

SUPREME COURT OF LOUISIANA**01-K-0273****STATE OF LOUISIANA****versus****DARIAN ROBINSON**

TRAYLOR, J. dissenting

Based upon the record before this court, I would find no abuse of discretion by the trial court in sustaining the prosecutor’s objections to the defense cross examination of Williams regarding his receipt of disability assistance. The court instructed, “I will allow you to put anything you want on the record; but do not ask him [if he receives disability assistance].” Subsequent to this exchange between the defense counsel and the court, the defense declined to continue questioning the witness regarding his alleged mental incapacity and stated that he had no further questions of the witness.

Various ways are recognized as proper to attack the credibility of a witness who has testified to facts occurring at the time of the offense. This includes questioning regarding defects of capacity, sensory or mental, which lessen the ability to perceive the facts which the witness purports to have observed, are provable to attach the credibility of the witness, either upon cross-examination or by producing other witnesses to prove the fact. *State v. Lockett*, 429 So. 2d 111 (La. 1983); *See* La. Code Evid. art. 607(B) - (D). Clearly, a defect in capacity may result from a mental defect.

Bearing this in mind, the defense was only restricted from questioning Williams regarding his receipt of disability benefits and was not improperly restricted in its efforts to explore the subject of the victim’s mental state. Consequently, in my view, there was no denial of defendant’s Sixth Amendment right to confrontation as alleged

by defendant. The defense simply failed to put evidence on the record challenging Williams' mental state. For these reasons, I would affirm the court of appeal in upholding defendant's conviction and sentence.