

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

SUPREME COURT OF LOUISIANA

No. 2005-K-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

Johnson, J. concurs in part, dissents in part for the following reasons:

I agree with the majority’s action with regard to denying the writ application as it relates to class IV misdemeanor cases. I strongly disagree with the court’s decision to issue the stay and continue in custody those detainees who have been charged with violations of “third grade” non-violent relative felonies.

The District Attorney argues that the *interest of justice* requires their continued detention because of the disruption to the courts following Hurricane Katrina and the fact that the City is “slowly recuperating from the devastation” and is “experiencing shortages of housing, limited telephonic communication, limited healthcare, and an overall limitation of all resources.” If we were interested in justice, we would immediately release these detainees since a district court judge has conducted a full hearing and determined they do not pose a threat to public safety. At this point when the entire state is facing tremendous pressure to allocate scarce resources, it boggles the mind to see the state argue for continued incarceration when it would be economically prudent to release these detainees. Why would we incur the costs in housing and feeding these detainees when they pose no threat to the public safety and

their continued incarceration creates a financial burden upon the State in these financially precarious times.

I believe that it is error to stay the release of this class as these detainees are clearly entitled to immediate release. I would vacate the stay order and deny this writ application in its entirety.