

**SUPREME COURT OF LOUISIANA**

**00-KK-0015**

**STATE OF LOUISIANA**

**VERSUS**

**LEON JACKSON**

**CALOGERO, C. J., concurring in part and dissenting in part.**

The case which the majority reverses, *State v. Church*, drew three (3) dissents as well as a concurrence by this writer. My decision to concur in *Church* was premised on my belief at the time that the roadblock at issue was impermissible under the United States Constitution and the Louisiana Constitution of 1974. However, just one year after *Church*, in 1990, the United States Supreme Court decided *Michigan Department of State Police v. Sitz*, 496 U.S. 444, 110 L. Ed. 2d, 110 S. Ct. 2481 (1990), which determined that a sobriety roadblock, such as the one in *Church*, was permissible under the United States Constitution.

The convincing resolution at the federal level following *Church* resolves the federal constitutional issue favorably to the State in this case. Accordingly, I join in the majority's conclusion that the roadblock in this case is permissible under the Fourth Amendment to the United States Constitution.

However, the majority's overruling of *Church* and its conclusion that the roadblock at issue in this case does not violate the Louisiana Constitution prompts me to dissent in part. I would maintain this Court's resolution under the state constitution reached in our 1989 *Church* decision, which held that DWI roadblocks, where motorists are "seized" without reasonable suspicion or probable cause, are impermissible under the Louisiana Constitution of 1974.