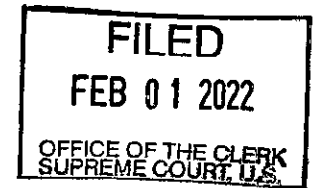


No. 21-7150

ORIGINAL



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IN THE  
SUPREME COURT OF THE UNITED STATES

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MICHAEL CAMERON — PETITIONER

vs.

TIM HOOPER, WARDEN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

MICHAEL CAMERON  
437919, OAK—1  
LOUISIANA STATE PENITENTIARY  
ANGOLA LOUISIANA 70712

## QUESTIONS PRESENTED

1. The police conducted a showup lineup with Cameron and four witnesses without justification. The unduly suggestive showup lineups were never corroborated and the State did not ask the witnesses to make in-court identifications. Furthermore, the witnesses testimonies were riddled with internal contradictions and irreconcilable conflicts:
  - (A) Did the trial court err when it allowed the uncorroborated showup identifications at Cameron's trial?
  - (B) Did the State negate the probability of misidentification?
2. Cameron is a victim of misidentification because he was placed in an unduly suggestive showup lineup. The 1 witness who saw the perpetrator's face did not pick Cameron in the showup lineup. The other 3 witnesses picked Cameron because of the color of his shirt, but not 1 of them identified Cameron in open-court:
  - (A) Was Cameron misidentified as a result of the unduly suggestive showup lineup?
3. Cameron's counsel tried to present evidence that Cameron was detained and prosecuted after he was misidentified in the showup lineup because of the color of his shirt. The prosecution objected and argued counsel could not introduce evidence that someone other than Cameron committed the offense. The court sustained the objection:
  - (A) Was Cameron denied his state and federal constitutional right to present a defense?

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Cameron respectfully prays that a writ of certiorari issue to review the order of the United States Court of Appeals for the Fifth Circuit denying a Certificate of Appealability (COA) on his constitutional claims.

OPINIONS BELOW

The order of the Court of Appeals, No. 20-30350, denying a COA appears at Appendix A to the petition and has not been designated for publication. The District Court's order and the Magistrate Judge's report and recommendation appear in Appendix B and are published at *Cameron v. Vannoy*, 2020 WL 2520714 (May 18, 2020); 2020 WL 5506415 (January 30, 2020). The various state court opinions underlying the federal proceedings appear in Appendix C.

JURISDICTION

The Court of Appeals entered final judgment against Cameron on December 20, 2021. As such, this Court has jurisdiction under 28 U.S.C. § 1254(1) and Rule 13.1 of the Rules of the Supreme Court of the United States. *See Hohn v. United States*, 524 U.S. 236,253 (1998) (holding denial of COA reviewable).



## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution provides in pertinent part:

No person shall be held to answer for a capital, or otherwise infamous crime ... nor be deprived of life, liberty, or property without due process of law[.]

The Sixth Amendment to the United States Constitution provides in pertinent part:

In all criminal prosecutions, the accused shall enjoy the right to ... trial by an impartial jury.

The Fourteenth Amendment to the United States Constitution provides in pertinent part:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Article I § 1 of the Louisiana Constitution:

All government, of right, originates with the people, is founded on their will alone, and is instituted to protect the rights of the individual and for the good of the whole. Its only legitimate ends are to secure justice for all, preserve peace, protect the rights, and promote the happiness and general welfare of the people. The rights enumerated in this Article are inalienable by the state and shall be preserved inviolate by the state.

Article I § 2 of the Louisiana Constitution:

No person shall be deprived of life, liberty, or property, except by due process of law.

Article I § 3 of the Louisiana Constitution:

No person shall be denied the equal protection of the laws.

Article I § 16 of the Louisiana Constitution:

Every person charged with a crime is presumed innocent until proven guilty and is entitled to ... [an] impartial trial ... [and] to present a defense[.]

