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SUPREME COURT OF LOUISIANA

No. 16-KK-0621

STATE OF LOUISIANA

VERSUS

KEVIN MORGAN

On Supervisory Writ from the
Criminal District Court, Parish of Orleans

PER CURIAM:

Writ granted. As reiterated in *State v. Bernard*, 09-1178, p. 5 (La. 3/16/10); 31 So.3d 1025, 1029, “*Miranda* only applies if three conditions are met: (1) the defendant is in ‘custody’ or significantly deprived of freedom, (2) there is an ‘interrogation,’ and (3) the interrogation is conducted by a ‘law enforcement officer’ or someone acting as their agent.” *See also United States v. Maddox*, 492 F.2d 104, 107 (5th Cir. 1974) (“Defendants’ objection is premised on the private investigator’s failure to give *Miranda* warnings to Knowles. *Miranda* is inapplicable to non-custodial questioning by private citizens.”) (citing *Yates v. United States*, 384 F.2d 586 (5th Cir. 1967)). In the present case, there is no indication the private investigator was acting as a law enforcement officer or as an agent of law enforcement. Therefore, the district court erred in granting defendant’s motion to suppress his inculpatory statement based on the failure of the private investigator to read defendant his *Miranda* rights prior to questioning him. However, defendant also moved to suppress his statement alleging that it was not freely and voluntarily made, as required by La.R.S. 15:451. The district court has not yet ruled on that question of state law. Therefore, the matter is remanded to

the district court for further proceedings consistent with the views expressed here and to address that outstanding issue.