

STATE OF LOUISIANA

NO. 25-K-163

VERSUS

FIFTH CIRCUIT

MONICA EVERY & LOUIS GORDON

COURT OF APPEAL

STATE OF LOUISIANA

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS


Morgan Naquin
Deputy, Clerk of Court

April 16, 2025

Morgan Naquin
Deputy Clerk

IN RE MONICA EVERY

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE R. CHRISTOPHER
COX, III, DIVISION "B", NUMBER 22-3157

Panel composed of Judges Marc E. Johnson,
Stephen J. Windhorst, and John J. Molaison, Jr.

WRIT DENIED; STAY DENIED

Relator/defendant, Monica Every, seeks review of the trial court's denial of her counsel's request for a severance, mistrial, or limiting instruction.

A review of the writ application, including a partial transcript of the proceeding, and several exhibits, shows that the trial court granted relator's motion in limine, thereby excluding from trial "any evidence or reference to alleged prior bad acts, uncharged conduct in the NOPD audio recorded statements by Charlene Jones, or photographs of a weapon not used in the commission of the charged offense." During the State's presentation of evidence, co-defendant Louis Gordon's counsel asked NOPD Homicide Detective Walter Edmond a question which purportedly opened the door to the excluded evidence. Gordon's counsel also requested to play the statement to the jury which the State had no objection. Gordon did not play the statement and subsequently, the State requested to publish the recorded statement arguing that defendant Gordon's counsel "opened the door."

Relator's (Every) counsel objected, stating that the evidence was previously excluded, relator did not open the door, and the evidence was inadmissible and highly prejudicial as to his client. Relator moved for a severance and a mistrial, both of which were denied. The trial court found that co-defendant Gordon's counsel opened the door and allowed the State to start to play the hour long recorded statement. 15 minutes into the recorded statement, relator again objected to the statement. After further argument of both defense counsel and the State, the trial court stated:

Ms. Truhe [prosecutor], at this time, I am not going to allow the State to play any more of this statement. For the record, the portion of the statement that has been played has not revealed any information that was not already alluded to or discussed during the course of this trial. It involved the investigation that the officers made into this homicide.

But I do agree with Mr. Vicknair [relator's counsel], I was concerned, and that's why I asked up here at the bench, outside of the presence of the jury when an objection was made, about what else was on the statement. I do believe that the witness—excuse me, that the decedent—was about to testify about things that were told to her. I am not going to allow the jury to hear that information. So no more of the statement will be played.

* * *

But, again, at this time I am not going to allow any more of State's 103 to be published to the jury. But once again, all of the information that was heard on this recording is, in a sense, cumulative; it's information that was already heard during the course of this trial.

Later in the evening, relator's counsel revisited this issue and requested that the trial court to give a limiting instruction as to the portion of the statement played to the jury. The State responded:

The information in the statement played for Charlene Jones was specifically ruled upon as admissible 404 evidence, therefore, it is admissible for them to consider it for motive, intent, and all other reasons. It's already been ruled upon.

The trial court further stated:

And I am not giving a limiting instruction at this time. We can discuss this at a charge conference with regard to the final jury charges that I give to the jury.

We have no way of knowing exactly how much of the recorded interview of Charlene Jones, the alleged victim, was heard by the jury. According to ADA Truhe, the recording stopped at 15 minutes, 14 seconds. During the recording, Ms. Jones made repeated conclusory references to “a lady” who had called her apartment complex office to report that Jones had been having a man in her apartment, had checked into her background, and thinks she is the one who gave information to Crime Stoppers that a gun was hidden in Jones’ car. She believed her to be a lady who had dated a man Jones was then dating. At 7:08 minutes into the recording, Jones said her name is Monica Everett [*sic*], but also stated shortly after that she had never met her.

The trial judge emphasized that the portion of the recording played to the jury did not reveal anything new which had not been heard before in the trial. We have no way of knowing all of what the jury had previously heard as compared to what the recorded statement revealed. However, during direct examination, State’s witness NOPD Homicide Detective Walter Edmond testified that in interviewing Reginald Anderson (Jones’ boyfriend) and Charlene Jones he learned the “possible person” who had “made the complaint” against Jones was Monica Every, *i.e.*, the person who had given the tip about the gun under the hood of Jones’ car. A contemporaneous hearsay objection was made by defense counsel for Ms. Every (Vicknair), which was overruled (Tr. p. 15). The gun turned out not to be the murder weapon in the case Det. Edmond was investigating.

After review of the writ application and exhibits attached, including the partial transcript, we cannot say, on the showing made, that the playing of the recorded statement was reversible error, or that it was so prejudicial as to merit granting of a mistrial or severance. Further, no specific limiting instruction has been requested or suggested by relator. If one is needed, the specific instruction required is not obvious on the showing made. The trial judge should make that determination.