## STATEMENT OF THE CASE

On April 11, 2011, Cameron was formally accused of second degree murder for Eric Roy Jr.'s death. Cameron filed motions to suppress statements and identification. The trial court denied the motions. Testimony established that Roy was stabbed at the Republic nightclub by a black male wearing a red shirt and black pants. Roy died from his injuries before he could identify the perpetrator. As Cameron exited the club, he was detained by sheriff deputies and placed in a showup lineup. Because of the color of his shirt, Cameron was misidentified as the perpetrator. The State did not present 1 witness who said they saw Cameron stab Roy. The State presented 1 witness who said she saw the perpetrator's face; however, the record indisputably proves she did not identify Cameron as the person she saw attack and stab Roy. See Appendix C, pp. 499,501-502,505,511; cf. Appendix C, pp. 513-14.

Caroline Koerner ("Koerner") said she saw the perpetrator's face and that she identified him in the showup lineup. Koerner's trial testimony proves Cameron was not the person she identified in the showup lineup. Appendix C, pp. 499,501-02,505,511. Koerner said the perpetrator had short hair and was wearing a black t-shirt when she positively identified him.

Appendix C, pp. 499,502. One of the officers involved in conducting the showup lineup said Cameron was wearing a red shirt when he was subjected to the unduly suggestive procedure. Appendix C, pp. 513-14.

Seneca Johnson ("Johnson") said she told the police she saw a black male with a bald head, wearing a red shirt and black or dark colored pants attack Roy. After relaying this information to a detective, Johnson said she watched as Cameron was taken from the backseat of a police car in handcuffs. Because of what he was wearing, Johnson said Cameron was the person she saw attack Roy. Appendix C, pp. 486-87,492. Johnson's testimony, together with the other physical and circumstantial evidence, proves it was impossible for Cameron to be the perpetrator of the crime he has was wrongly convicted of. Johnson testified that she did not see the perpetrator's face because she only saw him from behind. Appendix C, p. 488-89. Johnson also said she identified Cameron because of his clothing. Appendix C, p. 490. Johnson did not identify Cameron in open-court and neither did the State ask her to. This was an indication that the State knew Johnson was unable to say, with any reasonable amount of certainty, she saw Cameron attack Roy.

Nicole Age ("Age") said she was an eye-witness to the stabbing. Age said the person who attacked Roy was bald-headed and wore a red shirt with black pants. Appendix C, p. 527. Like Johnson, Age said she only saw the perpetrator from behind. Appendix C, p. 527. Age also said she was shown an individual by a police car and that he was the person who attacked Roy. Appendix C, p. 528. As with Johnson, Age did not, and neither was she asked to, identify Cameron in open court.

Jeremiah LaFleur ("LaFleur") said he worked at the Republic nightclub when Roy was stabbed. LaFleur said he witnessed someone in a bright red shirt hit Roy with what appeared to be an overhand punch. Appendix C, pp. 517-18. LaFleur also said he went downstairs to get security to respond to the situation and, as he was going back upstairs, he saw the perpetrator in the bright red shirt run out of the club. Appendix C, pp. 518-19. LaFleur's testimony proves Cameron is not the person he saw attack Roy. LaFleur said the perpetrator tried to runaway from the scene and he gave chase. LaFleur said he caught the perpetrator about 4 or 5 cars away from the door of the club. Appendix C, pp. 519-21. LaFleur said after he caught the perpetrator, the police was there to cuff him and take him back to the scene. Appendix C, p. 521. Video surveillance proved Cameron was not chased by anyone.

Cameron was detained by a sheriff's deputy as he walked out of the club because he was wearing a red shirt. Appendix C, p. 533. When asked if he identified Cameron as the perpetrator, LaFleur said no. Appendix C, p. 525. As with Johnson and Age, LaFleur did not make an in-court identification; however, LaFleur asked the prosecutor if the police kept the same person the entire time and if that person was in court. The prosecutor said she could not answer any questions. Appendix C, p. 526.

