

05/7/2010 "See News Release 032 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

No. 2009-K-1213

STATE OF LOUISIANA

v.

GREGORY CARMEN

**On Writ of Certiorari to the
First Circuit Court of Appeal**

PER CURIAM

Granted. The decision of the court of appeal is reversed and the order signed by Judge Fields setting defendant's conviction aside and expunging his record is vacated. Judge Fields lacked the authority to grant the motion for expungement because it appears that defendant had a pending charge of felony theft, both at the time his probation was terminated successfully and at the time of resentencing. *See State v. Carmen*, 08-0478 (La. App. 5 Cir. 1/27/09), 3 So.3d 587 (affirming defendant's conviction and sentence for felony theft committed in 2004 following jury trial conducted on September 26 and 27, 2007). Thus, at the time of resentencing on September 20, 2007, defendant was not eligible under La. Code Crim. Proc. art. 894(B)(1) to have his conviction set aside.