

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

No. 55,593-KW

STATE OF LOUISIANA

VERSUS

COLTON THOMAS MATTHEWS

FILED: 10/03/23

RECEIVED: BY HAND 10/03/23

On application of Colton Thomas Matthews for SUPERVISORY WRIT AND STAY in No. 222,297 on the docket of the Twenty-Sixth Judicial District, Parish of BOSSIER, Judge Charles A. Smith.

GILMER & GIGLIO, LLC
Katherine E. Gilmer
-and-
James Edgar Boren

Counsel for:
Colton Thomas Matthews

John Schuyler Marvin
Joseph Chancellor Nerren

Counsel for:
State of Louisiana

Before STONE, THOMPSON and HUNTER, JJ.

WRIT GRANTED; MADE PEREMPTORY.

The applicant, Colton Matthews, seeks supervisory review of the trial court's September 19, 2023, ruling granting the State's motion *in limine* to exclude evidence of a firearm found in the decedent's vehicle.

Relevant evidence is defined as evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. La. C. E. art. 401. All relevant evidence is generally admissible. La. C.E. art. 402. Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, or waste of time. La. C.E. art. 403.

The gun at issue is relevant and admissible to bolster the defendant's claim of justification in the shooting. The trial court abused its discretion in granting the motion to exclude the gun. The relevant inquiry is what the defendant knew at the time of the shooting and whether he acted reasonably. According to eyewitnesses, the decedent threatened to kill the defendant and/or to "fu*k him up" immediately

prior to the shooting. The victim then reached into his vehicle and retrieved a black item and turned toward the defendant. Given these facts and the exigency of the circumstances, the defendant could have reasonably believed the decedent was armed and reaching inside the vehicle for his weapon when the defendant shot him.

Further, in cases involving a police officer’s use of excessive/deadly force, courts evaluate the record “from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” *Smith v. Sawyer*, 435 F. Supp. 3d 417, 432 (N.D.N.Y. 2020); *Jones v. Parmley*, 465 F. 3d 46 (2nd Cir. 2006). The same standard applied to officer-involved shootings should apply in all cases.

Accordingly, the writ is granted and made peremptory. The trial court’s ruling is reversed and the matter is remanded to the trial court for further proceedings.

Shreveport, Louisiana, this 6 day of October, 2023.

MLH SDS

JRT THOMPSON, J., dissents and would deny the writ.

FILED: October 6, 2023

Brian P. Ward
CHIEF DEPUTY CLERK