Contrary to the state and federal constitutions, Cameron was found guilty of a murder he did not commit and sentenced to life imprisonment at hard labor without the benefits of parole, probation, or suspension of sentence. Cameron timely appealed his conviction and sentence. He also launched an unsuccessful collateral attack against his conviction and sentence. Appendix C, pp. 296-408. Thus far, Cameron has also been unsuccessful in obtaining a federal writ of habeas corpus. Appendices A and B. Accordingly, this instant petition for a writ of certiorari timely follows.

## REASONS FOR GRANTING THE WRIT

Under Rule 10, the Louisiana's courts and the United States Fifth Circuit Court of Appeals denied relief and contrarily decided important questions of federal law that has been settled by this Court and has decided important federal questions in a way that conflicts with relevant decisions of this Court as set forth below:

1. The State's evidence was insufficient to support Cameron's conviction because the State did not meet its burden of negating the probability of misidentification; and, the showup lineups were unjustified, unduly suggestive and demonstrably unreliable.

In any criminal prosecution, the State must sustain the heavy burden of proving every element of the crime charged beyond a reasonable doubt. *State v. Brady*, 414 So.2d 364,365 (La. 1982). In evaluating whether evidence is constitutionally sufficient to support a conviction, a reviewing court must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the defendant guilty beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979). A reviewing court making this inquiry is not permitted to consider only the evidence most favorable to the prosecution. *State v. Mussall*, 523 So.2d 1305,1310 (La. 1988); citing *Jackson v. Virginia*. The court must consider the record as a whole since that is what a rational

trier of fact would do. *Id.* When the key issue is the defendant's identity as the perpetrator, rather than whether the crime was committed, the State is required to negate any reasonable probability of misidentification. *State v. Neal*, 00-0674 (La. 6/29/01); 796 So.2d 649,658.

A. SHOWUP IDENTIFICATION: SENECA JOHNSON.

The State's entire case rested on the impermissibly suggestive showup identifications of 3 witnesses—2 of which only saw the perpetrator from behind. Not 1 eye-witness to the stabbing made an in-court identification. Seneca Johnson said she was ushered out of the club immediately after the stabbing. While she was waiting outside, Detective Murdock—of the New Orleans Police Department—asked her why was she still there. Appendix C, pp. 484,486,491. Johnson told Murdock she saw the incident and wanted to make sure her friend was okay. After Johnson described the perpetrator to Murdock—bald head, red shirt and black or dark colored pants—Murdock told her 2 people had been detained and asked her: “[I]f I show you one of them, would you be able to identify him?” Appendix C, p. 486. Murdock then contacted Detective Jenkins and asked him to remove Cameron, who was in handcuffs, from the back of the police car. Appendix C, pp. 487,492. When Cameron stepped out, Jenkins shined a light on him so he could not



see Johnson and she said: "[T]hat's the guy that I seen that struck Eric."

Appendix C, p. 487. Although it was strongly eluded to on direct examination, Johnson clarified on cross-examination that she never saw the perpetrator's face because she only saw him from behind. Appendix C, p. 488. Johnson admitted she said Cameron was the perpetrator because of what he was wearing. Appendix C, p. 490. Johnson did not make an in-court identification.

Contrary to the lower courts assertion, the so-called identification merely suggests that Cameron wore clothing similar to those worn by the person who stabbed Roy and that they were both black men. Cameron asks the Court to consider that: (1) the incident happened in a crowded nightclub; (2) at least 1 other person matched the perpetrator's description verbatim—Appendix C, pp. 537-39; (3) Johnson only saw the perpetrator from behind; (4) Johnson conceded she identified Cameron because of his red shirt; and (5) Johnson did not, nor was she asked to, make an in-court identification. The State fell far short of negating any reasonable probability of misidentification.

B. SHOWUP IDENTIFICATION: NICOLE AGE.

Nicole Age also witnessed the stabbing and said she went to assist Roy. Appendix C, p. 528. Age stayed with Roy until the paramedics arrived and

told her "they got it." Appendix C, p. 528. Age proceeded downstairs where the police told her she could not leave because she was a witness. Appendix C, p. 528; Appendix C, p. 491. She waited out front on a bench until a detective approached her and asked her if the person by the police car was the person who stabbed Roy. Appendix C, p. 528. She said yes. Appendix C, p. 528.

