

Fifth Circuit Court of Appeal
State of Louisiana

No. 26-K-140

STATE OF LOUISIANA

versus

CALVIN STREET

ON APPLICATION FOR SUPERVISORY REVIEW FROM THE TWENTY-FOURTH JUDICIAL
DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 25-2476, DIVISION "C"
HONORABLE JUNE B. DARENSBURG, JUDGE PRESIDING

May 13, 2026

JUDE G. GRAVOIS
JUDGE

Panel composed of Judges Jude G. Gravois,
John J. Molaison, Jr., and Scott U. Schlegel

WRIT DENIED

JGG
JJM
SUS

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GRAVOIS, J.

Relator/defendant, Calvin Street, seeks this Court's supervisory review of the trial court's February 12, 2026 ruling which found that the State complied with La. R.S. 15:440.5(C) by tendering a digital copy of the Children's Advocacy Center ("CAC") recording. For the following reasons, we deny this writ application.

FACTS AND PROCEDURAL HISTORY

On August 1, 2025, the Jefferson Parish District Attorney filed a bill of information charging defendant with sexual battery upon a known juvenile in violation of La. R.S. 14:43.1. On October 6, 2025, defendant filed a Motion for Production of Copy of Video Tape(s) Pursuant to La. R.S. 15:440.5(C), arguing that the alleged victim made statements that were video recorded at the CAC and that he was entitled to "a copy of the video taped statement(s)" in accordance with La. R.S. 15:440.5(C).

On February 12, 2026, a hearing was held regarding defendant's motion. At the hearing, Erika Dupepe testified that she was employed by the district attorney's office as the executive director of the Jefferson Parish CAC. She explained that, historically, the district attorney's office used physical media to preserve forensic interviews of child abuse victims, but over the years, DVDs, VHS tapes, and USBs were susceptible to damage, to loss, or to being shared with the "wrong people." The Guardify system, a secure digital evidence software management system, was implemented at the Jefferson Parish CAC in February 2022. The Guardify system ensured the office no longer had to worry about damaged digital media copies of sensitive information or that it was viewed by the "wrong people." Ms. Dupepe testified that nearly half of the CACs across the country utilized the software.

Ms. Dupepe was a custodian of the Guardify system for the CAC. Once the forensic interview was completed, it was shared with the investigative team via a secure link. If the district attorney's office requested it, custodianship would be transferred to that office, and the CAC would no longer be able to access it. Ms. Dupepe testified that

the only thing she could see as a custodian was if other parties accessed the recording and not what part of the recording was played. The individuals who monitor and run the Guardify system could also only see if a party had accessed the recording and not what portion of the recording had been watched.

Ms. Dupepe explained that there were invisible, encrypted pixels that were watermarked into the video in real time, which served as a security function. Any party that was given access to the recording had to complete a two-factor verification to access it. An e-mail address and a cell phone number had to be provided, after which a confirmation code would be sent to the individual. Ms. Dupepe explained that the recording was accessible offline through a mobile application of the Guardify system that allowed access to that particular file. There was no limit to the amount of time an individual could view the recording offline. She stated that the individual would need to have internet access at least one time to download the app, and the recording could then be accessed offline.

Natasha Watts, an administrative assistant in the Jefferson Parish District Attorney's Office's felony department, explained that she was the custodian of the Guardify system for the trial division. Ms. Watts shared each video with the assistant district attorney and defense attorney assigned to the case. Once she shared the video, she was able to monitor if the video had been accessed. Ms. Watts explained that she was only able to make a "disc as a copy" to submit as evidence for trial. The disc had to be approved by the chief of trials and was completed the day before trial. She confirmed that assistant district attorneys did not receive physical discs of the recording and only received access through the Guardify system. She stated that parties granted access would retain it for two years. She would then be notified before expiration, and access would be extended if needed. Ms. Watts stated that if a party did not have internet access, the recording could not be reviewed.

Andrew Duffy, a public defender with the Jefferson Parish Public Defender's Office, testified that before 2022, the district attorney's

office would tender a compact disc or DVD of the CAC recording once a discovery motion was granted by the court. After implementation of the Guardify system, once the court granted the discovery request, an e-mail was sent providing access to the CAC interview through the Guardify system.

Mr. Duffy stated that sometimes the quality of the interviews was good, and he would have no issues. Recently, “on occasion,” the quality of the interview, which was accessed on his laptop, was “almost to the point” where he could not understand any of the words being said. Prior to the Guardify system, he never had this issue since he was able to “manipulate the audio through the regular laptop controls to allow for the audio to be increased.” Mr. Duffy admitted that he was unsure whether the audio issues stemmed from the Guardify system or the original recording when it was taken at the CAC. The Guardify system did have a volume adjuster, and there was a “master volume adjuster” on his computer.

