

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2016 KW 1301

VERSUS

MICHAEL A. WATKINS, JR.

DECEMBER 15, 2016

In Re: Michael A. Watkins, Jr., applying for supervisory writs, 22nd Judicial District Court, Parish of St. Tammany, No. 524368.

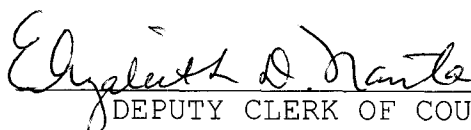
BEFORE: WELCH, CRAIN, AND HOLDRIDGE, JJ.

WRIT DENIED.

WJC
GH

Welch, J., concurs in part and dissents in part. I believe that the tape-recorded conversation that is the subject of the motion in limine should be allowed to be introduced by the State at trial. See **Wolfe v. United States**, 291 U.S. 7, 14, 54 S.Ct. 279, 78 L.Ed. 617 (1934). Relator's spouse voluntarily allowed a third party to listen to and record their telephone conversation. Therefore, their telephone conversation was not a confidential communication. However, I find merit in relator's claim that the underlying offense must be committed against a specific child in order for an exception to the spousal witness privilege to apply. Therefore, relator's spouse should be allowed to invoke her spousal privilege, and should not be forced to testify in this matter.

COURT OF APPEAL, FIRST CIRCUIT


DEPUTY CLERK OF COURT
FOR THE COURT