

# Fifth Circuit Court of Appeal State of Louisiana

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No. 26-K-15

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STATE OF LOUISIANA

*versus*

DAMON BRYANT

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**IN RE DAMON BRYANT**

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE DONALD A. ROWAN, JR., DIVISION "L", No. 17-6092

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**TRUE COPY**

January 21, 2026



LINDA TRAN  
DEPUTY CLERK

Panel composed of Judges Fredericka Homberg Wicker,  
Scott U. Schlegel, and Timothy S. Marcel

## **WRIT DENIED**

Relator, Damon Bryant (Bryant), seeks review of the district court's December 11, 2025, denial of his Motion for Severance of Parties. For the following reasons, we deny the writ.

## **FACTS AND PROCEDURAL HISTORY**

Following his August 3, 2017, arrest, Relator was charged by bill of information filed by the Jefferson Parish District Attorney on October 3, 2017, with five counts of armed robbery for incidents occurring between July 20 and July 27, 2017. A superseding bill was filed on June 7, 2018, restating the five counts contained in the original bill plus an additional charge of carjacking occurring on January 25, 2018, as the sixth count.

On June 27, 2019, a Jefferson Parish Grand Jury returned an eleven-count true bill of indictment against Relator and Destin Smith. In count one, Relator is charged with carjacking alleged to have occurred on July 11, 2017. Counts two through six charge Relator and Destin Smith with armed robberies occurring on July 20, 2017, and July 27, 2017. Destin Smith is charged in count seven with committing second degree murder on August 12, 2017. Count eight charges

Destin Smith and Devonte Mays with conspiracy to commit armed robbery between August 9 and August 14, 2017. In counts nine and ten, Destin Smith is charged with attempted armed robberies occurring on August 12, 2017. Count eleven charges Destin Smith with obstruction of justice.

Relator filed a Motion for Severance of Parties on December 2, 2025. In its opposition to the motion, the State explained that the bill charges Relator and Smith jointly with committing four armed robberies in July 2017, plus additional charges against Smith occurring on or after August 9, 2017. The State argued that the offenses are of the same or similar character and part of a series of acts commencing in July 2017, which allows for co-defendants to be charged together or separately. Further, the State claimed that Relator did not show prejudice and that the jury will be able to separate evidence from each offense, and that any prejudice will be mitigated by the jury instructions. Finally, the State contended that the co-defendants' defenses are not mutually antagonistic as neither inculpated the other in formal statements to the police and Bryant does not have to defend himself against Smith's charges.

After hearing, the district court orally denied Relator's motion.<sup>1</sup> The trial judge found no prejudice and that the jurors could easily separate the evidence applicable to each defendant. Relator filed a notice of intent to seek supervisory review on January 5, 2026, the district court set a January 10, 2026, return date. Both the district court and this Court denied requests for additional time; the Louisiana Supreme Court likewise denied relief regarding an extension. Trial in this matter is set for January 26, 2026.

In the instant application, Relator asserts that joinder is improper under La. C.Cr.P. arts 493 and 494 because of anticipated antagonistic defenses and on grounds of unconstitutional prejudice resulting from evidence of crimes he could not have committed.

## DISCUSSION

Pursuant to La. C.Cr.P. art. 494, two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count. La. C.Cr.P. art. 494.

Jointly indicted defendants shall be tried jointly unless the state elects to sever or the court determines, after contradictory hearing, that justice requires severance. La. C.Cr.P. art. 704. Whether justice requires severance must be determined by the facts of each case. *State v. Molette*, 17-697 (La. App. 5 Cir. 10/17/18), 258 So.3d 1081, 1089, *writ denied*, 18-1955 (La. 4/22/19), 268 So.3d 304. The ruling on a motion to sever is within the sound discretion of the trial

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<sup>1</sup> On December 8, 2025, co-defendant Smith filed a second motion for severance. There, Smith explained that a motion to sever was filed in May 2022, which the court denied because prior counsel for defendant was joking when he told the court and Smith's counsel that he intended to blame Smith for the offenses. Smith explained that defendant was no longer joking and requested a severance. On December 9, 2025, the State filed an opposition to Smith's motion to sever repeating its arguments raised in its opposition to Bryant's motion to sever, asserting that Smith will not have to defend himself against Bryant and that Smith and defendant are not mutually antagonistic. On December 11, 2025, both motions to sever were heard and denied.

