

TATE OF LOUISIANA

VERSUS

JAMES MACK

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NO. 2026-K-0688

COURT OF APPEAL

FOURTH CIRCUIT

STATE OF LOUISIANA

APPLICATION FOR WRITS DIRECTED TO
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 700-202, SECTION “I”
Hon. Leon T. Roche, Judge

Judge Sandra Cabrina Jenkins

(Court composed of Judge Joy Cossich Lobrano, Judge Sandra Cabrina Jenkins, Judge Dale N. Atkins)

LOBRANO, J., CONCURS IN THE RESULT

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**WRIT GRANTED;
JUDGMENT VACATED;
AND REMANDED
OCTOBER 20, 2026**

SCJ
DNA

Relator, State of Louisiana (“State”), seeks review of the district court’s August 26, 2026 judgment, which granted Defendant’s, James Mack (“Mr. Mack”), motion to compel the State to disclose videotaped recordings of its eyewitness identification procedures. The State argues the judgment contravenes La. C.Cr.P. art. 729.7.

For the reasons that follow, we grant the State’s writ application, vacate the judgment, and remand for further proceedings consistent with this opinion.

FACTUAL AND PROCEDURAL HISTORY

On January 29, 2026, the State returned a True Bill charging Mr. Mack with second degree murder with a firearm, a violation of La. R.S. 14:30.1.

During pre-trial discovery, the State provided Mr. Mack with redacted reports which excised the names and other identifying information of various witnesses involved in the investigation, including two witnesses who identified Mr. Mack as the perpetrator from photographic line-ups. The State withheld the video recordings of the photographic line-up interviews from the defense. Defendant filed a motion to compel the State to produce the withheld video recordings. The State opposed the motion to compel, citing La. C.Cr.P. art. 729.7.

At the conclusion of the August 26, 2026 hearing, the district court granted Defendant's motion to compel, finding that La. C.Cr.P. art. 729.7 "doesn't apply to ID procedures . . ." and ordering the State to turn over the identification procedure video recordings. The district court permitted the State to either comply with the disclosure order or formally notice its intent to seek writs.

This timely writ application followed.

DISCUSSION

Assignments of Error

The State asserts the district court erred when it ordered disclosure of the videotaped witness interviews because: (1) La. C.Cr.P. art. 729.7 applies to recordings of videotaped identification procedures; and (2) the district court was required to conduct an *ex parte* hearing prior to rendering its judgment.

Accordingly, our review begins with an examination of La. C.Cr.P. art. 729.7 and its application to the present matter.

Application of Louisiana Code of Criminal Procedure art. 729.7

The article, titled "Protection of witness identity," provides as follows:

A. Notwithstanding any other provision of law to the contrary, the district attorney or the defendant may delete or excise from any information required to be disclosed herein any information which identifies a witness if such party believes the witness's safety may be compromised by the disclosure. If a party objects to the deletion or excision, he must do so by written motion. The court shall maintain the deletion or excision if, at an *ex parte* proceeding which shall be recorded and maintained under seal, the party excising or deleting such information makes a *prima facie* showing that the witness's safety may be compromised by the disclosure.

B. If the information excised by a party includes the substance, or any part thereof, of any written or recorded statement of the witness, that party must provide the excised substance, or any part thereof, to the other party immediately prior to the witness's testimony at the trial.

C. If a judge finds that the party excising or deleting such information has failed to present prima facie proof to support the deletion or excision of information related to a witness, then upon the motion of either party, the court shall order an automatic stay of all matters related to the disclosure of information about the witness and maintain all proceedings under seal during the time while the moving party seeks supervisory review to the appropriate reviewing courts with appellate jurisdiction, including the Louisiana Supreme Court.

D. The rules of evidence shall not be applicable to the ex parte proceedings conducted pursuant to this Article.

District Court's Judgment

Here, in granting Mr. Mack's motion to compel, the district court espoused, in pertinent part:

So, the Court has read all of the motions that each side has filed. And I have looked into this issue and here's what I've got to say about it. So, this Court does not find that the ID procedure is a witness statement. I don't think that this is a witness statement at issue. It's an ID procedure. Article 729.7 doesn't apply to ID procedures and, additionally, the defense has the burden to show that any ID procedure was either suggestible or that there was some error in the ID procedure. Because it is the defense burden in attacking the ID procedure.

