

09/05/03 "See News Release 057 for any concurrences and/or dissents."

SUPREME COURT OF LOUISIANA

No. 02-KP-2464

STATE OF LOUISIANA

v.

JEFFREY E. ARMSTRONG

On Writ of Certiorari to the
Fifth Circuit Court of Appeal

PER CURIAM:

Granted in part; otherwise denied. This case is remanded to the district court for purposes of conducting an evidentiary hearing and ruling on relator's claim that counsel rendered ineffective assistance by failing to request that the trial court include criminal trespass as a responsive verdict. See State v. Simmons, 01-0293, pp. 6-7 (La. 5/14/02), 817 So.2d 16, 21 (criminal trespass is a lesser and included offense of unauthorized entry of an inhabited dwelling, entitling defendant charged with the latter offense to instruction on the former, particularly when defendant would have escaped sentencing as multiple offender had he been convicted of a misdemeanor); State v. Hernandez, 02-0340 (La. App. 5th Cir. 7/30/02), 824 So.2d 529 (same). In all other respects, the application is denied. La.C.Cr.P. art. 930.3; State ex rel. Melinie v. State, 93-1380 (La. 1/12/96), 665 So.2d 1172.

Calogero, J, recused.

