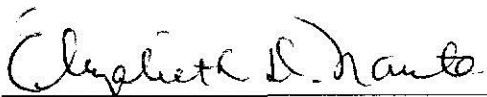
In Re: State of Louisiana, applying for supervisory writs, 19th Judicial District Court, Parish of East Baton Rouge, No. 12-12-0250.

BEFORE: PARRO, KUHN AND McCLENDON, JJ.

WRIT GRANTED. The jurisprudence has established the prohibition against juror testimony is not absolute and must yield to a substantial showing that the defendant was deprived of his constitutional rights. Well-pleaded allegations of prejudicial juror misconduct violating a defendant's constitutional rights will require an evidentiary hearing at which jurors shall testify. See **State v. Smith**, 2006-0820 (La. App. 1st Cir. 12/28/06), 952 So.2d 1, 22-23, writ denied, 2007-0211 (La. 9/28/07) 964 So.2d 352. Unless such pleadings are made with particularity, jury members are not competent to testify. See **State v. Emanuel-Dunn**, 2003-0550 (La. App. 1st Cir. 11/7/03), 868 So.2d 75, 81, writ denied, 2004-0339 (La. 6/25/04) 876 So.2d 829. We find the statement made by the juror in question did not allege or amount to prejudicial juror misconduct, violating the defendant's constitutional rights. We further note that the defendant did not file any pleadings alleging juror misconduct. Thus, an evidentiary hearing for questioning the juror regarding her statement is not warranted. Accordingly, the trial court's ruling permitting the juror to be questioned regarding the statement made by the juror postverdict is reversed, and this matter is remanded to the district court for further proceedings.

RHP
JEK
PMc

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