

06/27/03 "See News Release 046 for any dissents and/or concurrences
SUPREME COURT OF LOUISIANA

No. 01-KO-944

STATE OF LOUISIANA

VERSUS

ZACHARY SPENCER

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

CALOGERO, Chief Justice, concurs in the denial of the writ application and assigns the following reasons:

In this application, the state has a somewhat stronger case than it did in *State v. Sylvia*, 01-1406 (La. 4/9/03), ___ So. 2d ___. In addition to the lab test confirming the existence of cocaine residue in the "crack pipe," as was the case in *Sylvia*, the court of appeal in this case found, in accordance with the arresting officer's testimony, that residue was also visible to the naked eye. In all events, this court's majority is apparently not willing reconsider the resolved issue in *Sylvia*. I therefore concur in the denial of the writ application. But, see my general views in these drug residue cases, as expressed in my dissent in *Sylvia*.