

**STATE OF LOUISIANA**  
**COURT OF APPEAL, FIRST CIRCUIT**

STATE OF LOUISIANA

NO. 2014 KW 0694

VERSUS

CLARENCE ZAHN

**JUL 14 2014**

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In Re: State of Louisiana, applying for supervisory writs,  
21st Judicial District Court, Parish of Tangipahoa,  
No. 700259.

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**BEFORE: KUHN, PETTIGREW AND McCLENDON, JJ.**

**WRIT GRANTED.** Louisiana Code of Criminal Procedure article 895.1 focuses primarily on restitution for pecuniary losses caused by criminal activity and not on providing criminal sanctions to enforce collection of civil damages (including nonpecuniary damages). **State v. Diaz**, 615 So.2d 1336, 1337 (La. 1993) (per curiam). The trial court erred when it agreed to allow the amount of restitution to be determined through civil litigation. Because of this error, the parties' consent to the plea agreement was vitiated. See **State v. Roberts**, 2001-3030 (La. App. 1st Cir. 6/21/02), 822 So.2d 156, writ denied, 2002-2054 (La. 3/14/03), 839 So.2d 31. Accordingly, the condition of restitution is vacated and this matter is remanded to the district court to hold a restitution hearing at which time the district court is ordered to determine whether the defendant should be allowed to withdraw his guilty plea if he so chooses.

**PMC**  
**JEK**

**Pettigrew, J.**, dissents and would deny the writ application.

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DEPUTY CLERK OF COURT  
FOR THE COURT