

01/09/04 “See News Release 001 for any concurrences and/or dissents.”
SUPREME COURT OF LOUISIANA

NO. 03-KP-1050

STATE OF LOUISIANA

versus

SYLVESTER ROLLINS

CALOGERO, CJ would grant and assigns reasons.

Relator has filed an application with a claim based on facts “not known to him or his attorney” at trial. So the court can find the application time-barred only if the state demonstrates that “delay has prejudiced its ability to respond to the application as the result of events not within its control.” La.C.Cr.P. art. 930.8(B): Carlin v. Cain, 97-2390 (La. 3/13/98), 706 So.2d 968. The district court should hold a hearing at which the state would have the opportunity to demonstrate that prejudice. If the state were unable to make such a showing, the district court would be able to review the merits of relator’s claim and rule as is warranted. See State v. Conway, 01-2808 (La. 4/12/02), 816 So. 2d 290.