Detective Murdock's testimony contradicts Age's testimony as to who initiated contact. Murdock said Age approached him voluntarily and said she witnessed the incident. Appendix C, p. 491. On redirect, when the State asked Murdock if he was approaching people at the scene or if people were approaching him, Murdock said the people were approaching him. Appendix C, p. 495.

Age said the perpetrator had a bald head and wore a red shirt and black pants and she only saw him from behind. Appendix C, p. 527. Age did not make an in-court identification, nor was she asked to.

I. DETECTIVE MURDOCK'S FALSE AND INACCURATE TESTIMONY.

Detective Murdock gave false testimony under oath. The detective said he located Seneca Johnson and Nicole Age because they witnessed the stabbing. Appendix C, p. 491. Detective Murdock said Cameron was removed

from a police car and Johnson was able to positively identify him. Appendix C, p. 493. Detective Murdock's statement did not adequately inform the jury why Johnson identified Cameron in the showup lineup. Detective Murdock, the State, and Cameron's trial counsel knew, or should have reasonably known, that Johnson said she never saw the perpetrator's face. Detective Murdock covered his lie by saying he felt Johnson could make a positive identification. See Appendix C, p. 494. Detective Murdock knew Johnson did not see the perpetrator's face; still, this did not stop him from subjecting Cameron to the impermissibly suggestive procedure that has cost an innocent man his liberty for the remainder of his life.

C. JEREMIAH LAFLEUR'S TESTIMONY AND IDENTIFICATION.

Jeremiah LaFleur was a bartender at the nightclub the night Roy was stabbed. LaFleur said Roy, whom he initially referred to as Kevin, looked like he was spreading the crowd in an attempt to break up a fight. Appendix C, p. 515. LaFleur said a guy in a bright red shirt threw an overhand punch and Roy stumbled and fell. Appendix C, pp. 517-18. LaFleur proceeded downstairs to tell security about what was happening upstairs. Appendix C, pp. 518-19. After informing them, he started to go back inside but stopped when "the guy in the bright red shirt came running out." Appendix C, p. 519.

LaFleur said this was the same guy who struck Roy. Appendix C, p. 520.

LaFleur said he chased the man in the red shirt and was able to grab him about 4 or 5 cars away from the exit of the nightclub. Appendix C, pp. 519-21.

Immediately after he grabbed the man, the police placed him in handcuffs and took him back to the scene. Appendix C, p. 521.

Surveillance footage proves Cameron was stopped as soon as he exited the club and was not chased by anyone. Although not entirely clear from the transcripts, it is apparent from the State's cross-examination of Cameron that the video shows a police officer grabbing him upon his exit, not LaFleur. LaFleur was asked if he identified Cameron as the perpetrator and he said no. Appendix C, p. 525. LaFleur did not make an in-court identification, but he did ask the State if they kept "the same guy the whole time and bring him to court today?" The prosecutor responded, "Well, I can't really answer any questions Mr. LaFleur." Appendix C, p. 526.

D. SHOWUP IDENTIFICATION: CAROLINE KOERNER.

Caroline Koerner was 1 of only 2 witnesses who saw the perpetrator's face. There are numerous irreconcilable conflicts between Koerner's testimony and the testimonies of the other witnesses. The other witnesses described the perpetrator as having a bald head and wearing a red shirt with

black pants. Koerner said the perpetrator had short hair with a red shirt and khaki-like pants. Appendix C, p. 496. She also said the perpetrator came as close as 1 person away from her. Appendix C, p. 497.

