

SUPREME COURT OF LOUISIANA

No. 2000-KP-0522

STATE OF LOUISIANA

VERSUS

JOSEPH HAMPTON

ON APPLICATION FOR REHEARING

PER CURIAM

Rehearing granted for the sole purpose of correcting a non-dispositive reference to language in Arizona v. Fulminante, 499 U.S. 279, 111 S.Ct. 1246, 113 L.Ed.2d 302 (1991). At page 12 of the original opinion, we incorrectly described the Fulminante court majority’s holding to be that the erroneous admission into evidence of a coerced confession is not subject to harmless error analysis. However, a majority of the Fulminante court, as set forth in Part II of the opinion of the Chief Justice, 499 U.S. at 306-12, 111 S.Ct. at 1263-66, 113 L.Ed.2d at 329-33, concluded that the harmless error rule is applicable to the admission of an involuntary confession.

Although we hereby correct our original opinion in this regard, it does not affect the holding of our original opinion, because we did not rely on any particular holding of the Fulminante majority. Instead, we relied on our prior decision in State v. Dauzart, 99-3471 (La. 11/3/00), 769 So.2d 1206, in which we held that the deprivation of the right to testify is not amenable to harmless error analysis. In our original opinion, we thus concluded that, “whenever a defendant is prevented from testifying, after unequivocally expressing his desire to do so, the defendant has been denied a fundamental right and suffers detrimental prejudice.” State v. Hampton, 00-0522, p. 14 (La. 3/22/02), ___ So.2d ___, ___, 2002 La. LEXIS 720, *26. We also adopted two of the factors set forth in Passos-Paternina v. United States, 12 F.Supp.2d 231

(D. Puerto Rico 1998), aff'd, 201 F.3d 428 (1st Cir. 1999), to determine whether a defendant was compelled to forego his right to testify. Id. at 14, ___ So.2d at ___, 2002 La. LEXIS 720, *26-27. With this in mind, we reiterate the holding of our original opinion that the denial of a defendant's right to testify, after he unequivocally makes known his desire to exercise that right, is not amenable to harmless error analysis. Id. at 15, ___ So.2d at ___, 2002 La. LEXIS 720, *28.