

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2018 KW 1174

VERSUS

GREGORY C. MILLER

OCT 15 2018

In Re: State of Louisiana, applying for supervisory writs,
19th Judicial District Court, Parish of East Baton
Rouge, No. 05-18-0494.


BEFORE: PETTIGREW, McCLENDON, AND HIGGINBOTHAM, JJ.

WRIT GRANTED. The district court's ruling granting the defendant's 701 motion, releasing the defendant from pretrial custody and his bail obligation is reversed, and this matter is remanded to the district court for further proceedings. Although it is clear that the district attorney is solely responsible for setting the arraignment and failed to do so in a timely manner, the defendant did not diligently assert his right to arraignment. Because the defendant is not prejudiced by the delayed arraignment, the defendant is not entitled to release without bail. See **State v. Cody**, 446 So.2d 1278, 1284 (La. App. 2d Cir. 1984). Furthermore, Louisiana Code of Criminal Procedure article 701(C) does not provide a remedy for failure to timely set an arraignment.

TMH
PMc

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

COURT OF APPEAL, FIRST CIRCUIT


DEPUTY CLERK OF COURT
FOR THE COURT