Accordingly, we find no reason to disturb the trial court's ruling at this time.

This writ application and request for stay are denied.

Gretna, Louisiana, this 16th day of April, 2025.

SJW
JJM

STATE OF LOUISIANA

NO. 25-K-163

VERSUS

FIFTH CIRCUIT

MONICA EVERY & LOUIS GORDON

COURT OF APPEAL

STATE OF LOUISIANA

JOHNSON, J., DISSENTS WITH REASONS

I, respectfully, dissent from the majority disposition in this matter. After reviewing the writ application, I am of the opinion that the trial court should have granted a mistrial and severed the cases of Defendant, Monica Every, and her co-defendant, Louis Gordon.

Prior to trial, Defendant filed a motion *in limine*, seeking the prohibition of the State and all witnesses called on its behalf from making any direct or indirect reference about her through testimony, argument, or the introduction of documentary evidence to any alleged or unproven prior criminal conduct. She specifically sought the exclusion of any statements made by Charlene Jones in NOPD audio recorded statements 1, 2, 3, and 4. The trial court granted Defendant's motion and ordered that "any evidence or reference to alleged prior bad acts, uncharged conduct in the NOPD audio recorded statements by Charlene Jones, or photographs of a weapon not used in the commission of the charged offense be excluded from trial."

However, during the State's examination of Detective Walter Edmond, the trial court allowed the State to elicit Defendant's name as the possible complainant in the Crimestopper's tip stemming from Detective Edmond's conversation with Ms. Jones. That error occurred prior to either defense counsel's cross-examination of Detective Edmond. Afterwards, the trial court

allowed the State to play an audio recording of Ms. Jones, wherein she implicated Defendant in alleged prior bad acts, for the jury.

La. C.Cr.P. art. 775 provides for a mistrial when prejudicial conduct inside or outside the courtroom makes it impossible for the defendant to obtain a fair trial, or when authorized under La. C.Cr.P. arts. 770 or 771. La. C.Cr.P. art. 770 provides, in pertinent part, “Upon motion of a defendant, a mistrial shall be ordered when a remark or comment made within the hearing of the jury judge, district attorney, or a court official, during the trial or in argument, refers directly or indirectly to...(2) Another crime committed or alleged to have been committed by the defendant as to which evidence is not admissible....” An admonition to the jury to disregard the remark or comment shall not be sufficient to prevent a mistrial. *Id.*

Here, the trial court allowed the introduction of Ms. Jones’s audio recorded statements to Detective Edmond and information deduced from those statements, evidence explicitly prohibited in its pretrial order that granted Defendant’s motion *in limine*, to be admitted at trial. No reference to Ms. Jones’s audio recorded statements should be allowed during trial. Additionally, the erroneously admitted evidence is highly prejudicial to Defendant, as it alludes to Defendant’s involvement with Ms. Jones prior to the murder. The errors in this matter cannot be cured by admonition to the jury or a limiting instruction. Consequently, I find that the trial court was manifestly erroneous in denying Defendant’s motion for mistrial.

Further, I find the trial court committed manifest error in denying Defendant’s motion to sever. Whether justice requires a severance must be determined by the facts of each case. *State v. Burciaga*, 23-13 (La. App. 5 Cir. 11/29/23), 376 So.3d 1159, 1175. The ruling on a motion to sever is within the sound discretion of the trial court and will not be overturned unless it is

manifestly erroneous and injurious to the defendant. *Id.* Although co-defendant Gordon did not introduce the complained-of audio recordings of Ms. Jones, the transcript indicates that he intends to utilize information from those recordings (a telephone number mentioned by Ms. Jones) in his defense. Use of the recorded statements by co-defendant Gordon will be in direct conflict with Defendant's interests in excluding those recordings and will injure her defense. Thus, I find that the facts of this case also necessitate a severance of the trials between the co-defendants.

For the foregoing reasons, in order to prevent a miscarriage of justice, I would reverse the trial court's rulings and grant Defendant's motion for mistrial and motion to sever.

MEJ

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



FIFTH CIRCUIT

101 DERBIGNY STREET (70053)

POST OFFICE BOX 489

GRETNA, LOUISIANA 70054

www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. WISEMAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400

(504) 376-1498 FAX

NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **04/16/2025** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

25-K-163

E-NOTIFIED

24th Judicial District Court (Clerk)

R. Christopher Cox, III (DISTRICT JUDGE)

Mark D. Plaisance (Relator)

Thomas J. Butler (Respondent)

MAILED

Remy V. Starns (Relator)

Attorney at Law

301 Main Street

Suite 700

Baton Rouge, LA 70825

Mark A. Vicknair (Relator)

Mariah Jackson (Relator)

Attorney at Law

848 Second Street

3rd Floor

Gretna, LA 70053

Marcus J. Plaisance (Relator)

Attorney at Law

Post Office Box 1123

Prairieville, LA 70769