

11/08/04 “See News Release 084 for any concurrences and/or dissents.”

SUPREME COURT OF LOUISIANA

No. 2004-KK-2694

STATE OF LOUISIANA

VERSUS

BOBBY JOHNSON

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL
FIRST CIRCUIT, PARISH OF LAFOURCHE**

CALOGERO, Chief Justice concurs with written reasons:

This court’s denial of defendant’s writ application lets stand the ruling of the court of appeal which reversed the district court and disallowed the proposed jury instruction. While our denial of the writ under these circumstances would perhaps suggest that our court has ruled on the legal issue resolved by the court of appeal favorable to the State, I believe that, in the event that defendant is convicted and the conviction is affirmed by the court of appeal, the court will be at liberty to review this court of appeal ruling anew, a ruling on a legal issue not heretofore addressed by the appellate courts in this State.