

SUPREME COURT OF LOUISIANA

10-KK-292

STATE OF LOUISIANA

vs.

MICHAEL ANDERSON

ON APPLICATION WRIT OF CERTIORARI

FROM THE FOURTH CIRCUIT COURT OF APPEAL

Johnson, J. would grant the writ application for the following reasons:

Given the serious nature of both the alleged misconduct of the State and the gravity of the sentence imposed, I would grant the defendant's writ application, and order the trial court to conduct an in camera inspection of the District Attorney's file to determine whether it contains additional undisclosed *Brady*¹ material.

Clearly, there is no "work product" exception for *Brady* material in either federal or state law. The accused has a constitutional right to exculpatory material that supersedes state legislative statutory privilege. Considering the recently disclosed evidence of the sole eyewitness' visual impairments, I would grant a stay to allow the defendant his right to compulsory process in order to develop his claims in support of his motion for New Trial. Where a "witness may labor under a deficiency," the defense should be afforded some latitude" in exploring the deficiency in order to satisfy the Sixth Amendment.²

¹*Brady v. Maryland*, 373 U.S. 83 (1963)

²*State v. Robinson*, 817 So.2d 1131, 1137 (La. 2002).