Koerner said the perpetrator reached in his pocket and pulled something out, made a flipping motion with his thumb, ran up to Roy and stabbed him. Appendix C, pp. 497-98. Wendy Wiltz's testimony contradicts Koerner's on this point. Wiltz said the perpetrator reached down and got something out of his boot, not his pocket. Appendix C, p. 530. Even though Wiltz said she had known Koerner for about 4 years, she said she did not see her the night Roy was stabbed. Appendix C, p. 531. This is interesting because Wiltz said she spoke to Roy just before he was stabbed and he pushed her to safety. Appendix C, p. 529.

Koerner said she was shown 1 individual during the showup. Appendix C, pp. 499,501-02. Detective Flores said she was shown Cameron and his brother. Appendix C, pp. 505,511. The biggest problem (for the prosecution) with Koerner's identification is that the person she picked out of the showup lineup had on a black shirt. Appendix C, pp. 499,502. Nonetheless, Koerner was positive he was the same guy she saw in the red shirt who stabbed Roy. Appendix C, pp. 499-500. It is undisputed that Cameron was handcuffed and

had on a red shirt during every showup lineup he was subjected to. Appendix C, pp. 513-14.

I. DETECTIVE FLORES'S MISREPRESENTATIONS.

During Detective Flores's direct-examination, the State was going to allow him to misrepresent Koerner's identification statement:

State: Okay. Now, speaking first about Ms. Koerner. Was Ms. Koerner able to provide you with a description of the individual who she saw?

Witness: From what I recall, it's been a long time, but I believe she said there was a black male with a bald head wearing a red shirt.

Defense: Judge, I'm going to object to—this is hearsay and—

The Court: Sustained.

Appendix C, pp. 503-04.

Although the trial court sustained the objection, there was no curative instruction for the jury to disregard what they heard. Also, the State failed to correct detective Flores's statement that Koerner identified Cameron in the showup lineup. Detective Flores went on to identify Cameron in open court. Appendix C, p. 506. With the false description ascribed to Koerner, Cameron suffered irreparable harm when he was misidentified as the perpetrator. Koerner said the person she saw stab Roy was wearing a red button-down shirt with a black under-shirt and light, khaki-like pants. Appendix C, p. 496. Koerner said she was asked to identify someone within twenty minutes of

the incident. Appendix C, p. 499. Koerner said she went outside and reiterated that a guy in a red shirt stabbed someone in the head. Appendix C, p. 499. Koerner said the person she identified was standing in between some police cars and she was standing by the front door. It is at this point in Koerner's testimony where it becomes abundantly clear that the person she identified was not Cameron:

State: And when you saw that person, did the person have the red shirt on?

Witness: No. Ironically enough, he—I think he took it off.

State: Okay. When you had the opportunity to see him, what, if anything, did you tell the detectives?

Witness: At that time, I—it was still—I was just able—when I saw him, I was like, you know what, it just—it looked exactly like him.

State: Okay.

Witness: I remember he had—just his features.

State: Okay. What was his skin complexion?

Witness: Very dark.

State: Okay. Do you remember what kind of hairstyle he had?

Witness: Short.

State: Okay. And you remember [] him being the same person who you saw in the red shirt?

Witness: Mmm-hmm (Affirmative Response).

State: Okay. And did you make a positive identification of that person?

Witness: I did.

State: Okay. And were you certain, at that time, about the identification that you made?

Witness: Yes.

Appendix C, pp. 499-500.

The person Koerner identified did not have a red shirt on during the showup lineup and he had short hair. Cameron is bald and was wearing a red shirt when he was subjected to the suggestive showup lineup. Cf. Appendix C, pp. 513-14. Koerner did not identify Cameron.

Detective Flores, knowing he was testifying falsely, was intentionally misleading on cross-examination:

Defense: Now, according to you, you interviewed both [LaFleur and Koerner], right?

Witness: Yes.

Defense: And they gave you the same description of someone with a knife, right?

Witness: Yes. No.

Defense: And you're pretty sure of that?

Witness: Yes. No. They did not give me the same description of someone with a knife. No, they did not.

Defense: Oh. What differed?

Witness: One of them said it was an unknown object.

Appendix C, p. 507.



