

STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT
P.O. Box 16577
Lake Charles LA 70616
(337) 433-9403

NOT DESIGNATED FOR PUBLICATION

Kenneth Lee Riche'
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REHEARING ACTION: November 5, 2008

Docket Number: 08 00711-KW

**STATE OF LOUISIANA
VERSUS
NICOLE AYMOND &
MICHAEL RICHE**

**Writ Application from Avoyelles Parish Case No. 142,893 / 142,894, 142,895,
142,998**

BEFORE JUDGES:

**Hon. Oswald A. Decuir
Hon. J. David Painter
Hon. James T. Genovese**

As counsel of record in the captioned case, you are hereby notified that the application for rehearing filed by **Michael Riche** has this day been

DENIED.

Genovese, J., would grant the rehearing and dissents for the following reasons.

Genovese, J., Upon further review of this matter, I find our prior writ decision in *State v. Aymond*, an unpublished writ application bearing docket number 08-711 (La.App. 3 Cir. 8/18/08), to be erroneous. I find *State v. Matthieu*, 506 So.2d 1209 (La. 1987), inapplicable. I find *State v. Case*, 363 So.2d 486 (La. 1978), and *State v. Loera*, 530 So.2d 1271 (La.App. 2 Cir. 1988), writs denied, 536 So.2d 1252, (La. 1989), to be applicable. I agree with the trial court's written reasons for ruling and his ruling granting defendant's motion to suppress. To rule otherwise is to neuter Louisiana Code of Criminal Procedure Article 161 and open the floodgates to "judge shopping." Without satisfactory proof of one of the judicially recognized exceptions, a city court judge, or any judge authorized to issue a search warrant, cannot simply issue a search warrant outside his jurisdiction in contravention of statutory authorization. Consequently, I would grant the defendant's application for rehearing.

cc: Hon. Charles A. Riddle III, Counsel for the Respondent
Michael Francis Kelly, Counsel for the Applicant
Harold Alan Murry, Counsel for the Respondent

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VERSUS
NICOLE AYMOND &
MICHAEL RICHE**

**Writ Application from Avoyelles Parish Case No. 142,893 / 142,894, 142,895,
142,998**

BEFORE JUDGES:

**Hon. Oswald A. Decuir
Hon. J. David Painter
Hon. James T. Genovese**

As counsel of record in the captioned case, you are hereby notified that the application for rehearing filed by **Nicole Aymond** has this day been

DENIED.

Genovese, J., would grant the rehearing and dissents for the following reasons.

Genovese, J., Upon further review of this matter, I find our prior writ decision in *State v. Aymond*, an unpublished writ application bearing docket number 08-711 (La.App. 3 Cir. 8/18/08), to be erroneous. I find *State v. Matthieu*, 506 So.2d 1209 (La. 1987), inapplicable. I find *State v. Case*, 363 So.2d 486 (La. 1978), and *State v. Loera*, 530 So.2d 1271 (La.App. 2 Cir. 1988), writs denied, 536 So.2d 1252, (La. 1989), to be applicable. I agree with the trial court's written reasons for ruling and his ruling granting defendant's motion to suppress. To rule otherwise is to neuter Louisiana Code of Criminal Procedure Article 161 and open the floodgates to "judge shopping." Without satisfactory proof of one of the judicially recognized exceptions, a city court judge, or any judge authorized to issue a search warrant, cannot simply issue a search warrant outside his jurisdiction in contravention of statutory authorization. Consequently, I would grant the defendant's application for rehearing.

cc: Hon. Charles A. Riddle III, Counsel for the Respondent
Michael Francis Kelly, Counsel for the Applicant
Kenneth Lee Riche', Counsel for the Respondent

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