

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2019 KW 0902

VERSUS

THOMAS FIFE

OCT 18 2019

In Re: State Of Louisiana, applying for supervisory writs,
19th Judicial District Court, Parish of East Baton
Rouge, No. 11-14-0793.

BEFORE: McCLENDON, WELCH, AND HOLDRIDGE, JJ.

WRIT GRANTED. The trial court's ruling excluding evidence of the defendant's conviction relating to the possession of pornographic images of children is reversed and this matter is remanded to the trial court for further proceedings. Because the defendant is charged with sexual misconduct against a victim who was under the age of seventeen, the defendant's conviction relating to the possession of pornographic images of children is relevant for the purposes of revealing his lustful disposition toward children. See La. Code Evid. art. 412.2(A); **State v. E.J.F.**, 2008-674 (La. App. 3d Cir. 12/10/08), 999 So.2d 224, 230-31. Further, the probative value of this evidence is not substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, or waste of time. See La. Code Evid. arts. 403 & 412.2(A).

PMc
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Holdridge, J., dissents and would deny the writ application. The trial court did not abuse its "great gatekeeping discretion" in finding the evidence to be inadmissible. See **State v. Wright**, 2011-0141 (La. 12/6/11), 79 So.3d 309, 317.

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DEPUTY CLERK OF COURT
FOR THE COURT