

(11/22/2005) "See News Release 063 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

No. 2005-KK-2335

CHARLES KIMBROUGH, ET AL.

VERSUS

LYNN COOPER, WARDEN, ET AL.

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL
FIRST CIRCUIT, PARISH OF EAST BATON ROUGE**

PER CURIAM

The stay previously issued on November 18, 2005, is lifted. The writ application is denied in part and granted in part.

With respect to the district court's order of November 9, 2005, regarding Class IV misdemeanor cases, the writ application is denied.

With respect to the Class II and Class III felony cases involved in these consolidated actions, except regarding detainees as to whom the detainee and the state agree should be released, the order issued by the district court on November 9, 2005, is vacated. The widespread devastation following Hurricane Katrina, resulting in the emergency orders issued by Governor Blanco suspending prescription, preemption, and other legal deadlines from August 29, 2005, until November 25, 2005, provided just cause for the state's delay in formally charging the arrestees within the time limits specified by La. Code Crim. Proc. art. 701(B)(1). See La. Code Crim. Proc. art. 701(E)(just cause under the statute includes "any grounds beyond the control of the State or the Court.") Although art. 701(B)(2) does not specify additional time periods for formally charging an arrestee upon a showing that just cause excused the state's delay in filing an information or indictment within the limits provided by art. 701(B)(1), we determine that the state shall have until 5:00 p.m. on January 6, 2006, in which to file a bill of information or indictment in the Class II and Class III cases.

Cf. La. Code Crim. Proc. art. 3 ("Where no procedure is specifically prescribed by this Code or by statute, the court may proceed in a manner consistent with the spirit of the provisions of this Code and other applicable statutory and constitutional provisions.").