

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2021 KW 0284

VERSUS

MARK ANTHONY SPELL

MAY 24, 2021

In Re: Mark Anthony Spell, applying for supervisory writs, 19th Judicial District Court, Parish of East Baton Rouge, Nos. DC-20-01764, DC-20-01765, DC-20-01766, DC-20-01767, DC-20-01768, DC-20-01769.

BEFORE: THERIOT, WOLFE, AND HESTER, JJ.

WRIT DENIED. We do not agree with relator that the free exercise of religion is outside of the jurisdiction of the government. See **Reynolds v. United States**, 98 U.S. 145, 25 L.Ed. 244 (1878).

It is clear that the Executive Orders gave religion more protection than some secular businesses. However, it is equally as clear that the executive orders gave some secular businesses more protection than religion and that is where the scrutiny is to be applied.

When the government restricts a person's fundamental freedom of religion, fundamental freedom of assembly and/or fundamental freedom to travel, it must do so in a non-discriminatory way and proceed in the least restrictive manner.

This matter is before us on a motion to quash wherein pretrial pleas are urged and do not go to the merits of the charge. The evidence herein was limited to procedural and legal argument of counsel. The question of factual guilt or innocence is not before the court. See La. Code Crim. P. art. 531, et. seq.; **State v. Byrd**, 96-2302 (La. 3/13/98), 708 So.2d 401, 411, cert. denied sub nom, **Peltier v. Louisiana**, 525 U.S. 876, 119 S.Ct. 179, 142 L.Ed.2d 146 (1998). Moreover, while evidence may be adduced, such evidence may not include a defense on the merits. **State v. Thomas**, 2012-0470 (La. App. 1st Cir. 11/14/12), 111 So.3d 386, 389. Therefore, we must deny the writ at this juncture of the proceedings.

MRT
EW
CHH

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