

9/25/01

SUPREME COURT OF LOUISIANA

No. 01-CC-2498

GLORIA SCOTT, ET AL.

VERSUS

THE AMERICAN TOBACCO COMPANY, ET AL.

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL
FOURTH CIRCUIT, PARISH OF ORLEANS**

CALOGERO, Chief Justice, concurring

I am in full accord with the opinion of this court. Seven of the twelve prospective jurors should be excluded from service for the reasons stated in the per curiam opinion. As to the other five, they will be allowed to serve on the jury as it cannot be reasonably believed that these individuals would be influenced in coming to a verdict, or so the trial judge with wide discretion so concluded.

The law does not compel the exclusion of jurors because they are related to a party unless the circumstances shown are such that it is reasonable to believe the relationship would influence the juror in coming to a verdict. *See Louisiana Code of Civil Procedure article 1765.*

I would conclude, and assume that those signing the per curiam opinion would agree, that an individual should not sit on a jury in the trial of a close family member charged with a crime and facing punishment, nor in a civil case where a close family member is a party seeking to assert or defend against a substantial monetary claim or a similarly important litigious matter.

But this is not the case here. The five jurors who have not been excused do not have family members who are parties in this litigation, nor do they have close relatives with serious monetary or liberty interests at stake. Therefore, the trial judge had to consider all the facts before him in determining whether these individuals could be fair

and unbiased in rendering a verdict. He considered questionnaire response as well as answers upon live interrogation and was not convinced that the defendants had met their burden of proving that these jurors should be excused for cause. Based upon the record, the trial judge did not err in his decision regarding these five jurors.