

The Supreme Court of the State of Louisiana

JORDAN BRYANT

No. 2023-CC-00731

VS.

STATE OF LOUISIANA, ET AL.

IN RE: Thaddeus Green - Applicant Other; Andrea Ford - Applicant Other; State of Louisiana Department of Health & Hospital o/b/o Pinecrest Supports and Services Center - Applicant Other; Office for Citizens with Developmental Disabilities - Applicant Other; Applying For Supervisory Writ, Parish of Rapides, 9th Judicial District Court Number(s) 259,927, Court of Appeal, Third Circuit, Number(s) CW 22-00764;

October 10, 2023

Writ application granted in part. See per curiam.

JLW

SJC

WJC

JBM

Hughes, J., would deny the writ in its entirety.

Genovese, J., dissents in part and assigns reasons.

Griffin, J., would deny the writ in its entirety.

Supreme Court of Louisiana

October 10, 2023



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA**No. 2023-CC-00731****JORDAN BRYANT****VS.****STATE OF LOUISIANA, ET AL.**

On Supervisory Writ to the 9th Judicial District Court, Parish of Rapides

PER CURIAM

Defendants seek review of the district court's ruling excluding their expert witnesses and denying their motion for summary judgment. Defendants ask this court to reverse the ruling on the motion in limine and review the motion for summary judgment de novo or remand the case for a new summary judgment hearing.

Without reaching the merits, we conclude the district court committed legal error in excluding defendants' experts without complying with the mandatory requirements of La. Code Civ. P. art. 1425(F) and without properly applying the factors set forth in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), as adopted by this court in *State v. Foret*, 628 So.2d 1116 (La. 1993). In the absence of any analysis of the *Daubert* factors or any evidence indicating that the methodology used by defendants' experts was unreliable, the district court abused its discretion in granting plaintiffs' motion in limine to exclude this testimony.¹ Accordingly, the judgment granting the motion in limine is reversed.

¹ We recognize the district court expressed concern over the accuracy of the facts used by defendants' experts in formulating their conclusions. However, it is well-settled that the character of the evidence upon which an expert bases his opinion affects only the weight to be afforded to the expert's conclusion and does not make his opinion evidence inadmissible under *Daubert*. See *Lafayette City-Parish Consolidated Government v. Person*, 2012-0307 (La. 10/16/12), 100 So.3d 293, 298; *MSOF Corp. v. Exxon Corp.*, 2004-0988 (La. App. 1 Cir. 12/22/05), 934 So.2d 708, 720, writ denied, 2006-1669 (La. 10/6/06), 938 So.2d 78; see also *Everett v. Air Prod. & Chemicals Inc.*, 2019-01975 (La. 5/26/20), 296 So.3d 1011 (“[t]o the extent there are disputes over the accuracy of the facts relied upon by Dr. Holstein, the court may find such a challenge goes to the weight of the testimony rather than its admissibility.”).

Having reversed the district court's judgment on the motion in limine, we find it is appropriate to vacate the district court's judgment on defendants' motion for summary judgment.

DECREE

For the reasons assigned, the writ is granted in part. The judgment of the district court granting plaintiff's motion in limine is reversed. The judgment of the district court denying defendants' motion for summary judgment is vacated. In all other respects, the application is denied.