

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2014 KW 0002

VERSUS

LAWRENCE EMERY

APR 08 2014

In Re: State of Louisiana, applying for supervisory writs,
20th Judicial District Court, Parish of West
Feliciana, No. 13-WFLN-095.

BEFORE: PARRO, GUIDRY AND DRAKE, JJ.

WRIT GRANTED. The Confrontation Clause places no constraints on the use of prior testimonial statements where the declarant is present at trial to defend and explain them. A testimonial videotaped statement is not, therefore, inadmissible if the declarant testifies and the declarant can be questioned regarding the statement. Furthermore, La. R.S. 15:440.5, which sets forth the requirements for admissibility of a videotaped interview, is not facially unconstitutional, as it specifically requires as a condition of admissibility that "the protected person be available to testify." **State ex rel. L.W.**, 2009-1898 (La. App. 1st Cir. 6/11/10), 40 So.3d 1220, 1227, writ denied, 2010-1642 (La. 9/3/10), 44 So.3d 708. Accordingly, the district court's ruling granting the defendant's motion to suppress is reversed, and this matter is remanded to the district court for further proceedings.

JMG
EGD
RHP

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DEPUTY CLERK OF COURT
FOR THE COURT