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NEWS RELEASE # 56

FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the 2nd day of July, 2004, are as follows:

PER CURIAM:

2003-K -2871

STATE OF LOUISIANA v. MELISSA WALKER (Parish of Caldwell)
After conducting an independent review of the record, and considering the arguments of counsel, we conclude that the decision of the court of appeal does not require the exercise of our supervisory authority. Accordingly, our order of March 12, 2004 is recalled as improvidently granted.
TRAYLOR, J., dissents and assigns reasons.

07/02/04

SUPREME COURT OF LOUISIANA

No. 03-K-2871

STATE OF LOUISIANA

v.

MELISSA WALKER

On Writ of Certiorari to the
Second Circuit Court of Appeal

PER CURIAM:

After conducting an independent review of the record, and considering the arguments of counsel, we conclude that the decision of the court of appeal does not require the exercise of our supervisory authority. Accordingly, our order of March 12, 2004 is recalled as improvidently granted.¹

¹ As noted by the court of appeal, "if the prosecution is able to draft a bill of information which validly charges Walker with a crime, it may be possible to reinstitute prosecution [within the time limits set by La.C.Cr.P. art. 572(A)(2)]." State v. Walker, 37,493, p. 8, n.6 (La. App. 2nd Cir. 8/20/03), 853 So.2d 746, 751.

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TRAYLOR, Justice, dissenting.

In the present case, the state responded to the defense request for discovery and inspection by providing counsel with open-file discovery. Testimony presented at the preliminary hearing provided further detailed notice of what conduct the state had charged against respondent and informed respondent of the legal basis upon which it charged her with criminal culpability. Moreover, the bill of information itself initially provided the defendant with notice of the charges against her. Although the bill of information could have been more specifically worded, the bill of information itself, plus the open file discovery and the preliminary hearing testimony provided the defendant sufficient notice of the crime charged.

Under these circumstances, because the state has provided respondent with sufficient notice of the crime charged, and because the record reveals at least one set of facts which, if proved to the satisfaction of a trier of fact, may support a conviction for violation of LSA-R.S. 14:93.3, I believe the trial court erred in sustaining the motion to quash.

Therefore, I respectfully dissent.