

Fifth Circuit Court of Appeal State of Louisiana

No. 25-KH-579

ADRIAN M. DUNN

versus

STATE OF LOUISIANA

IN RE ADRIAN M. DUNN

APPLYING FOR SUPERVISORY WRIT FROM THE FORTIETH JUDICIAL DISTRICT COURT, PARISH OF ST JOHN THE BAPTIST, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE NGHANA LEWIS, DIVISION B", No. 00,148

TRUE COPY

February 11, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Susan M. Chehardy,
Fredericka Homberg Wicker, and Stephen J. Windhorst

WRIT GRANTED FOR LIMITED PURPOSE

Relator, Adrian M. Dunn, seeks review of the district court's November 5, 2025 ruling denying his *Motion to Declare La. C.Cr.P. Arts. 383, 435, and 444(b) Unconstitutional*. Relator had filed a previous, nearly identical motion on October 25, 2023 (the "First Motion"), wherein he sought to have La. C.Cr.P. arts. 383, 435 and 444(B) declared unconstitutional on the grounds that they are violative of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution because their original enactment at Louisiana's 1898 Constitutional Convention was racially

motivated.¹ The First Motion was denied by the district court following a hearing on October 10, 2024. Relator's writ application to this Court was denied on January 29, 2025, an application for rehearing was denied on February 24, 2025, and Relator's writ to the Louisiana Supreme Court was not considered. *Dunn v. State*, No. 24-KH-547 (La. App. 5 Cir. 1/29/25), 2025 WL 327367, *reh'g denied*, (La. App. 5 Cir. 2/24/25), *writ not considered*, 25-346 (La. 9/10/25), 415 So.3d 1269.

On July 30, 2025, while his writ application was still pending in the Louisiana Supreme Court, Relator filed the instant motion to declare La. C.Cr.P. arts. 383, 435, and 444(B) unconstitutional, again asserting that these statutes violate the Equal Protection Clause of the Fourteenth Amendment. In the instant motion, however, Relator also asserts that they are violative of the Privileges and Immunities Clause of the Fourteenth Amendment, and that they were preempted by the Civil Rights Act of 1875 when they were enacted and, pursuant to *U.S. v. Fordice*, 505 U.S. 717 (1992), at every reenactment thereafter.² On November 5, 2025, the district court conducted a hearing on the instant motion which, according to Relator, it denied on the ground that the instant motion is duplicative of the First Motion. Relator alleges that he made an oral motion for appeal at the November 5, 2025 hearing but that the district court failed to set a return date.³ He further alleges that

¹ Articles 383, 435 and 444 establish a grand jury structure wherein a grand jury, which must consist of twelve jurors, may indict if nine of them agree. Relator asserts that the Constitution requires unanimous grand jury indictments, just as it requires unanimous petit jury verdicts.

² Section 4 of the Civil Rights Act of 1875 provided that citizens possessing all other qualifications prescribed by law could not be disqualified from service as grand or petit jurors on account of their race, color or previous conditions of servitude.

³ The 40th Judicial District Court's database indicates that Relator filed a Notice of Intent on December 1, 2025, and that the district court set a return date for January 5, 2026. Relator has not attached the Notice of Intent or return date to his filing in this Court, as required by Uniform Rules – Courts of Appeal, Rule 4-3.

although he has asked the district court to provide him with a written judgment and transcript of the November 5, 2025 hearing, the court has not provided them.⁴

Relator filed an “Appeal Brief” with this Court on December 9, 2025. A direct appeal to this Court is improper. Direct appeal of a motion challenging the constitutionality of a statute may be made only to the Louisiana Supreme Court and only when a district court enters a judgment granting the motion and declaring the statute unconstitutional. La. Const. Art. 5, § 5. When a court denies a motion to declare a statute unconstitutional, it has not “adjudged” the statute unconstitutional but instead has refused to make such a determination and an appeal does not lie. *See Paul v. Tabony*, 157 La. 400, 102 So.2d 503 (La. 1924); *Common Cause/Louisiana v. State*, 404 So.2d 1236 (La. 1981). Further, without a written judgment, there is nothing for this Court to review.

Under the circumstances, we grant the instant writ for the following limited purposes:

1. The 40th Judicial District Court, Parish of St. John the Baptist, is hereby **ORDERED** to enter a written judgment on Relator’s *Motion to Declare La. C.Cr.P. Arts. 383, 435, and 444(B) Unconstitutional*, if it has not done so already, within ten days of the date of this Order.

2. The Clerk of the 40th Judicial District Court, Parish of St. John the Baptist, is **ORDERED** to provide this Court and Relator with a copy of the written judgment referenced above.

⁴ The 40th Judicial District Court’s database contains only a minute entry, dated November 5, 2025, stating: “Defendant present in person from jail for *pro se* motion to declare. No defense attorney on record. Attorney Eusi Phillips present for the State. Matter was argued in October of 2024. Court denied motion, related to court judgment and writ. Defense objects. Court will make judgment.”

3. After entry of the written judgment, Relator may seek writs to this Court in compliance with the appropriate Uniform Rules – Courts of Appeal, including Rules 4-2 (Notice of Intent), 4-3 (Return Date), and 4-5, including but not limited to Uniform Rule 4-5(C), which specifies the contents of an application to this Court.

Gretna, Louisiana, this 11th day of February, 2026.

FHW
SMC
SJW

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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CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
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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 **02/11/2026** 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:

A handwritten signature in blue ink, reading "Curtis B. Pursell", is written over a horizontal line.

CURTIS B. PURSELL
CLERK OF COURT

25-KH-579

E-NOTIFIED

40th District Court (Clerk)
Bridget A. Dinvaut (Respondent)

MAILED

Adrian M. Dunn #400765 (Relator)
Louisiana State Penitentiary
Angola, LA 70712