

SUPREME COURT OF LOUISIANA

No. 98-C-1819

JERBERT FRANK

Versus

CITY OF VILLE PLATTE

JOHNSON, J., Dissenting

The majority in this case has created an exception to the mandatory requirement that a criminal defendant be brought before a judge within seventy-two hours of being arrested. Louisiana Code of Criminal Procedure article 230.1(A) provides that “a law enforcement officer having custody of an arrested person shall bring him promptly and in any case within seventy-two hours from the time of the arrest, before a judge for the purpose of appointment of counsel.” (emphasis added). In State v. Wallace, 392 So. 2d 410 (La. 1980) this court held that a criminal defendant who is not brought before a judge within 72 hours of the arrest has a claim for civil damages for illegal detention. Here, the majority has denied Plaintiff’s claim for illegal detention because he was an alleged parole violator and therefore not entitled to be released from custody. By refusing to award civil damages to Plaintiff for his illegal detention, the majority has created an exception to the seventy-two hour requirement. As interpreted by this case, article 230.1(A) requires a seventy-two hour hearing in all cases except that a law enforcement officer, arresting a person on parole for an offense unrelated to his parole, has no obligation to bring that person before a judge within seventy-two hours of being arrested, as required by La. Code Crim. P. art. 230.1.