

2/16/01

SUPREME COURT OF LOUISIANA

No. 2000-KP-1777

STATE OF LOUISIANA

v.

ROBERT J. GOMEZ

On Writ of Certiorari to the
Fifth Circuit Court of Appeal

PER CURIAM:

Writ granted. Because relator's alleged contumacious act occurred outside "the immediate view" of the judge and without her "personal knowledge," it did not constitute direct contempt. La.C.Cr.P. art. 21; In re Oliver, 333 U.S. 257, 275-76, 68 S.Ct. 499, 508-09, 92 L.Ed. 682 (1948); State v. Watson, 465 So.2d 685, 687 (La. 1985). Accordingly, the finding of direct contempt is reversed, and relator's consecutive sentence of six months imprisonment for contempt is vacated. However, relator may have committed constructive contempt under La.C.Cr.P. art. 23, and may be tried for same, but only if the court or district attorney issues the rule to show cause required by La.C.Cr.P. art. 24(A) and after relator receives the additional procedural protections set out in La.C.Cr.P. art. 24(B)-(C).