

SUPREME COURT OF LOUISIANA

NO. 08-KK-786

STATE OF LOUISIANA

VERSUS

WENDELL GETTRIDGE

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
FOURTH CIRCUIT, PARISH OF ORLEANS**

PER CURIAM

Writ granted. Where the prosecution seeks to justify a warrantless search by proof of voluntary consent, it may show that permission to search was obtained from a third party who possessed common authority over or other sufficient relationship to the premises sought to be inspected. *United States v. Matlock*, 415 U.S. 164, 171, 94 S.Ct. 988, 993, 39 L.Ed.2d 242 (1974). "Common authority" rests "on mutual use of the property by persons generally having joint access or control for most purposes, so that it is reasonable to recognize that any of the co-inhabitants has the right to permit the inspection in his own right and that the others have assumed the risk that one of their number might permit the common area to be searched." *Id.*, 415 U.S. at 171 n.7, 94 S.Ct. at 993 n.7. A warrantless search may be valid if facts available to the officers at the time justified their reasonable, albeit erroneous, belief that the one consenting to search had authority over the premises. *Illinois v. Rodriguez*, 497 U.S. 177, 185-189, 110 S.Ct. 2793, 2799-2801, 111 L.Ed.2d 148 (1990); *State v. Edwards*, 97-1797, p. 11 (La. 7/2/99), 750 So.2d 893, 901, *cert. denied*, 528 U.S. 1026, 120 S.Ct. 542, 145 L.Ed.2d 421 (1999). Denise George represented to the officers that she was the lessee of the house and consented to the search. It was objectively reasonable to believe that she was the lessee and had authority over the premises. Thus, the

evidence found was validly obtained. Her consent was sufficiently contemporaneous with the seizure of the marijuana underneath the house, and, because there is no showing that her consent was not freely given or was contingent upon the evidence found underneath the house, law enforcement would have inevitably secured the evidence by lawful means. *State v. Lee*, 05-2098 p. 23 (La. 1/16/08), 976 So.2d 109, 127. The rulings of the lower courts are reversed. This matter is remanded to the district court for further proceedings.