

NIXON R. CALIX

NO. 25-C-228

VERSUS

FIFTH CIRCUIT

IDEAL MARKET #6, ET AL.

COURT OF APPEAL

STATE OF LOUISIANA

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS


Morgan Naquin
Deputy, Clerk of Court

June 06, 2025

Morgan Naquin
Deputy Clerk

IN RE HAMDALLAH HASAN “MARIO” KAKI AND MUWAFK “MIKE” KAKI

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE ELLEN SHIRER
KOVACH, DIVISION “K”, NUMBER 750-092

Panel composed of Judges Fredericka Homberg Wicker,
John J. Molaison, Jr., and Timothy S. Marcel

WRIT DENIED

The relators, Hamdallah “Mario” Kaki and Muwafak “Mike” Kaki, seek our review of the May 8, 2025 judgment denying their motion in limine to exclude evidence. We deny this writ application for the following reasons.

FACTS AND PROCEDURAL HISTORY

The plaintiff/respondent, Nixon Calix, filed a petition for damages against the relators and others stating that in April of 2015, he worked in the meat department at Ideal Supermarket, which is owned by the relators. He alleged that on April 29, 2015, another employee took him to a building owned by Ideal Supermarket, where others associated with Ideal Supermarket were present who accused him of stealing meat. He alleged that while being held at this location for four hours, he was “severely beaten, punched, kicked, abused, and terrorized.”

According to the writ application, the respondent intends to introduce evidence of a May 18, 2023 incident involving Moises Marin-Hernandez, an Ideal Supermarket

employee accused of stealing meat. The respondent states that Marin-Hernandez was “removed from his workplace during business hours, transported to another location owned or controlled by the defendants, and subjected to a prolonged, coercive confrontation involving threats and physical violence conduct reminiscent of what” Mr. Calix endured.

The relators filed a motion in limine to exclude the evidence involving Marin-Hernandez, claiming this evidence is irrelevant and highly prejudicial. After a hearing the trial judge denied the motion; the relators filed this timely writ application.

LAW AND DISCUSSION

The relators state that they first became aware that the respondent sought to introduce evidence of the incident involving Marin-Hernandez when Marin-Hernandez and Gassin “Jimmy” Kaki were listed on the respondent’s witness list. The relators explain that Gassin “Jimmy” Kaki, an Ideal Supermarket employee, is a defendant in the criminal proceeding in Orleans Parish in which Marin-Hernandez was the victim. The relators do not identify the specific evidence sought to be excluded; however, the attachments to the writ application state that the respondent intends to call Marin-Hernandez and Gassin “Jimmy” Kaki as witnesses and to introduce a certified copy of the bill of information and the civil petition for damages associated with the Marin-Hernandez incident.

Relevant evidence is “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” La. C.E. art. 401. All relevant evidence is admissible, unless the state or federal constitution, the Louisiana Code of Evidence, or other legislation prohibits its use. La. C.E. art. 402. In general, “evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity

therewith.” La. C.E. art. 404(B). However, such evidence may “be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident[.]” *Id.*

A trial court has great discretion in ruling on the admission of evidence. *McCauley v. McCauley*, 20-27 (La. App. 3 Cir. 10/21/20), 305 So.3d 981, 989. The appellate court should not reverse the trial court’s decisions to admit or exclude evidence when there is no abuse of discretion. *Id.*

In denying relators’ motion in limine, the trial court found the allegations made by the respondent and the facts of the incident involving Marin-Hernandez were “almost identical,” stating:

Both cases involve claims for damages by employees of Ideal Market accused of stealing meat and interrogated about the alleged theft at a location owned by Ideal Market by owners/other employees of Ideal Market using extreme threats and force. The court finds that this evidence is relevant to prove plaintiffs causes of action because of its strikingly similar nature and is admissible under the exceptions listed under C.E. article 404(B). Specifically, this evidence is admissible to prove defendants’ opportunity, intent, preparation, plan, knowledge, identity, and absence of mistake or accident. This evidence supports plaintiff’s assertions that these types of actions were the company policy or plan for handling suspected thefts. Specifically, it is relevant to plaintiff’s claims for damages due to defendants’ negligent training and supervision of employees, and it is relevant to plaintiff’s claims for damages due to assault, battery, kidnapping and false imprisonment. This court finds the probative value of this evidence outweighs any prejudice against defendants. The witnesses to the subsequent incident will be subject to cross examination, and the jury will be able to weigh their credibility.

We agree. On the showing made, we find the trial court did not abuse its great discretion by denying the relator’s motion in limine.

CONCLUSION

We deny this writ application for the preceding reasons.

Gretna, Louisiana, this 6th day of June, 2025.

JJM
FHW
TSM

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **06/06/2025** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

25-C-228

E-NOTIFIED

24th Judicial District Court (Clerk)	
Honorable Ellen Shirer Kovach (DISTRICT JUDGE)	
Edward L. Moreno (Respondent)	Ike Spears (Relator)

MAILED

John W. Redmann (Respondent)	Joyce S. Sallah (Relator)
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