Nº. 25-6004

IN THE

Supreme Court of the United States

FILLMORE WRIGHT,

Petitioner,

v.

STATE OF LOUISIANA,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE STATE OF LOUISIANA COURT OF APPEAL, THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

FILLMORE WRIGHT, Nº. 570612
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QUESTION PRESENTED

Under the U.S. Constitution Amendment VI's right to a fair trial and the due process clause of U.S. Constitution Amendment XIV, can a conviction rest on an uncorroborated confession?

PARTIES TO THE PROCEEDINGS BELOW

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

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Louisiana Supreme Court

Nº. 2024-KO-00589

State of Louisiana v.
Fillmore Wright

Date of Final Opinion: April 1, 2025

Louisiana Court of Appeal, Third Circuit

Nº. KA 23-468

State of Louisiana v.
Fillmore Wright

Date of Final Opinion: March 27, 2024

Louisiana District Court (St. Landry Parish)

Nº. 18-K-0098-C

State of Louisiana v.
Fillmore Wright

Date of Final Opinion: May 9, 2023

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OPINIONS BELOW

The opinion of the Louisiana Supreme Court, dated April 1, 2025, is included in the appendix at App.1a. The opinion is reported at *State v. Wright*, 2024-00589 (La. 4/1/25), 403 So.3d 1117 (Mem). The ruling of the Louisiana Court of Appeal, Third Circuit, dated March 27, 2024, is included below at App.2a. The opinion is reported at *State v. Wright*, 2023-468 (La.App 3 Cir. 3/27/2024), 386 So.3d 1107.

JURISDICTION

The judgment of the Louisiana Supreme Court was entered on April 1, 2025. App.1a. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment VI, of the U.S. Constitution (Rights of the accused) states that:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

Amendment XIV, Section 1 of the U.S. Constitution (Citizens of the United States) states that:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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.

Federal Rule of Criminal Procedure 16(c) (Continuing Duty to Disclose) states in pertinent part that:

A party who discovers additional evidence or material before or during trial must promptly disclose its existence to the other party or the court. . . .

(1) The evidence or material is subject to discovery or inspection under this rule; and

(2) The other party previously requested, or the court ordered, its production

Louisiana Code Criminal Procedure Article 729.3 states that:

If, subsequent to compliance with an order issued pursuant to this Chapter and prior to or during trial, a party discovers additional evidence or decides to use additional evidence and such evidence is or may be, subject to discovery or inspection under the order issued, he shall promptly notify the other party and the court of the existence of the additional evidence, so that the court may modify its precious order or allow the other party to make an appropriate motion for additional discovery or inspection.

STATEMENT OF THE CASE

Fillmore Wright was found guilty of two counts of sexual battery by a St. Landry Parish jury. He was sentenced to 30-year concurrent sentences on each count, 25 years of each sentence to be served without the benefit of probation, parole, or suspension of sentence. (R. at 59, 448-49).[1] No motion to reconsider was filed. Trial counsel did not file a motion for a new trial, post-judgment verdict of acquittal, or any other post-trial motions. Before trial, then-retained counsel filed numerous motions concerning the lack of evidence for count II. Counsel filed a motion to quash count II, a motion to suppress a "fantasy confession" that generally formed the basis for count II and a bill of particulars asking for evidence to support count II. (R. at 93, 102, 85). Initially, the bill of particulars was granted, but it was later denied after the State filed a motion to reconsider, arguing that open file discovery was sufficient. (R. at 89). At the hearing on the State's motion to reconsider, defense counsel repeatedly made clear that the defense had never received information to confirm or corroborate an act for count II. (Supp. R. at 1-60). Counsel filed two subsequent motions to reconsider the trial court's ruling, arguing it was impossible to defend against a count when the defense was not provided proof of a crime. (R. at 105, 113). Both motions were denied. (R. at 112).

