

**SUPREME COURT OF LOUISIANA**

**NO. 08-KK-839**

**STATE OF LOUISIANA**

**VERSUS**

**RICHARD PROSPER**

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,  
FIRST CIRCUIT, PARISH OF EAST BATON ROUGE**

**ORDER**

Granted. Whether the police have scrupulously honored a defendant's right to cut off questioning is a determination made on a case-by-case basis under the totality of the circumstances. *State v. Leger*, 05-0011, p. 14 (La. 7/10/06), 936 So.2d 108, 125 (citing *Michigan v. Mosely*, 423 U.S. 96, 104-106, 96 S.Ct. 321, 326-328, 46 L.Ed.2d 313 (1975)), *cert. denied*, \_\_\_ U.S. \_\_\_, 127 S.Ct. 1279, 167 L.Ed.2d 100 (2007). Under the totality of the circumstances as shown on the videotape of the interrogation, defendant's statements did not reasonably suggest a desire to end all questioning or remain silent. *See State v. Robertson*, 97-177, p. 27 (La. 3/4/98), 712 So.2d 8, 31, *cert. denied*, 522 U.S. 882, 119 S.Ct. 190, 142 L.Ed.2d 155 (1998) (finding defendant's indication he had nothing further to say about the crimes does not reasonably suggest a desire to end all questioning or to remain silent). In response to the detective's statement "I don't want to listen to a lie, man", defendant responded, "I don't have nothing else to say sir 'cause I'm telling the truth. I'm telling the truth. I don't have nothing else to say." Given the totality of the circumstances as depicted on the videotape, this cannot plausibly be understood as an invocation to cut off questioning. *Mosely*, 423 U.S. at 103, 96 S.Ct. at 326. Rather, defendant continued asserting he did not know where the guns were, which we find does not reasonably

suggest a desire to end all questioning. The district court suppressed defendant's statement and the court of appeal reversed that ruling to the extent it suppressed statements made by the defendant prior to what the lower courts perceived to be an invocation of the right to remain silent. These rulings are reversed, as the defendant did not invoke his right to remain silent. This matter is remanded to the district court for further proceedings.