

STATE OF LOUISIANA

NO. 24-KH-509

VERSUS

FIFTH CIRCUIT

DELCOME EVANS

COURT OF APPEAL

STATE OF LOUISIANA

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS



Linda Wiseman
First Deputy, Clerk of Court

November 06, 2024

Linda Wiseman
First Deputy Clerk

IN RE DELCOME EVANS

APPLYING FOR SUPERVISORY WRIT FROM THE FORTIETH JUDICIAL DISTRICT COURT, PARISH OF ST JOHN THE BAPTIST, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE J. STERLING SNOWDY, DIVISION "C", NUMBER 15,144

Panel composed of Judges Marc E. Johnson,
Scott U. Schlegel, and Timothy S. Marcel

WRIT DENIED

Relator, Delcome Evans, seeks mandamus relief to order the trial court to rule upon his: (1) "Request for Disclosure of the District Attorney's Records Pertaining to Criminal Litigation that is Finally Adjudicated or Otherwise Settled. Public Records Law. Louisiana Revised Statute 44:3," filed on June 20, 2024, and (2) "Petition to Institute Civil Proceedings at the Trial Court Level for a Writ of Mandamus Against the District Attorney," filed on July 6, 2024.

Both pleadings were filed in his criminal case in the 40th Judicial District Court, Case No. 2015-CR-144. Relator urges this Court to grant his writ of mandamus and requests that the 40th Judicial District Court order the St. John Parish District Attorney's Office, as the custodian of records, to respond to his request under the Public Records Law. In both pleadings, relator requests the St. John District Attorney's Office to produce the following: (1) documentation of his 1999 arrest for forcible rape of a juvenile in Orleans Parish; (2) documentation of New Orleans Police Department Reports concerning the 1999 incident; and (3) documentation of his prior sexual assault record from Orleans Parish filed under seal. According to relator, the requested documents were introduced as other crimes evidence by the State during his trial.¹

A writ application arising in a criminal proceeding is not the proper procedural vehicle to establish a right to records under the Public Records Law. *State ex rel. McKnight v. State*, 98-2258 (La. App. 1 Cir. 12/3/98), 742 So. 2d 894,

¹ Relator is serving a fifty-five-year sentence following his 2018 conviction for forcible rape in violation of La. R.S. 14:42.1 and sentencing as a second-felony offender. See *State v. Evans*, 19-237 (La. App. 5 Cir. 6/3/20), 298 So.3d 394. Forcible rape is now known as second degree rape. See La. R.S. 14:42.1(C).

895, *citing* La. R.S. 44:1, *et seq.* Rather, an individual seeking to examine public records must first make a request to the custodian of the records. *Id.*, *citing* La. R.S. 44:31 and La. R.S. 44:32. Even assuming relator properly asked the district attorney's office for the file, relator's recourse is to institute civil proceedings at the trial court level for a writ of mandamus against the district attorney's office. *See* La. R.S. 44:35(A); *McKnight, supra*. If relator is dissatisfied with the trial court's ruling in the civil proceeding, he may seek a civil appeal. *See* La. R.S. 44:35(C); *McKnight, supra*; *Terrick v Connick*, 22-95 (La. App. 5 Cir. 4/5/22) (unpublished writ disposition) (finding relator's recourse was to institute a civil proceeding at the district court level for mandamus relief, and to seek a civil appeal of any adverse ruling).

In the pending case, relator filed his pleadings seeking relief under the Public Records Law in his criminal case. However, relief under the Public Records Law is a separate cause of action, which should not have been filed in his criminal case.

Accordingly, relator's writ application is denied.

Gretna, Louisiana, this 6th day of November, 2024.

SUS
MEJ
TSM

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



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SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. WISEMAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **11/06/2024** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

24-KH-509

E-NOTIFIED

40th District Court (Clerk)
Honorable J. Sterling Snowdy (DISTRICT JUDGE)
Bridget A. Dinvaut (Respondent)

MAILED

Delcome Evans #429893 (Relator)
Rayburn Correctional Center
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Angie, LA 70426