

No. 39231-KW

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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STATE OF LOUISIANA

Applicant

versus

EARL C. BENNETT, III

Respondent

* * * * *

On application for writs from the
Twenty-Sixth Judicial District Court for the
Parish of Bossier, Louisiana
Trial Court No. 122,101

Honorable Ford E. Stinson, Judge

* * * * *

CHARLES FOTI
Attorney General

Counsel for:
Applicant

JOHN SCHUYLER MARVIN
District Attorney

ROBERT RANDALL SMITH
Assistant District Attorney

WHITLEY ROBERT GRAVES

Counsel for:
Respondent

* * * * *

Before GASKINS, MOORE and LOLLEY, JJ.

STATE OF LOUISIANA
COURT OF APPEAL, SECOND CIRCUIT
430 Fannin Street
Shreveport, LA. 71101
(318) 227-3700

NO: 39231-KW

STATE OF LOUISIANA

VERSUS

EARL C. BENNETT, III

FILED: 07/16/04

RECEIVED: BYHAND 07/16/04

On application of State of Louisiana for SUPERVISORY WRIT in No. 122,101 on the docket of the Twenty Sixth Judicial District, Parish of BOSSIER, Judge Ford E. Stinson.

John Schuyler Marvin
Robert Randall Smith

Counsel for:
State of Louisiana

Whitley Robert Graves

Counsel for:
Earl C. Bennett, III

BEFORE: GASKINS, MOORE, AND LOLLEY, JJ.

WRIT GRANTED AND MADE PEREMPTORY.

The State seeks reversal of a trial court ruling that, for purposes of a prosecution charging DWI, third offense, the fact that the defendant entered guilty pleas to two separate offenses during one court appearance counts as only one conviction.

We reverse the trial court ruling. It is the number of prior convictions, not their sequence, which determines the appropriate designation of a subsequent DWI offense. See *State v. Woods*, 402 So. 2d 680 (La. 1981); *State v. Vu*, 02-1243 (La. App. 5th Cir. 4/8/03), 846 So. 2d 67. According the writ is granted and made peremptory. The matter is remanded to the trial court for further proceedings.

Shreveport, Louisiana, this _____ day of _____, 2004.

FILED: _____

CLERK