Detective Flores's double-tongued testimony caused Cameron's trial counsel to ask him about the discrepancies in his testimony in an attempt to reveal the lies the State failed to correct:

Defense: Did they give the same clothing description?

Witness: Yes.

Defense: Did they give the same hairstyle description?

Witness: I don't recall what hairstyle they said.

Defense: You don't?

Witness: No.

Appendix C, p. 508.

Detective Flores must have forgotten that during his direct-examination he said: "From what I recall, it's been a long time, but I believe [Koerner] said there was a black male with a bald head wearing a red shirt." Appendix C, p. 504. On cross-examination, detective Flores said: "The only thing that I remember that they both stood out was they both said he was wearing a red shirt—a red button-down shirt." Appendix C, p. 509. The following colloquy destroys the lie that Cameron was identified by Koerner and the lie that Cameron had taken off the red shirt he was wearing:

Witness: You specifically asked if I showed only one African-American male and no, I did not.

Defense: Okay. What was—what was Jeremy wearing?

Witness: All dark clothing.

Defense: Jeremy?  
Witness: I believe so.  
Defense: Not a white t-shirt?  
Witness: I could be wrong.  
Defense: Yes, sir. And how about my client? Was he permitted to take any clothing off?  
Witness: He didn't ask.  
Defense: I'm sorry?  
Witness: He didn't ask.  
Defense: Well, let's—let's go through procedure and he didn't ask to take any clothes off did he?  
Witness: Uh-huh (Negative Response).  
Defense: And, as far as you know, he did not take any clothing off did he?  
Witness: No. He didn't take any clothing off.

Appendix C, p. 511.

The State presented detective Flores with Cameron's red shirt the police confiscated and exposed that the police knew Koerner did not identify Cameron in the showup lineup. Detective Flores said the shirt was the same shirt he remembered Cameron wore on that night and that it was also the same red button down shirt Cameron was wearing when he presented him to Koerner. Appendix C, pp. 513-14. Cameron is the victim of lazy and sloppy police work. Detective Flores said he would have conducted a more thorough investigation if he did not have all of the other information about the second

victim chasing the perpetrator out into the arms of a deputy. Appendix C, p. 512; cf. Appendix C, pp. 520-21. LaFleur was not the second victim but he is the person who chased the person who stabbed Roy. This kind of false testimony is what contributed to the jury's confusion and caused them to convict an innocent man.

In light of the foregoing, the lower courts belief that the evidence is overwhelming with eyewitness testimony is objectively unreasonable. The witnesses testimonies were replete with internal contradictions and irreconcilable conflicts—all of which the lower courts have overlooked. A reviewing court must examine the reliability of an identification according to the test set out in *Manson v. Brathwaite*, 432 U.S. 98,114, 97 S.Ct. 2243,2253, 53 L.Ed.2d 140 (1977): (1) the opportunity of the witness to view the assailant at the time of the crime; (2) the witnesses degree of attention; (3) the accuracy of the witnesses prior description of the assailant; (4) the level of certainty demonstrated by the witness; and (5) the length of time between the crime and the confrontation. Although the lower courts cited this test, the standard was not applied to the facts of Cameron's case.

The lower courts failed to consider: (1) if the police had reasonable justification for conducting the unduly suggestive procedure; (2) the inherent

suggestiveness of the procedure; (3) that the showup identifications were never corroborated with any subsequent lineup or in-court identification; (4) Koerner, who actually saw the perpetrator's face did not identify Cameron in the showup lineup; and (5) LaFleur said Cameron was not the person he saw stab Roy or later apprehended. After the police obtained a generic description of the assailant (black male with a bald head, red shirt and black pants) they proceeded to conduct showup lineups. The detectives did not have any justification for employing the unduly and unconstitutionally suggestive procedure.