Mr. Duffy explained that in Jefferson Parish, he was not allowed to bring his computer or cell phone into the visitation room to see incarcerated clients. He stated that in other parishes, he was “generally” unable to gain internet access in jails. In his experience, he was unable to access the recording offline through the mobile app. He explained that he could not download the recording from the Guardify system as he could with other discovery tendered by the State. Mr. Duffy testified that in Judge Morvant’s courtroom at the 24th Judicial District Court, a room was available for attorneys to meet with incarcerated clients to review digital evidence at various dates and times.

Defense counsel offered two exhibits into the record: minute entries and transcripts from two separate cases from Division “O” of the 24th Judicial District Court. Defense counsel offered that in these cases, Judge Taylor ordered the district attorney’s office to provide a physical copy of the video, pursuant to La. R.S. 15:440.5(C).

Defendant argued at the hearing that La. R.S. 15:440.5(C) was clear and that the State was providing defendant with “access” and not “the copy” itself. He averred that the statute defines the difference

between copy and access and who was entitled to what. He argued that the State was arguing its position out of “inconvenience.” He asserted that the statute discusses returning the videotape or copy to the court, and this could not be done through the Guardify system.

The State responded that it was not a question of convenience, but of protecting the rights to privacy of victims, which the statute was designed for. The State argued that La. R.S. 15:440.5(C) requires only a “copy,” not a “physical copy,” and the State provided a digital version, not just access. Concerns about monitoring defendant’s video viewing were unfounded, as testimony showed the State could only see if the recording was accessed. There was no burden on defense counsel by tendering the recordings through the Guardify system, as testimony provided that all that was needed was internet access at one time to download the app on the phone and access the recording offline at any time. The State would present the CAC recording at trial in a physical format, and defense counsel could request it if not introduced. The appellate court would have access because the recording would be part of the trial evidence.

The trial court ruled that the State complied with the request by providing defendant with a digital copy of the CAC recording. The trial judge stated that based on the testimony, defense counsel had access to the recordings with or without internet access. Defense counsel and defendant were not prejudiced in any way, and that “copy” could mean digital copy. The trial judge clarified that her ruling was that the State had complied with the statute by providing defense counsel with a digital copy of the video. The trial judge made clear for the record that defense counsel’s “intent” was a physical copy and not a digital copy. Defense counsel agreed. This timely writ application followed.

LAW AND ANALYSIS

In his writ application, defendant argues that the language of La. R.S. 15:440.5(C) is unambiguous and clearly requires a physical copy of a CAC or forensic interview, not just digital access. Defendant argues that the statute distinguishes between counsel’s receipt of “a copy of the videotape” with a *pro se* litigant’s right to “reasonable

access.” He also argues that the statute further contemplates counsel’s ability to make edited or redacted copies of the video “for use as trial exhibits” and mandates that a physical copy be filed under seal with the clerk of court and made available for appellate purposes. Defendant argues that this is not possible with use of the Guardify link that requires prior authorization and internet applications to implement. Defendant asserts that the Guardify system, which reduces the State’s obligations to tender a physical copy of the interview, weakens the constitutional guarantees of effective representation and the right to prepare a defense. This includes the right to view the CAC tape with counsel in a secure, confidential environment conducive to candor and the honest exploration of the risks and strategies of the defense. He highlights inconsistencies in testimony about offline access and notes restrictions on devices in detention centers. Defendant argues that the Guardify system fails to meet constitutional standards for defense and evidentiary use.

La. R.S. 15:440.1, *et seq.*, address electronic recordings of “protected persons.” La. R.S. 15:440.5 is titled “Admissibility of videotaped statements; discovery by defendant.” Subsection C provides:

- C. In a criminal prosecution, when the state intends to offer as evidence a copy of a videotaped oral statement of a protected person made pursuant to the provisions of this Subpart, the defendant, through his attorney only, **may be provided a copy of the videotape** if the court determines it necessary to prepare a proper defense. If the defendant’s attorney is provided a copy of the videotaped statement by court order or by permission of the district attorney, only the following persons involved in preparing the defense of the instant charges shall be permitted to view the videotape: the attorney and his regularly employed staff, the defendant, the defense investigator designated to work on the case, the defense paralegal designated to work on the case, and other staff members of the attorney who are transcribing the videotaped oral statement. Other than a transcript of the videotaped oral statement, no copies of the videotape shall be made by any person, except for use as trial exhibits. The copy of the videotaped statement and any transcripts shall be securely retained by the

defendant's attorney at all times and shall not be possessed, transferred, distributed, copied, or viewed by any unauthorized party. It shall be the affirmative duty of the defendant's attorney to return the videotape to the court immediately upon conclusion of the case, but in all cases prior to sentencing. A defendant who appears pro se in a criminal proceeding shall be allowed reasonable access to the videotape of a protected person only with an order of the court and under court-directed supervision. The tape shall be filed as part of the record under seal by the clerk of court for use in subsequent legal proceedings or appeals and shall be released only upon motion of the state or counsel of record with an order of court and in compliance with this Section. Any violation of this Subsection shall be punished as contempt of court. Any person who makes an unauthorized disclosure of the videotape or its contents may also be subject to liability for civil damages, including punitive damages. (Emphasis added.)