And I find that the defense cannot meet its burden if it is not provided with the ID procedure. And even if Article 729.7 did apply somehow, which I find it doesn't, the State still has not requested an ex parte hearing pursuant to that statute where they could attempt to make a prima fascia (sic) showing of why they believe the alleged witness[s's] safety is at issue. So, the State didn't follow the mandates of Article 729.7. But this Court finds that 729.7 doesn't apply because this matter is an ID procedure and not a witness statement.

So, for those reasons, I'm going to deny the State's request. I guess I'm going to grant the defense's request to compel the State to turn over the identification procedure. I'll not the State's objection and - -

By the article's plain language, its application is not limited to consideration of a witness's statement, but specifically encompasses "any information" relative to protect a witness's identity. A witness may be identified in a video of an

identification procedure if the name, face, or voice of the witness is included therein.

We find error in the district court's ruling that La. C.Cr.P. art. 729.7 does not apply to a witness's statement in recorded identification procedures. Recent proceedings in Criminal District Court have sought our supervisory jurisdiction regarding the applicability of La. C.Cr.P. art. 729.7. *See, e.g., State v. Hall*, 2026-0396 (La. App. 4 Cir. 6/29/26), 437 So.3d 882. In *Hall*, the State provided the defendant with all evidence, except the video recording of the eyewitness's identification procedure, citing its concern for the safety of the witness. *Id.*, at p. 2, 437 So.3d at 882. In response to the objection raised by one of the defendants, "[t]he district court conducted an ex parte hearing, pursuant to La. C.Cr.P. art. 729.7, and found the State made a prima facie showing that the witness's safety may be compromised by the full disclosure of the identification procedure . . . [and] ordered the State to disclose only the audio recording of the identification procedure." *Id.*, at p. 3, 437 So.3d at 882.¹

Ex Parte Hearing

Now that we have established that the trial court erred in determining that La. C.Cr.P. art. 729.7 did not apply to recorded identification procedures, we consider whether the court erred when it failed to hold an *ex parte* hearing before ordering the State to produce the video recordings to Mr. Mack.

As previously referenced, the district court expressed the State had forfeited its right to an *ex parte* hearing because it had not filed a request for a hearing. However, La. C.Cr.P. art. 729.7 does not require the State to file a separate motion

¹ Upon review, this Court modified the district court's ruling and ordered the State to submit a written transcript of the audio portion of the identification procedure reflecting the witness's identification of the perpetrators. *Hall*, 2026-0396, p. 4, 437 So.3d at 883.

to trigger an ex parte hearing. Instead, the article requires the party who objects to the deletion to do so by written motion, and thereafter, the district court may maintain or delete the excision at an ex parte hearing, provided the party who maintains the deletion makes a prima facie showing the deletion is intended to protect a witness's safety. This Court explained this precept in *State v. Richards*, reasoning as follows:

La. C.Cr.P. art. 729.7 governs in this matter and its provisions are **mandatory**. The State redacted information from a discoverable document based on its concern for the witness's safety; in response, the defendant followed the appropriate procedure by objecting to the redaction in a written motion. If the [district] court believed that the redaction should be maintained, then it was required to hold an ex parte proceeding, recorded and maintained under seal, at which the State must make a prima facie showing why the redacted information should not be disclosed to defendant. Thus, in this matter, the [district] court erred in maintaining the redaction without holding the required ex parte proceeding.

2018-0029, p. 6 (La. App. 4 Cir. 2/21/18), 238 So.3d 528, 532. (Emphasis supplied).

In this case, Mr. Mack was the party who objected to the State's redaction. At that point, the district court was statutorily required to hold an ex parte proceeding to determine if the State could make a prima facie showing that the redacted information should not be disclosed to Mr. Mack.

CONCLUSION/DECREE

Based on the foregoing reasons, we grant the State's writ application. The August 26, 2026 judgment is vacated, and the matter is remanded to the district court for the limited purpose of conducting an ex parte proceeding as set forth in La. C.Cr.P. art. 729.7 and this Court's jurisprudence.

We further note that the party aggrieved by the district court's ruling retains its right to seek supervisory review of the ruling before this Court as statutorily allowed by La. C.Cr.P. art. 729.7(C).

**WRIT GRANTED; JUDGMENT
VACATED; AND REMANDED**