

01/15/2016 "See News Release 002 for any Concurrences and/or Dissents."

**SUPREME COURT OF LOUISIANA**

**NO. 2015-KK-2301**

**STATE OF LOUISIANA**

**VERSUS**

**DEVIN WATERHOUSE**

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

**Weimer, J.**, dissenting.

I respectfully dissent and would deny the writ.

As this court previously explained, our review of a district court's ruling on a motion to suppress should be deferential. "Trial courts are vested with great discretion when ruling on a motion to suppress. Consequently, the ruling of a trial judge on a motion to suppress will not be disturbed absent an abuse of that discretion." **State v. Leger**, 2005-0011, p. 10 (La. 7/10/06), 936 So.2d 108, 122.

Here, the district court found the probative value of a photograph is not merely outweighed, but is "far outweigh[ed]," by its effect of unfair prejudice. The district court further explained: "Since we already have pictures for identification purposes, it's out."

The photograph depicts, among other matters, the defendant utilizing the middle finger of one hand in an offensive gesture. The state does not dispute that the photograph at issue was taken years before the crime for which the defendant is charged. The state does not dispute that other photographs, purportedly depicting the defendant, have thus far been found admissible.