La. R.S. 15:440.2(B) provides:

B. For purposes of this Part, "videotape" means the visual recording on a magnetic tape, film, videotape, compact disc, digital versatile disc, digital video disc, or by other electronic means together with the associated oral record.

The starting point in the interpretation of any statutory provision is the language of the statute itself. *State v. Jago*, 16-346 (La. App. 5 Cir. 12/28/16), 209 So.3d 1078, 1082, *writ denied*, 17-183 (La. 11/17/17), 228 So.3d 1218. A criminal statute must be given a genuine construction consistent with the plain meaning of the language in light of its context and with reference to the purpose of the provision. La. R.S. 14:3; *Jago*, 209 So.3d at 1082. Words and phrases must be read with their context and shall be construed according to the common and approved usage of the language. La. R.S. 1:3. A criminal statute should be interpreted so as to be in harmony with and to preserve and effectuate the manifest intent of the legislature and an interpretation should be avoided which would operate to defeat the object and purpose of the statute. *State v. Shaw*, 06-2467 (La. 11/27/07), 969 So.2d 1233, 1242; *Jago*, 209 So.3d at 1082. Thus, where the words of a statute are clear and free from ambiguity, they are not to be disregarded under the

pretext of pursuing their spirit. La. R.S. 1:4; *Jago*, 209 So.3d at 1082. The text of a law is the best evidence of legislative intent. La. R.S. 24:177(B)(1); *State v. Clarke*, 21-1460 (La. 6/29/22), 345 So.3d 1015, 1017.

For purposes of statutory interpretation, courts have commonly used dictionaries as a valuable source for determining the “common and approved usage of words.” *State v. Smith*, 23-399 (La. App. 5 Cir. 12/27/23), 380 So.3d 109, 115 (citing *Dunn v. City of Kenner*, 15-1175 (La. 1/27/16), 187 So.3d 404, 411). Black’s Law Dictionary defines “copy” as:

1. A physical manifestation of something in any form or medium <this particular copy of the book>.
2. An imitation or reproduction of an original <a copy of a Manet painting>. In the law of evidence, a copy is generally admissible to prove the contents of a writing. Fed. R. Evid. 1003.

Black’s Law Dictionary (12th ed. 2024).

The Merriam-Webster Dictionary defines “copy” as “an imitation, transcript, or reproduction of an original work” and “one of a series of especially mechanical reproductions of an original impression.” Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/copy>.

Defendant’s argument in the instant matter concerns his dissatisfaction regarding his means of access to the CAC recording and not whether he received a copy of it. Defendant does not claim the digital version via the Guardify system differs from a physical copy. Upon review, considering the common and approved usage of “copy,” we conclude that the digital link to the CAC recording via the Guardify system meets the definition of “copy” just as a physical copy of the CAC recording would since it is a reproduction of the original. Defendant’s request for a physical copy of the CAC recording should be considered on a case-by-case basis based on actual access and quality issues, and not because, as defendant contends here, a digital

copy of the recording is not in fact a copy within the meaning of La. R.S. 15:440.5(C).

Further, although defendant argues that the State uses the Guardify system for convenience, the testimony reflects that the Guardify system was implemented to ensure protection of the sensitive material being exchanged and to eliminate damage to physical mediums. Additionally, La. R.S. 15:440.5(C) provides restrictions and distinguishes statements made by “protected persons” from other discovery due to the sensitive nature of the material. Finally, while defendant argues in this writ application that use of the Guardify system weakens the constitutional guarantees of effective representation and the right to prepare a defense, defendant did not raise these arguments below. Nevertheless, testimony at the hearing provided that defense counsel can reserve a space in the courthouse to meet with incarcerated clients and confidentially review discovery.

CONCLUSION AND DECREE

For the foregoing reasons, we find no error in the trial court’s February 12, 2026 ruling. Accordingly, this writ application is denied.

WRIT DENIED

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **MAY 13, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

26-K-140

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)

HONORABLE JUNE B. DARENSBURG (DISTRICT JUDGE)

JUSTIN C. HARRELL (RELATOR)

REMY V. STARNES (RELATOR)

MARK D. PLAISANCE (RELATOR)

JOSEPH L. PEREZ (RELATOR)

THOMAS J. BUTLER (RESPONDENT)

MAILED