

**STATE OF LOUISIANA**  
**COURT OF APPEAL, FIRST CIRCUIT**

STATE OF LOUISIANA

NO. 2019 KW 0655

VERSUS

OSCAR LOZADO

**AUGUST 21, 2019**

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In Re: Oscar Lozado, applying for supervisory writs, 19th Judicial District Court, Parish of East Baton Rouge, No. 11-18-0201.

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**BEFORE: CRAIN, THERIOT, AND HOLDRIDGE, JJ.**


**WRIT DENIED.**

**WJC**

**Holdridge, J.**, I concur in the writ denial. While I may have arrived at a different result, the trial court's conclusions as to the credibility and weight of the testimony relating to voluntariness of a confession "are entitled to great weight." See **State v. Watson**, 423 So.2d 1130, 1133 (La. 1982). When a trial court denies a motion to suppress, factual and credibility determinations should not be reversed in the absence of a clear abuse of the trial court's discretion. See **State v. Green**, 94-0887 (La. 5/22/95), 658 So.2d 272, 280-81.

**Theriot, J.**, dissents and would grant the writ application. When an accused has invoked his right to have counsel present during custodial interrogation, a valid waiver of that right cannot be established by showing only that he responded to further police-initiated custodial interrogation even if he has been advised of his rights. **Edwards v. Arizona**, 451 U.S. 477, 484, 101 S.Ct. 1880, 1884-85, 68 L.Ed.2d 378 (1981). I find that relator clearly and unambiguously invoked his right to counsel at which point the detective should have ceased further inquiry. See **State v. Lagos**, 2018-1724 (La. 1/28/19), 262 So.3d 277, 278 (*per curiam*).

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DEPUTY CLERK OF COURT  
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