

**STATE OF LOUISIANA IN  
THE INTEREST OF D.H.**

**VERSUS**

**\* NO. 2001-C-2284  
\* COURT OF APPEAL  
\* FOURTH CIRCUIT  
\* STATE OF LOUISIANA**

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**JONES, J. DISSENTS WITH REASONS**

The Relator, D.H., seeks our supervisory jurisdiction to vacate the order of the juvenile court increasing the bond to \$85,000. The juvenile court stated that the hearing on the Motion to Suppress the Evidence “only concerned the issue of the State’s use of the weapons seized in this matter, and not the probable cause for the arrest.” I find this statement to be completely inconsistent. The granting of a Motion to Suppress the Evidence clearly infers a lack of probable cause. Further, the juvenile court erroneously acknowledged a stipulation to probable cause by D.H. contrary to La. Ch.C. art. 820. Although the majority of the Louisiana Supreme Court panel in State v. Dawson, 2000-2279 (La. 11/27/00) 775 So.2d 1046 denied the writ application indicating that they would not hear the case, a disposition on the merits of the case has not been rendered. However, the dissenters indicated that they would have granted the writ and docketed it suggesting that there is an issue needing to be resolved although it was not being resolved at that time. One of the dissenters in the case, J. Johnson, opined that “[T]he Juvenile Court deprived Veal of the safeguards afforded by statute and our Constitution when it allowed the OIDP attorney to stipulate to probable cause instead of conducting a ‘hearing’ whereby the state is required to *prove* probable cause as mandated by La. Ch.C. are. 819 and 820.” (*emphasis provided*) State v. Dawson, 2000-2279 (La. 11/27/00) 775 So.2d 1046, 1048. I agree that a hearing must be had for a determination of probable cause. Therefore, there has been no determination of probable cause and the juvenile court maintains jurisdiction in order to make a probable cause determination. Thus, the juvenile court erred by

increasing the bond to \$85,000, and consequently, I would grant the writ application and remand for a probable cause hearing.