Johnson, Age, and Koerner are examples of how inherently suggestive the showup lineup was. Age and Johnson chose Cameron as the perpetrator after they admitted they only saw the perpetrator from behind—and Koerner did not pick Cameron at all. The unjustified, unreliable and unduly suggestive showup lineup used against Cameron led to him being irreparably misidentified:

Evidence of an identification unnecessarily obtained by impermissibly suggestive means must be excluded under *Stovall*, and the more lenient *Simmons* language and the criteria worked out under it apply only to subsequent identifications with the prosecution having the burden of proving that the precautionary conditions of *Simmons* have been met. No rules less stringent than these can force police administrators and prosecutors to adopt procedures that will give fair assurance against the awful risks of misidentification.

*Brathwaite v. Manson*, 527 F.2d 363,371 (2 Cir. 1975).

The showup identifications were never corroborated, either with a subsequent lineup or in-court identifications. Cameron has been denied due process of law, equal protection, and the right to a fair trial in violation of Article I, §§ 2,3, and 16 of the Louisiana Constitution of 1974; and the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution because of the showup identifications and the lower courts unreasonable and contrary judgments concerning the use of the impermissibly suggestive procedure. See *Manson v. Brathwaite*, supra; *Neil v. Biggers*, 409 U.S. 188, 93 S.Ct. 375, 34 L.Ed.2d 401 (1972); *Simmons v. U.S.*, 390 U.S. 377, 88 S.Ct. 967, 19 L.Ed.2d 1247 (1968); *Stovall v. Denno*, 388 U.S. 293, 87 S.Ct. 1967, 18 L.Ed.2d 1199 (1967); *U.S. v. Wade*, 388 U.S. 218, 87 S.Ct. 1926, 18 L.Ed.2d 1149 (1967). See also *U.S. ex rel. Kirby v. Sturges*, 510 F.2d 397 (7 Cir.1975).

E. LAFLEUR'S TESTIMONY.

LaFleur's testimony made it abundantly clear that Cameron was apprehended and detained by the police because he was convenient:

State: Okay. So it's your testimony that you actually went to go assist with grabbing this person.

Witness: Well, I was going to assist with whatever's going on—

State: Okay.

Witness: —Upstairs. Yeah. And just—he happened to come running out. And like I said, the only person running and earlier observing a punch, I just went ahead and grabbed him. Previously, I worked in security at the club so I guess I kind of went into three months ago mode, you know.

State: All right. And so Mr. LaFleur, what happens with the person in the bright red shirt when he's able to run outside. To the best of your knowledge, was he stopped?

Witness: I stopped him. I just kind of grabbed him maybe like four or five cars down—if I'm facing the exit door, he came towards me and took off towards the Red Eye Bar and Grille, maybe four or five cars down, about that length. Maybe three or four—and that's where I grabbed him.

Appendix C, pp. 520-21.

LaFleur said he was talking with security about what was going on inside of the club when the guy in the bright red shirt came running out.

Appendix C, p. 519. The same guy he saw swinging at Roy. LaFleur said the perpetrator was wearing a bright red shirt when he came running out and he began to chase him and then grabbed him. According to LaFleur, the suspect was the only person running. Appendix C, p. 520. The surveillance video does not support this testimony as it relates to Cameron's detention by police officers. Cameron was detained immediately by officers as he exited the club and not four or five cars away. Also, Cameron was not apprehended by LaFleur. This does shine more light on LaFleur's question to the

prosecution when he asked: "Did y' all keep the same guy the whole time and bring him to court today?" Appendix C, p. 526.

This Court has emphasized many times the "special role played by the American prosecutor in the search for truth in criminal trials." *Banks v. Dretke*, 540 U.S. 668,696, 124 S.Ct. 1256,1275, 157 L.Ed.2d 1166 (2004). In this case, it is apparent the prosecutor's interest was not that justice should be done but that Cameron be convicted at any cost. It is also established that "a conviction obtained through the use of false evidence, known to be such by representatives of the State, must fall under the Fourteenth Amendment. The same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears." *Napue v. People of State of Illinois*, 360 U.S. 264,269, 79 S.Ct. 1173,1177, 3 L.Ed.2d 1217 (1959). The rule forbidding the State's use of "false evidence, including false testimony, to obtain a tainted conviction, implicit in any concept of ordered liberty, does not cease to apply merely because the false testimony goes only to the credibility of the witness." *Napue*, supra. This is because the "jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendant's life may depend." *Napue*,

