

10/16/01 “See News Release for any concurrences and/or dissents.”

SUPREME COURT OF LOUISIANA

No. 00-C-2799

JOHN ANDERSON AND EVA WASHINGTON ANDERSON

versus

AVONDALE INDUSTRIES, INC., ET AL.

CALOGERO, Chief Justice, concurs.

Plaintiffs rely heavily on this court’s opinion in Walls v. American Optical Corp, 98-0455 (La. 9/8/99), 740 So.2d 1262, in their argument that the law at the time of death should be applied in this case. I was not on the panel which decided Walls and do not necessarily agree with the reasons or result set forth therein. For present purposes, however, Walls is a resolved legal issue in our jurisprudence. Yet, Walls is not controlling under the facts presented in this matter. The circumstances surrounding John Anderson and his injury are factually distinct from the facts presented in Walls.

This is not a situation where the legislature extinguished a cause of action before plaintiff’s claim accrued. Here, the legislature created a cause of action after plaintiff suffered harm. Applying the law at the time of death in the instant matter would retroactively impose punishment for activity which was not illegal at the time it was conducted.