The case proceeded to trial without the State ever disclosing facts, evidence, or proof to corroborate the admission by Wright that he inappropriately touched K.H.[2] six months before his arrest. Then, during the direct examination of K.H., the State asked her repeatedly if something other than her allegation regarding January 4, 2018, had occurred

[1] All fact citations are to the transcript of Wright's trial (R.). See Sup. Ct. R. 12.7
[2] Initials used in compliance with LA. R.S. 46:1844(W)(5)(A)

with Fillmore Wright. The State asked her four times before she made the allegation that Wright had "licked" her private area. (R. at 37). This was the first time the defense had ever heard this allegation. It did not appear in any police report or witness statement. In fact, there was evidence to the contrary, as K.H. had expressly denied allegations of a second or additional sexual assault to everyone to whom she disclosed. See *Infra.* p.7, ¶2. During the State's rebuttal closing, the State pounced on this newly disclosed evidence and tied the new allegation of "licking" directly to his burden of proof on count II. (R. at 420).

After closing arguments, but while the instructions were being read, the defense counsel asked for a sidebar, where it appears he made a motion for a mistrial, which was put on the record moments later when the trial court concluded reading all the instructions and releasing the jury to deliberate. (R. at 432-54). The trial court denied the motion for a mistrial. (R. at 437). Fillmore Wright was later found guilty of both counts. An appeal was filed with the Court of Appeal, Third Circuit, which later affirmed the convictions and sentences of Wright on March 27, 2024. App.2a. The La. Supreme Court denied writs without reasons on April 1, 2025. App.1a.

REASONS FOR GRANTING THE PETITION

This Honorable Court should grant this petition for writ of certiorari because it is well established law that a conviction must rest upon firmer ground than the uncorroborated admission or confession of the accused. This Honorable Court has a long history of recognizing this rule. *Warszower v. United States*, 312 U.S. 342, 61 S.Ct. 603, 85 L.Ed 876 (1941). This rule has been consistently applied in the lower federal courts and in the overwhelming majority of state courts. *Smith v. U.S.*, 348 U.S. 147, 152, 75 S.Ct. 194, 197, 99 L.Ed 192 (1954).[3] In the Smith case, this Honorable Court stated:

> The general rule that an accused may not be convicted on his own uncorroborated confession has previously been recognized by this Court . . . [i]ts purpose is to prevent errors in convictions based upon confessions alone . . . its foundation lies in a long history of judicial experience with confessions and in the realization that sound law enforcement requires police investigations which extend beyond the words of the accused. Confessions may be unreliable because they are coerced or induced, and although separate doctrines exclude involuntary confessions from

[3] United States v. Tanco-Baez, 942 F.3d 7, 18 (1st Cir. 2019) ("[t]hus, the Court explained, when an accused's admission is made after the fact to an official charged with investigating the possibility of wrongdoing, and the statement embraces an element vital to the Government's case, it must be corroborated, just as a confession must be, to provide the necessary evidentiary support to permit a conviction to survive a sufficiency-of-the-evidence challenge.") (internal quotations omitted) (citations omitted); U.S. v. Bryce, 208 F.3d 346, 354 (2nd Cir. 2000) ("It is long-settled principle that an accused may not be convicted on his own uncorroborated confession.") (internal quotations omitted) (citations omitted); U.S. v. Whittaker, 67 Fed.Appx.697, 699 (3rd Cir. 2003) ("The Supreme Court has held that in order to sustain a conviction based upon a confession or admission on the part of the defendant, the statement of the defendant must be corroborated by some evidence of the corpus delicti ("the body of the offense" or the "essence of the crime." The purpose of the corpus delicti doctrine is to prevent convictions of criminal defendants based solely upon untrue confessions.") (citations omitted); United States v. Rodriguez-Soriano, 931 F.3d 281, 287 (4th Cir. 2019) ("it is settled principle of the administration of criminal justice in the federal courts that a conviction must rest upon firmer ground than the uncorroborated admission or confession of the accused. The requirement for corroboration is rooted in a long history of judicial experience with confessions and in the realization that sound law enforcement requires police investigations which extend beyond the words of the accused.") (citations omitted); U.S. v. Duggan, 936 F.2d 181, 184 (5th Cir. 1991) ("[t]hat under federal law a defendant cannot be convicted solely on the basis of his own admissions. The essential elements of the offense must be established by independent evidence or corroborated admissions.") (citations omitted); U.S. v. Brown, 617 F.3d 857, 860 (6th Cir. 2010) ("Rooted in English common law and embraced by the United States Supreme Court in the 1950s, the rule says that no one may be convicted of a crime based solely on his uncorroborated confession.") (citations omitted); United States v. Gamez, 89 F.4th 608, 612 (7th Cir. 2024) (same); Gulotta v. U.S., 113 F.2d 683, 687 (8th Cir. 1940) (same); United States v. Niebla-Torres, 847 F.3d 1049, 1054 (9th Cir. 2017) (same); U.S. v. Shunk, 881 F.2d 917, 919 (10th Cir. 1989) (same); U.S. v. Jones, 284 Fed.Appx. 771, 772 (11th Cir. 2008) (same)