court and will not be overturned unless it is manifestly erroneous and injurious to the defendant. *Id.*

### ***Joiner***

First, Relator argues that joinder of offenses is improper for two reasons: (1) he did not engage in any criminal activity after his arrest, while on the other hand, his co-defendant, Smith, engaged in an independent crime spree, including murder and (2) the offenses are not of the same or similar character, nor are they linked as part of a common scheme or series of acts, as required by La. C.Cr.P. arts. 493, 494.

The record shows that Relator and Smith were jointly indicted on June 27, 2019, by a grand jury on the multiple armed robbery offenses arising in July 2017. The counts are of the same or similar character as contemplated by La. C.Cr.P. art. 493 and are properly charged on the same bill. Destin Smith's August 2017 charges are separately set out on the bill. Based on the record before us, misjoinder does not appear on the face of the charging instrument.

### ***Antagonistic Defenses***

Next, Relator asserts that he and his co-defendant have antagonistic defenses contending that the lack of direct evidence identifying either defendant in the July 2017 offenses gives rise to finger-pointing.

Severance is necessary when the defenses of the co-defendants are mutually antagonistic to the extent that one co-defendant attempts to blame the other, causing each defendant to defend against both his co-defendant and the State. *State v. Hicks*, 17-696 (La. App. 5 Cir. 10/17/18), 258 So.3d 1039, 1049, *writ denied*, 18-1938 (La. 4/15/19), 267 So.3d 1123. The defendant bears the burden of proof in a motion to sever. *State v. Coe*, 09-1012 (La. App. 5 Cir. 5/11/10), 40 So.3d 293, 301, *writ denied*, 10-1245 (La. 12/17/10), 51 So.3d 17. A "mere unsupported allegation" that defenses will be antagonistic is not sufficient to require a severance. *Hicks*, 258 So.3d at 1049. Furthermore, the fact that each defendant has pointed a finger at the other does not make defenses automatically antagonistic.

On review, the record does not show mutually exclusive defenses such that the jury could not believe one without necessarily disbelieving the other. Relator has made only general arguments that defenses presented at trial would be antagonistic and has not identified any specific irreconcilable trial position. The possibility of finger pointing does not mandate severance, absent a showing of prejudice.

### ***Prejudice***

Finally, Relator contends he will suffer substantial prejudice if his trial proceeds jointly with Smith. In support of a motion for severance, the mover must show the joinder to be prejudicial. Prejudice may occur in a joint trial "when evidence that the jury should not consider against a defendant and that would not

be admissible if a defendant were tried alone is admitted against a codefendant.” *State v. Williams*, 16-417 (La. App. 5 Cir. 8/30/17), 227 So.3d 371, 395, *writ denied*, 17-1663 (La. 9/14/18), 252 So.3d 483. Relator argues the jury will be confused and not be able to segregate the evidence between the defendants, will infer that he has the same criminal disposition as his co-defendant, and will be hostile toward him after being presented with evidence of a murder. We disagree. The July 2017 counts are distinct from Smith’s August 2017 charges. There is no showing that the jury will be unable to compartmentalize the evidence with proper instruction from the district court; any prejudice is speculative at this pre-trial juncture.

For the foregoing reasons, we find that Relator has not demonstrated misjoinder of offenses or defendants or that justice requires severance, nor has he shown that the district court abused its discretion in denying his Motion for Severance of Parties. The writ application is denied.

Gretna, Louisiana, this 21st day of January, 2026.

**TSM  
FHW  
SUS**

SUSAN M. CHEHARDY

CHIEF JUDGE

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

JUDGES



CURTIS B. PURSELL

CLERK OF COURT

SUSAN S. BUCHHOLZ  
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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 01/21/2026 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

**26-K-15**

### **E-NOTIFIED**

24th Judicial District Court (Clerk)

Honorable Donald A. Rowan, Jr. (DISTRICT JUDGE)

Christen E. DeNicholas (Relator)

Thomas J. Butler (Respondent)

Mark D. Plaisance (Relator)

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