

SUPREME COURT OF LOUISIANA

No. 97-K-2749

STATE OF LOUISIANA

v.

VINCENT BARBER

On Writ of Certiorari
to the Third Circuit Court of Appeal

PER CURIAM:*

GRANTED IN PART, DENIED IN PART. This case is remanded to the district court for an evidentiary hearing to determine whether or to what extent the presence of alternate jurors in deliberations may have affected the outcome. Participation by alternates in deliberations is an extraneous influence on the jury representing a prima facie case of prejudice requiring reversal. La.C.E. art. 606(B); State v. Howard, 573 So.2d 481 (La. 1981); State v. Smith, 367 So.2d 857 (La. 1979). Louisiana courts are "required to take evidence upon well-pleaded allegations of prejudicial juror misconduct...." State v. Graham, 422 So.2d 123, 131-132 (La. 1982); State v. Horne, 679 So.2d 953, 958 (La.App. 2nd Cir. 8/21/96), writ denied, 688 So.2d 521 (La. 2/21/97); State v. Sanders, 539 So.2d 114, 121 (La.App. 2nd Cir.), writ denied, 546 So.2d 1212 (La. 1989); State v. Duncan, 563 So.2d 1269, 1272 (La.App. 1st Cir. 1990). See also State v. Searile, 643 So.2d 455, 457-458 (La.App. 3rd Cir. 10/5/94). At the conclusion of the hearing, the trial court shall determine whether a new trial or other appropriate relief is

* Lemmon, J., not on panel. See Rule IV, Part II, Sec. 3.

required, reserving to the parties a right to seek review of the ruling.