> consideration by the jury further caution is warranted because the accused may be unable to establish the involuntary nature of his statements. Moreover, though a statement mat not be involuntary within the meaning of this exclusionary rule, still its reliability may be suspect if it is extracted from one who is under pressure of a police investigation—whose words may reflect the strain and confusion attending his predicament rather than a clear reflection of his past.

Smith, 348 U.S. at 153.

Wright was prejudiced by the Third Circuit's total disregard for the confession-corroboration requirements.

A. Count 2 of the conviction was based solely on the confession given to detectives by Wright.

Wright had given a statement to police saying that he had touched K.H. six months prior to his arrest, which was approximately between May of 2017 to August of 2017. (Supp. R. at 60-61). The contents of that confession detailed Wright stating, "I will admit to is back darning [sic] the Summer of 17 I did come in tack [sic] of touch Kianna with my finger but I just rub [sic] her vigina [sic] never inserted my finger in her vigina [sic]." (Supp. R. at 60-61). The State's filed bill of information alleging that a second count of sexual battery had occurred between May 15, 2017 through August 30, 2017, aligns exclusively with the dates given by Wright in his statement. (R. at 62). There was no independent evidence of a second incident. The victim K.H. repeatedly denied an such incident took place when asked; this included the forensic interview. (R. at 375, 379). The statement given by Wright was not corroborated by the testimony given at trial by K.H.; instead, K.H.'s testimony was in direct conflict with the statement given by Wright alleging a second incident of sexual battery. At trial, the State asked K.H. about the alleged incident around January 4, 2018, where she claimed, "I was laying on my bed, I was playing with my tablet. Grip [Fillmore Wright] had came [sic] in the room and stuck his finger in my

butt." (R. at 335). The State then asked **twice** if something like that had ever happened before, and K.H. repeatedly said "no." The State then asked two additional times and on the fourth time asked, received the answer that they were looking for:

Q. Did that every happen again?

A. No, ma'am. [**1st Response**]

Q. Had there any time before that that had happened?

A. No, ma'am. [**2nd Response**]

Q. Had there ever been a time where he had done anything else to you?

A. Yes, ma'am. [**3rd Response**]

Q. You want to tell us about that?

A. So, whenever I was going into the kitchen to get me something to drink, he pulled me into the kitchen and started kissing me.

