

**STATE OF LOUISIANA IN
THE INTEREST OF D.C.**

*** NO. 2019-C-0317
* COURT OF APPEAL
* FOURTH CIRCUIT
* STATE OF LOUISIANA**

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LOVE, J., DISSENTS AND ASSIGNS REASONS

I respectfully dissent from the majority.

Trial courts are vested with great discretion when determining whether to suppress statements and judgments regarding same will not be reversed absent an abuse of that discretion. *State v. Wells*, 08-2262, p. 5 (La. 7/6/10), 45 So. 3d 577, 581.

In the present matter, the trial court wrote a well-reasoned *per curiam*, which provided:

In the instant case, the child was in custody or significantly deprived of freedom because he was commanded to sit down by a law enforcement officer, both officers were standing and flanked him on both sides, his grandmother stood in front of him and all exits were blocked. After reviewing the bodycam, it is clear, that the child was extremely intimidated in this circumstance and did not have the freedom to leave. Secondly, there was an interrogation because from the beginning of the interrogation the officer stated that they were there to interrogate the child. Finally, the grandmother acted as an agent of law enforcement. The Court was not presented evidence of the conversation that the law enforcement officers had with the grandmother prior to the interrogation, but it was clear that this interrogation was pre-planned with the grandmother and the officers before the child entered the room. The State argued that the grandmother was acting as a concerned guardian and not as an agent of law enforcement. It is unclear whether the grandmother actually knew she was being used as an agent, but all of her actions were used to the benefit of law enforcement.

The officers knew that they were using the guardian as their agent to manipulate this child into making a statement without giving him proper Miranda warnings. Furthermore, a concerned guardian would have insured that her child at least understood his rights before making these incriminating statements.

After the child was manipulated into making the first set of statements without being Mirandized, the police officer then Mirandized the child and obtain the second set of statements. The Court concluded that these statements were inadmissible as fruit of the poisonous tree. The Court adds that this child had just turned 14 years old. The police officer has an increased duty to insure that children understand their rights before interrogating them.

For these aforementioned reasons the Court granted the Defense's Motion to Suppress the Statements.

Upon reviewing the Bodycam footage and the transcript, I find the trial court's depiction was accurate. Therefore, I do not find that the trial court abused its discretion and would deny the writ.