supra. It does not matter if “‘the falsehood bore upon the witness’ credibility rather than directly upon the defendant’s guilt. A lie is a lie, no matter what its subject, and, if it is in any way relevant to the case, the district attorney has the responsibility and duty to correct what [is known] to be false and elicit the truth.’” *Napue*, 360 U.S., at 269-270, 79 S.Ct. 1177; quoting *People v. Savvides*, 1 N.Y.2d 554,557, 154 N.Y. S.2d 885,887, 136 N.E.2d 853,854-855. Even if the “‘district attorney’s silence was not the result of guile or a desire to prejudice matters little, for its impact was the same, preventing as it did, a trial that could in any real sense be termed fair.’” *Napue*, 360 U.S., at 269-270, 79 S.Ct. 1177; quoting *People v. Savvides*, 1 N.Y.2d 554,557, 154 N.Y. S.2d 885,887, 136 N.E.2d 853,854-855. Cameron is entitled to a new trial “‘if the false testimony could, in any reasonable likelihood have affected the judgment of the jury.’” *Giglio v. United States*, 405 U.S. 150,154, 92 S.Ct. 763,766, 31 L.Ed.2d 104 (1972); citing *Napue v. People of State of Illinois*, 360 U.S. 264,271, 79 S.Ct. 1173,1178, 3 L.Ed.2d 1217 (U.S. Ill. 1959).



F. CAMERON WAS DEPRIVED OF HIS CONSTITUTIONAL RIGHT TO PRESENT A DEFENSE AND TO PROVE HE WAS IRREPARABLY MISIDENTIFIED IN THE SHOWUP LINEUP.

Cameron's counsel asked him about a person who appeared on the video evidence obtained from the Republic nightclub. The State objected and accused trial counsel of testifying. See Appendix C, pp. 534-35. In fact, the prosecutor said counsel was trying to testify that someone else was being dragged down some stairs. Cameron's defense was frustrated when the prosecution fought to keep this evidence from the jury and the court agreed that the course of trial could run properly if counsel would not testify, give commentary, and just ask Cameron questions. Counsel asked Cameron 3 questions about an individual on the video surveillance. 2 of those questions were answered and the third was objected to. Counsel asked Cameron: (1) if that was him being hauled out of the club; (2) if he had anything to do with the person being hauled out of the club; and (3) if he knew what happened to the person once he was hauled out of the club. The State's position, adopted by the trial court, was that counsel could not present the defense that Cameron is innocent and some other person got away with murder. When counsel again asked Cameron if he knew what happened to the guy on the steps in the video, the State objected again on the same grounds. Appendix C, pp. 535-36. The

truth of the matter is that Cameron's trial counsel asked specific questions that could be answered either yes or no. As is stands, Cameron was deprived of his right to present a defense. In denying this claim, the trial court said: "There has been no evidence provided to show that the defense was denied the right to present a complete defense." See Appendix C, pp. 364-66.

Under the Sixth and Fourteenth Amendments to the United States Constitution and Article I, § 16 of the Louisiana Constitution, a criminal defendant is guaranteed a meaningful opportunity to present a complete defense. See *State v. Griffin*, 2015-0125 (La. App. 4 Cir. 9/16/15); 176 So.3d 561,575. In this case, the trial court and the State prevented Cameron from presenting evidence that is both "reliable" and "relevant [to his] matter." *State v. Griffin*, 176 So.3d at 575; citing *State v. Casey*, 99-0023 (La. 1/26/00); 775 So.2d 1022,1037.

### CONCLUSION

For the foregoing reasons Cameron's petition for a writ of certiorari should be granted.

Respectfully submitted,

  
Michael Cameron

Date: February 1, 2022