Q. Do you remember how old you were when that happened [sic]?

A. No, ma'am.

Q. Did you tell anybody?

A. I don't know.

Q. Were you afraid?

A. Inaudible.

Q. Okay. Did anything else ever happened?

A. Yes, ma'am.

Q. What else happened?

A. I was sleeping in my bedroom, in my mama bedroom, and then he told me to come in the bathroom, but I didn't listen, then he came in there and pulled my pants down and started licking my private.[**4th Response**]

Q. Was there anybody home when this happened?

A. Yes, ma'am.

Q. Did you tell anybody when that happened?

A. I don't know.

Q. Do you remember how old you were when that happened?

A. No, ma'am.

Q. You don't, okay. That time that you just said, when he pulled you in the bathroom and licked your private, that happened the time when he stuck his finger in your private?

A. I think so.

(R. at 336-337).

The State combined two events, *i.e.*, the licking of the privates with the inserting of the finger into her private, to present the alleged second count to the jury. K.H. had never told her mother, police, or the forensic examiner about any second sexual assault, including an allegation of Wright licking her on her private area. (R. at 266) (Kimberly Simmons, mother, testified K.H. never told her of another incident where Wright toucher her inappropriately.); See also (R. at 241) (Mom stated "no" when asked if K.H. "ever complain[ed] about any incidences where somebody had touched her or done anything inappropriately to her."); (R. at 310) (Lt. Chavis stated, "he [Wright] actually gave me more than what she [K.H.] gave me."); (R. at 375, 379) (LaPearl Simmons, forensic interviewer,

explained that K.H. did not identify another alleged sexual abuse by Wright.). The State relied on this licking testimony heavily in their case in chief as evidenced by its use in closing arguments. This Honorable Court has stated that the purpose of the corroboration rule is to test the reliability of a confession and thereby prevent an erroneous conviction based on an untrue confession. The Louisiana Court of Appeal, Third Circuit failed to test the reliability of Wright's confession through the requirement for corroboration of the confession. This Honorable Court should reverse.

B. If the State did have evidence to corroborate the second offense, the State, by way of discovery, had a duty to provide the defense with that evidence.

La. Code Crim. P. art. 729.3 is modeled after Federal Rule of Criminal Procedure 16(c), which states in pertinent part that, " A party who discovers additional evidence or material before or during trial must promptly disclose its existence to the other party or the court. . . ." In multiple pretrial hearings, prior counsel had filed numerous motions, including motions to suppress, quash, and for a bill of particulars not to mention at least two motions for the court to reconsider its rulings denying those motions pointing out that the discovery provided by the State did not support a second act of sexual battery. (R. at 80, 85, 93, 102, 105, 113). Rather, the discovery only showed that there was an alleged inappropriate touching around January 4-6, 2018, based on direct statements from K.H. to police and doctors. (R. at 276, 310) (K.H.'s statement directly to police). These allegations made up the basis of count I. (R. at 62) (Count I alleged a sexual battery on January 4, 2018).

It was obvious that count II was based solely on the "fantasy confession," as trial counsel 2 characterized it, that Wright gave to police saying that he had touched K.H. six months prior to his arrest-roughly May to August 2017. See (Supp. R. at 60-61) (Wright's

statement read into the record at the January 18, 2019 hearing); see also (R. at 62) (Count II of bill of information alleginf5 sexual battery "between May 15, 2017 through August 30, 2017"). As counsel repeatedly declared, there was no actual evidence of a second sexual assault by Wright of K.H. in any discovery provided by the State or statement by K.H. There' was no independent evidence of a second incident. In fact, K.H. repeatedly **denied** any such incident when asked, including in her forensic interview. (R. at 375, 379).

