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SUPREME COURT OF LOUISIANA

No. 2006-KK-0597

STATE OF LOUISIANA

versus

ALFRED PENNINGTON AND MELVIN BRADWELL

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

PER CURIAM

Granted. A judgment granting a motion to suppress generally presupposes a ruling on the merits of a defendant's claim that the state has secured physical evidence, statements, or identifications, in an unconstitutional manner. When the trial court ruled on the motions, less than a month after institution of this prosecution for armed robbery in violation of La. R.S. 14:64, the court had alternative means other than summary grant of the pre-trial motions to promote the orderly and expeditious administration of justice. *Cf. State v. Mims*, 329 So.2d 686 (La. 1976) (verdict of not guilty presupposes a trial at which facts have been placed at issue and resolved in defendant's favor; trial court may not enter a judgment of acquittal before swearing any witnesses to punish the state for its lack of preparation). It appears that the trial court granted the various motions to suppress in the present case to punish the state for its lack of preparation, as opposed to disposing of the motions on the merits of their underlying constitutional claims, some as to which the defendants had the burden of proof. Therefore, the ruling is vacated and this case is remanded for retrial of the motions.