

# SUPREME COURT OF LOUISIANA

No. 99-KK-2598

STATE OF LOUISIANA

Versus

JOSEPH P. STERLING

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,  
FOURTH CIRCUIT, PARISH OF ORLEANS

JOHNSON, J., dissenting

A search warrant must describe with particularity the place to be searched. U.S. CONST. AMEND. IV; LA CONST. ART. 1, § 5; LSA-C.Cr.P. art. 162. The object of the description in a search warrant is to prevent the search of the wrong premises. If the place to be searched is described in sufficient detail to enable the officers to locate it with reasonable certainty and with the reasonable probability that the police will not search the wrong premises, the description is sufficient. *State v. Diggs*, 98-0964 (La.App. 4 Cir. 6/24/98), 715 So.2d 692; *State v. Manzella*, 392 So.2d 403 (La. 1980); *State v. Segers*, 355 So.2d 238 (La. 1978); *State v. Cobbs*, 350 So.2d 168 (La. 1977).

In *Manzella*, police officers obtained a search warrant for “6176 Pontchartrain Boulevard.” The defendant’s address was “6178 Pontchartrain Boulevard.” The defendant’s apartment was located in the other part of the house and was joined with 6176 Pontchartrain Boulevard by a common patio. This court held that the search warrant did not describe the place to be searched with sufficient particularity, and upheld the suppression of the evidence found in the search of the defendant’s apartment. The court stated, “[t]he description employed in the warrant would not have prevented the search of the wrong premises; rather the description would have facilitated the search of the wrong premises.” *Id.* at 406.

In this case, the description contained in the warrant clearly facilitated the search of the wrong premises. The officers obtained a warrant to search “3024 Wall Street.” The defendant’s address was “3022 Wall Street.” Therefore, the apartment searched by the officers was not the apartment which was “particularly described” in the warrant.

Furthermore, when police officers went to 3024 Wall Street to execute the warrant, they were informed by the resident of that apartment that the defendant “stayed downstairs.” At the hearing on the motion to suppress, one of the executing officers admitted that in order to get to the downstairs apartment, they had to exit 3024 Wall Street, go back down the stairs, and enter the defendant’s apartment from a separate outside door because the building did not contain an interior stairwell that connected the two apartments. At that point, it is clear that the officers had sufficient information to conclude that the building contained two separate residences and that the defendant’s residence was separate from the upstairs apartment. Consequently, they had enough information to surmise that the residence they searched, the defendant’s residence, was not the residence which was particularly described in the warrant.

Accordingly, I would affirm the trial court’s decision to grant the defendant’s motion to suppress the evidence obtained in the search. For all of the above reasons, I respectfully dissent.