This is important because part of Wright's prejudice here is his lack of knowledge of all the facts the State planned to offer against him and to weigh the strength of that case. It is a basic principle of fundamental fairness and Louisiana Discovery Law that the State disclose to the defendant the evidence it plans to allege to support a conviction on each count. Referring to the previous testimony from K.H. given at trial concerning the incidents involving Wright, after being question by the State several times about touching every happening "again," K.H. mentioned an incident where Wright allegedly kissed her. (R. at 336). The kissing allegations were not new. See, e.g., (R. at 241) (Kimberly Simmon, KH's mom, testified that she saw what she believed was Wright "inappropriately" kiss K.H. on a prior occasion); see also (R. at 153) (State's notice of intent to use evidence of other acts specifically listed the allegation that Wright I "kissed or/attempted to kiss K.H. on her mouth in an inappropriate manner"). The kissing allegations were not the apparent target of the State's line of questioning because the question was repeated a fourth time. This is where K.H. stated that Wright licked her private. (R. at 337). This allegation was never mentioned to any other parties who had previously questioned K.H. nor provided to the defense. Wright's "fantasy confession" did not include this allegation either. Further, nothing in the above passage implied the "licking" allegation was at the

same "time when he stuck his finger" inside K.H., but the State's leading question implied prior knowledge those allegations were connected. (R. at 337) ("That time that you just said, when he pulled you in the bathroom and licked your private, that happened the time when he stuck his finger in your private?"). Thus, it is clear that the State knew of this "licking" allegation prior to trial but failed to disclose it to the defense.

A reading of the December 4, 2018, and January 18, 2019, hearings makes clear that trial counsel did everything to bring to the trial court's attention that there was no evidence of a second violation. (Supp. R. at 1-161). Counsel filed for a bill of particulars that was initially granted, but later reconsidered and denied. (R. at 85-90), (Supp. R. at 2-60). At the motion to reconsider, counsel stated:

> DEFENSE COUNSEL: They are alleging at least two sexual batteries, two different time periods, and we don't have any specifics as for as location, a time, or place. How in the world can we prepare a defense, Your Honor, without them sitting down, and all we are asking them to do is to give us some specific times, dates, and places. I think that is just fundamental fairness, Your Honor.

(Supp. R. at 9).

> DEFENSE COUNSEL: As you well know, a confession of an uncorroborated charge can't eventually become a charge, if you don't have any corroboration.

(Supp. R. at 13).

> DEFENSE COUNSEL: You [prosecutor] must have some facts that I'm not aware of that you are withholding. Otherwise, how can we go forward on a charge that is simply a confession, an alleged confession by this man without any corpus delicti. You got to have a place. You got to have some evidence.

(Supp. R. at 14) (emphasis added).

That is why it was such a surprise to the defense when, in the State's rebuttal closing, the State for the first time tried to claim that it met its burden of proving count II based on this new allegation:

> PROSECUTOR: You heard [K.H.] say, in Count I, the defendant stuck his finger in her vagina. Count II, the defendant pulled her pants down and he licked her vagina, that's it two counts of sexual battery.

(R. at 420).

Even though this was inculpatory evidence, it was still required to be disclosed to the defense because it was the only evidence that could have led to the conviction of one of the counts. From Wright's perspective, informed by trial counsel's repeated comments, there was insufficient proof to convict him on count II based only on his "fantasy confession." Thus, Wright was "lulled into a misapprehension of the strength of the state's case through the prosecutor's failure to disclose timely or fully" the facts of the second allegation, which it clearly knew before trial. *State v. Allen*, 94-2262 (La. 11/13/95), 663 So. 2d 686. Even if the prosecution filed count II without all the facts and later learned them, possibly when preparing for trial five years later, the obligation of the State to continue its disclosures was ongoing. See (Supp. R. at 5) (Prosecutor: "As the case develops, every new piece of information that we get, we have a continuing ongoing obligation [to disclose].").

It is clear the State, at the time of trial, knew of this second alleged act and that K.H. would testify to it at trial, which is why the State kept asking K.H. about additional acts after she had repeatedly stated there were no other acts of sexual assault against her by Wright. The State's failure to disclose this information, although inculpatory, was

fundamentally unfair. The Court of Appeal totally disregarded the State's duty to disclose and as a result Wright was prejudiced.

CONCLUSION

For these reasons, the petition for a Writ of Certiorari should be granted.

Respectfully submitted this **27th** day of **June, 2025**.

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