

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No.2020-KK-00145

VS.

KARI SHISLER & JOSEPH DYCZEWSKI

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IN RE: Joseph Dyczewski - Applicant Defendant; Applying For Writ Of Certiorari, Parish of Orleans Criminal, Criminal District Court Number(s) 543-065, Court of Appeal, Fourth Circuit, Number(s) 2019-K-1096;

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**May 01, 2020**

Writ application granted. See per curiam.

JTG

JDH

SJC

JHB

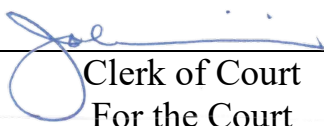
Weimer, J., would grant and docket.

Hughes, J., concurs and assigns reasons.

Crain, J., dissents and assigns reasons.

Supreme Court of Louisiana  
May 01, 2020

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Clerk of Court  
For the Court

05/01/20

**SUPREME COURT OF LOUISIANA**

**No. 2020-KK-00145**

**STATE OF LOUISIANA**

**VS.**

**KARI SHISLER & JOSEPH DYCZEWSKI**

On Writ of Certiorari to the Court of Appeal, Fourth Circuit, Parish of Orleans

Granted. “Warrantless entries into the home of the accused for arrest or seizure are invalid in the absence of exigent circumstances.” *State v. Welch*, 449 So.2d 468, 470 (La. 1984), citing *Payton v. New York*, 445 U.S. 573, 100 S.Ct. 1371, 63 L.Ed.2d 639 (1980). The police need both probable cause (to arrest or to search) and exigent circumstances to justify a non-consensual warrantless intrusion into private premises. *State v. Hathaway*, 411 So.2d 1074, 1080 (La. 1982). Exigent circumstances include the possibility of the destruction of evidence; the need to prevent the offender’s escape; and the possibility of a violent confrontation which could cause injury to the officers and the public. *Id.* In addition, this Court has recognized that a quick search of the premises to determine the presence of another perpetrator constitutes an exception to the warrant requirement. *State v. Perry*, 502 So.2d 543, 556-557 (La. 1986), *cert. denied*, 484 U.S. 87, 108 S.Ct. 205, 98 L.Ed.2d 156 (1987); *State v. White*, 399 So.2d 172, 175–176 (La. 1981). A “trial judge’s ruling [on a fact question], based on conclusions of credibility and weight of the testimony, is entitled to great deference and will not be disturbed on appeal unless there is no evidence to support the ruling.” *State v. Wells*, 08-2262, pp. 4–5 (La. 7/6/10), 45 So.3d 577, 580–81 (citing *State v. Bourque*, 622 So.2d 198, 222 (La.1993)).

Here, the trial court made credibility determinations based on the testimony of multiple officers involved in defendant’s arrest and found that officers lacked

probable cause to search defendant's residence. Furthermore, observation that defendant's home had security cameras failed to amount to exigent circumstances to enter defendant's home after officers arrested him for possession of a small quantity of marijuana near his residence. Thus, the trial court correctly suppressed the evidence recovered from the residence and the statements made by defendant following the illegal entry. Therefore, the court of appeal's ruling is reversed.