

STATE OF LOUISIANA

*

NO. 2016-K-1223

VERSUS

*

COURT OF APPEAL

AVERY JULIEN

*

FOURTH CIRCUIT

*

STATE OF LOUISIANA

*

*

* * * * *

LEDET, J., CONCURS WITH REASONS

Although I agree with the majority’s decision that the State’s writ should be denied, I write separately because I would reach that result for a different reason. I would find that the probation agents’ compliance check crossed the line to a warrantless probation violations search. “When a search is conducted for probation violations, the State’s burden is met when it establishes that there was a reasonable suspicion that criminal activity was occurring.” *State v. Ross*, 13-2069 (La. 9/18/13), 127 So.3d 908 (citing *State v. Marino*, 00-1131, p. 5 (La. App. 4 Cir. 6/27/01), 804 So.2d 47, 52). I would find the State failed to meet its burden.

The probation agents crossed the line from a compliance check to a probation violations search when they executed an abrupt entry into the bedroom where the defendant and his girlfriend were sleeping, handcuffed them, and removed them from the bedroom. Only after crossing the line did the agents observe the ammunition that could have provided them with the requisite cause to conduct a more thorough, warrantless search. The State failed to present evidence that before crossing the line the probation agents had reasonable suspicion to justify a probation violations search. Given the initial intrusion was unreasonable, I cannot conclude the district court erred in granting the defendant’s motion to suppress. For these reasons, I concur in the majority’s decision to deny the State’s writ.