

SUPREME COURT OF LOUISIANA

2008-KH-0330

STATE EX REL. EDDIE LEE

vs.

STATE OF LOUISIANA

**ON APPLICATION WRIT OF CERTIORARI
FROM THE FOURTH CIRCUIT COURT OF APPEAL**

Johnson, J. would grant the writ application and assigns reasons:

The jurisprudence is well established that a presumption of prejudice arises when a defendant is made to appear before a jury dressed in prison garb. *State v. Spellman*, 562 So. 2d 455, 456 (La. 1990), and *State v. Brown*, 368 So. 2d 961, 963 (La. 1979). A defendant's presumption of innocence is inherently impaired when the accused is compelled to appear before a jury in clothing identifiable as prison issued, and the defense counsel's failure to object clearly brings into question the issue of ineffective assistance of counsel. *State v. Washington*, 491 So. 2d 1337, 1339 (La. 1986). Considering the jurisprudence on point, the fact that the defendant's appearance in prison garb was not orchestrated by the defendant or his counsel, and defense counsel's failure to object to defendant's appearance before a jury in prison clothes, the writ application should be granted.