

SUPREME COURT OF LOUISIANA

No. 18-KK-0943

STATE OF LOUISIANA

VERSUS

VICKIE PRYOR

**ON SUPERVISORY WRITS TO THE CRIMINAL
DISTRICT COURT, PARISH OF ORLEANS**

GENOVESE, J., would grant and assigns reasons.

The majority's writ denial agnostically ignores *Birchfield v. North Dakota*, 579 U.S. ___, 136 S.Ct. 2160, 195 L.Ed.2d 560, 195 L.Ed.2d 560 (2016). In *Birchfield*, the United States Supreme Court held that the Fourth Amendment permits warrantless breath tests incident to arrests for drunk driving, but not warrantless blood tests. In the companion case consolidated for review, *Beylund v. North Dakota Dep't of Transp.*, the Court considered whether a driver's consent to a blood test was insufficiently voluntary because he was advised he was obligated to submit to the test. *Birchfield* was decided nearly four months before defendant herein consented to a blood test after she was involved in a vehicular accident with a fatality. Therefore, I would grant defendant's writ application to remand the matter back to the trial court for it to consider its ruling on defendant's motion to suppress in light of *Birchfield* and its consolidated cases.