

# SUPREME COURT OF LOUISIANA

*No. 99-C-1730*

ROLAND GIBSON, JESSIE GIBSON,  
ROLAND GIBSON, JR., AND DENNIS GIBSON

Versus

STATE OF LOUISIANA, JOHN ST. JOHN AND LLOYD WEST

LEMMON, J., Concurring

Although the majority frames the issue in this case as whether a party who has been convicted of a crime may recover civil damages based on his allegedly wrongful arrest, this decision should not be taken as holding that the conviction precludes recovery even if a wrongful arrest is proved.<sup>1</sup> The critical issue is whether the police had probable cause to arrest plaintiff at the time he was arrested, and not whether the State had sufficient evidence to convict him eight months after his arrest.

The majority correctly determines that there was probable cause to arrest plaintiff at the time of the arrest. However, if probable cause had not existed at the critical time and an investigation subsequent to the arrest had developed evidence to support the eventual conviction, plaintiff would be entitled to some amount of damages for wrongful arrest,<sup>2</sup> irrespective of the fact that he was subsequently convicted.

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<sup>1</sup>If the conviction was a determinative bar to recovery, it would not be necessary to discuss whether probable cause existed at the time of the arrest.

<sup>2</sup>Of course, the amount of damages in such a case would not be significant, inasmuch as plaintiff's only damages would be for being arrested a few days or weeks earlier than he legally could have been arrested.