

SUPREME COURT OF LOUISIANA

NO. 2017-KK-0516

STATE OF LOUISIANA

VERSUS

WYMAN LEVELLE HENRY

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
THIRD CIRCUIT, PARISH OF CALCASIEU**

PER CURIAM: Writ granted. The ruling of the court of appeal is reversed, and the district court's ruling denying defendant's motion to quash the bill of information is reinstated. Defendant was charged with his third-offense possession of marijuana after he was arrested and found to be in possession of synthetic marijuana on June 25, 2015. That date is before the effective date of the 2015 La. Act 295, which substantially reduced the penalties for possession of small quantities of marijuana. Defendant moved to quash the bill of information on the grounds that the state charged him under the prior law and he was entitled to be charged instead under the amended law. The district court denied the motion. The court of appeal granted defendant's writ application and quashed the bill of information, citing *State v. Mayeux*, 01-3195 (La 6/21/02), 820 So.2d 526. The court of appeal erred. In *Mayeux*, this court acknowledged that the rule that "the law in effect at the time of the commission of the offense is determinative of the penalty which the convicted accused must suffer." *Mayeux*, 01-3195, p. 6, 820 So.2d at 530. The court in *Mayeux* carved out an exception, however, when there are ameliorative changes to the penalty provision in conjunction with the language in the statute indicating that it is to be applied "upon conviction." *See Mayeux*, 01-3195, pp. 7-8, 820 So.2d at 531. In the present case, 2015 La. Act 295 did not

reduce the penalty for the possession of synthetic marijuana. Therefore, *Mayeux* does not apply. The matter is remanded to the district court for further proceedings consistent with this order.