

**STATE OF LOUISIANA  
COURT OF APPEAL, SECOND CIRCUIT  
430 Fannin Street  
Shreveport, LA 71101  
(318) 227-3700**

No. 55,277-KW

STATE OF LOUISIANA

VERSUS

CAROLYN ANN BYNOG

FILED: 04/18/23

RECEIVED: E-FILED 04/17/23

On application of Carolyn Ann Bynog for SUPERVISORY WRIT in No. 45,496 on the docket of the Eighth Judicial District, Parish of WINN, Judge Anastasia Stacy Wiley.

WINN PARISH PUBLIC DEFENDER  
James Earl Calhoun

Counsel for:  
Carolyn Ann Bynog

Richard Christopher Nevils  
Cole B. Smith

Counsel for:  
State of Louisiana

Before PITMAN, STONE, and THOMPSON, JJ.

**WRIT DENIED IN PART; WRIT GRANTED IN PART AND MADE PEREMPTORY.**

Applicant Carolyn Ann Bynog seeks review of the trial court's March 16, 2023 denial of the defense's Motion to Quash Arrest Warrant and the trial court's finding that probable cause existed to charge the defendant with perjury in violation of La. R.S. 14:123.

Regarding the trial court's probable cause determination at the preliminary hearing, we find that the record before this court fails to support a finding of probable cause to hold Bynog on a charge of perjury under La. R.S. 14:123 or any lesser offense. A preliminary examination's purpose is to determine whether probable cause exists for a defendant to be deprived of his liberty. *State v. Baham*, 13-0901 (La. 6/28/13), 117 So. 3d 505. Probable cause exists when the facts and circumstances are sufficient to justify a man of average caution in the belief that the person has committed a crime. *Id.* The State has a low threshold to adduce *prima facie* evidence sufficient to justify a man of average caution in the belief that an individual has committed a crime. *Id.* In relevant part, the crime of perjury is defined in La. R.S. 14:123 as follows:

A. Perjury is the intentional making of a false written or oral statement in or for use in a judicial proceeding[.] In order to constitute perjury the false statement must be made under sanction of oath ... and must relate to matter material to the issue or question in controversy.

In this matter, there is no evidence before this court that any false statements made by Bynog were material to the question in controversy in the motion to suppress at issue. Accordingly, the writ is granted in part to reverse the trial court's finding of probable cause to hold Bynog for the crime of perjury. Applicant is ordered released from custody and/or any bail obligation. As it relates to the "Motion to Quash Arrest Warrant," the writ is denied in part.

Shreveport, Louisiana, this 1 day of June, 2023.

JGO                      SDS                      JRT

FILED: June 1, 2023

Shandra Taylor  
DEPUTY CLERK