

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2006 KA 0507

STATE OF LOUISIANA

VERSUS

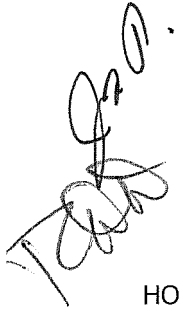

JAMES CHIASSON

**Judgment rendered November 3, 2006.**

\* \* \* \* \*

Appealed from the  
19th Judicial District Court  
in and for the Parish of East Baton Rouge, Louisiana  
Trial Court No. 10-05-0389  
Honorable Leon A. Cannizzaro, Jr., Judge

\* \* \* \* \*

  
HON. DOUG MOREAU  
DISTRICT ATTORNEY  
  
SONYA CARDIA-PORTER  
DYLAN C. ALGE  
ASSISTANT DISTRICT ATTORNEYS  
BATON ROUGE, LA

FRANK SLOAN  
BATON ROUGE, LA

ATTORNEYS FOR  
THE STATE OF LOUISIANA

ATTORNEY FOR  
DEFENDANT-APPELLANT  
JAMES CHIASSON

\* \* \* \* \*

**BEFORE: PETTIGREW, DOWNING, AND HUGHES, JJ.**

**PETTIGREW, J.**

Defendant, James Chiasson, was charged by bill of information with one count of indecent behavior with a juvenile, a violation of La. R.S. 14:81. Defendant waived his right to trial by jury and was tried before a judge. The trial judge determined defendant was guilty as charged and imposed a sentence of seven years at hard labor. For the reasons that follow, we affirm defendant's conviction and sentence.

**FACTS**

On or about June 12, 2005, S.H., who was seven years old, was visiting her grandmother when defendant stopped by with his dog. When the grandmother's attention was diverted inside because of a telephone call, defendant placed his hand over S.H.'s shorts over her vaginal area. S.H. later reported the event to her family.

**ASSIGNMENT OF ERROR**

In his sole assignment of error, defendant argues the trial court lacked the authority, capacity, and right to preside over his trial. Defendant's argument is based on the fact that the cover of the record and the minute entries indicate that this matter was assigned to Judge Wilson Fields; however, in the body of the minute entries and the transcript, the presiding judge is identified as Judge Leon A. Cannizzaro, Jr., who sits on the Louisiana Fourth Circuit Court of Appeal. Defendant maintains that there is "nothing in the record to indicate under what authority, if any, Judge Cannizzaro may have [been] relied upon to try this case, to convict and sentence" him.

Article V, § 5A of the Louisiana Constitution gives the supreme court general supervisory jurisdiction over all other courts and provides without qualification that the supreme court "may assign a sitting or retired judge to any court." The supreme court's power to assign judges to assist courts within the judicial branch in furtherance of the administration of justice is explicit and unfettered. The supreme court has the constitutional authority to assign a sitting or retired judge to any court at any time, and is not limited to cases in which a vacancy exists. **State v. Strahan**, 2004-1971, p. 4 (La. App. 1 Cir. 5/6/05), 916 So.2d 209, 211.

Judge Cannizzaro was elected to serve on the Louisiana Fourth Circuit Court of Appeal. The supreme court appointed Judge Cannizzaro to serve as a judge pro tempore of Section VIII, Division "O," of the Nineteenth Judicial District Court on September 8, 2005. According to the supreme court's order, Judge Cannizzaro's appointment was for the period from September 8, 2005 until March 7, 2006. Defendant was tried, convicted, and sentenced by Judge Cannizzaro on December 7, 2005, within the period of the appointment.

Accordingly, Judge Cannizzaro had the proper authority to preside over this matter. We note the record did not originally contain a copy of the order appointing Judge Cannizzaro; however, a copy of this order of appointment has been filed with this court and attached hereto as Appendix A. Defendant's assignment of error is without merit.

#### **CONCLUSION**

For the above and foregoing reasons, we affirm defendant's conviction and sentence.

**CONVICTION AND SENTENCE AFFIRMED.**

SUPREME COURT OF LOUISIANA

ORDER

Acting under the authority of Article V, Section 5(A), Constitution of 1974, and considering the request of Chief Judge Timothy E. Kelley to assign a judge pro tempore to assist with the docket of the Nineteenth Judicial District Court and further considering the willingness of Fourth Circuit Court of Appeal Judge Leon A. Cannizzaro, Jr. to accept said assignment,

IT IS ORDERED THAT:

Fourth Circuit Court of Appeal Judge Leon A. Cannizzaro, Jr. be and he is hereby assigned as judge pro tempore of Section VIII, Division "O," Nineteenth Judicial District Court, Parish of East Baton Rouge, effective for the dates of September 8, 2005 through March 7, 2006 subject to the completion of unfinished business.

This order shall not deprive Judge Wilson Fields of his office as judge of the Nineteenth Judicial District Court, Parish of East Baton Rouge, or of any other court to which he may have been assigned by previous order of this Court, nor shall it deprive Fourth Circuit Court of Appeal Judge Leon A. Cannizzaro, Jr. of his office as judge of any other court to which he may have been assigned by previous order of this Court.

The Court of Judge requesting ad hoc or pro tempore assistance shall have the duty and obligation to provide the requisite courtroom and office space, legal support personnel (if necessary), court reporting and secretarial personnel, and related equipment to enable ad hoc and pro tempore judges to fulfill their obligations.

The judge assigned to sit ad hoc or pro tempore hereunder in any district, juvenile, parish, city, municipal or traffic court shall be subject to Supreme Court General Administrative Rule, Part G, Section 2. "Cases Under Advisement," with respect to deciding matters timely and reporting to this court's Judicial Administrator.

Given under our hands and seal this 8th day of September, A.D., 2005, New Orleans, Louisiana.

FOR THE COURT:

*Catherine D. Kimball*  
Catherine D. Kimball, Justice

COURT OF APPEAL FIRST CIRCUIT  
FILED

JUL 20 2006

*Christina L. Carr*  
CLERK

SUPREME COURT OF LOUISIANA  
A TRUE COPY OF DOCUMENTS AS  
SAME APPEARS IN OUR RECORDS

*Jeffrey C. Collins*  
Jeffrey C. Collins  
Chief Deputy Clerk of Court

Appendix A