

01/07/05 "See News Release 001 for any concurrences and/or dissents."

SUPREME COURT OF LOUISIANA

NO. 04-C-2469

GENE ALONZO, JR., ET AL.

V.

STATE OF LOUISIANA, ET AL.

**ON WRIT OF CERTIORARI TO
THE COURT OF APPEAL, FOURTH CIRCUIT
PARISH OF ST. BERNARD**

PER CURIAM.

Granted.¹ The judgment of the court of appeal is vacated and this matter is remanded to the court of appeal for it to consider the State's assertions of prescription and contractual indemnity in light of this court's recent decision in *Avenal v. State*, 03-C-3521 (La. 10/19/04), ___ So.2d ___.

This order in no way addresses the issue of recusal since our action in this matter is restricted to the State's assignments of error regarding prescription and contractual indemnity, which were not addressed by the court of appeal. It is not necessary for this court to take action on the recusal issue at this time, however, we do reserve this issue for future consideration, if such action is required.

¹Plaintiff's consolidated writ, 04-C-2490, is denied.