

Fifth Circuit Court of Appeal State of Louisiana

No. 26-KH-229

STATE OF LOUISIANA
VERSUS
JESSE LANDRY

IN RE STATE OF LOUISIANA
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-NINTH JUDICIAL DISTRICT
COURT, PARISH OF ST CHARLES, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
CONNIE M. AUCOIN, DIVISION "C", NUMBER 89,4125

TRUE COPY

August 12, 2026



SUSAN BUCHHOLZ
DEPUTY CLERK

Panel composed of Judges Fredericka Homberg Wicker,
John J. Molaison, Jr., and Scott U. Schlegel

WRIT DENIED

The State seeks supervisory review of the trial court's judgment granting Defendant Jesse Landry's Motion to Set Aside Conviction and Dismiss Prosecution. For the following reasons, we deny the writ application.

BACKGROUND

On May 23, 2023, Defendant pled guilty to first offense DWI in violation of La. R.S. 14:98(A)(1). The trial court sentenced him to six months in parish jail but suspended imposition of the sentence pursuant to La. C.Cr.P. art. 894(A) and placed him on supervised probation for twenty-four months. After completing his probationary period, Defendant sought to clear his record. On September 15, 2025, he filed a Motion for Expungement. The State filed an Affidavit of Response opposing expungement. Upon learning that he needed to have his conviction set

aside and the prosecution dismissed before expungement, Defendant filed a Motion to Set Aside Conviction and Dismiss Prosecution on January 28, 2026.

On April 13, 2026, the trial court held a hearing solely on the motion to set aside conviction and dismiss prosecution. Defendant argued that his motion should be granted because the period of suspension had expired and he had successfully completed the terms of his probation. The State opposed the motion, arguing that Defendant could not set aside his conviction until the expiration of the five-year period set forth in La. C.Cr.P. art. 977. Following the hearing, the trial court granted Defendant's motion, finding that he had satisfied the requirements for setting aside his conviction and dismissing the prosecution. This timely writ application followed.

DISCUSSION

The State's sole assignment of error is that the trial court erred in granting Defendant's Motion to Set Aside Conviction and Dismiss Prosecution before the expiration of the five-year period set forth in La. C.Cr.P. art. 977. The State argues that, because Defendant pled guilty under La. C.Cr.P. art. 894(A) and received a suspended sentence, he is not entitled to have his conviction set aside or his record expunged until that five-year period has elapsed. Accordingly, the State contends that the trial court prematurely set aside Defendant's conviction. We disagree.

La. C.Cr.P. art. 977 applies to motions for expungement, not motions to set aside convictions and dismiss prosecutions.¹ Defendant was entitled to seek to have

¹ La. C.Cr.P. art. 977(A) provides that:

A person may file a motion to expunge his record of arrest and conviction of a misdemeanor offense if either of the following apply:

- (1) The conviction was set aside and the prosecution was dismissed pursuant to Article 894(B) of this Code.
- (2) More than five years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole, and the person has not been convicted of any felony offense during the five-year period, and has no felony charge pending against him. The motion filed

his conviction set aside and the prosecution dismissed pursuant to La. C.Cr.P. art. 894, including Article 894(A)(5), which provides:

At the time that any defendant petitions the court to set aside any plea for operating a vehicle while intoxicated pursuant to this Article, the court shall order the clerk of court to mail to the Department of Public Safety and Corrections, office of motor vehicles, a certified copy of the record of the plea, fingerprints of the defendant, and proof of the requirements as set forth in Code of Criminal Procedure Article 556.1 which shall include the defendant's date of birth, social security number, and driver's license number. An additional fifty dollar court cost shall be assessed at this time against the defendant and paid to the Department of Public Safety and Corrections, office of motor vehicles, for the costs of storage and retrieval of the records.

(Emphasis added).

At the hearing, the trial court found that Defendant had not been convicted of any other offense during the period of suspension and that no criminal charges were pending against him. Additionally, the court found that it had received proof, in the form of a certified letter from the Department of Public Safety and Corrections, that the requirements of La. C.Cr.P. art. 894(A)(5) had been satisfied. Moreover, the court explained that nothing in La. C.Cr.P. art. 894 required Defendant to wait five years before filing a motion to set aside a conviction and dismiss prosecution. Accordingly, the trial court signed an order setting aside Defendant's conviction and dismissing the prosecution. We find no error in the trial court's ruling.

CONCLUSION

For these reasons, we deny the writ application.

Gretna, Louisiana, this 12th day of August, 2026.

FHW
JJM
SUS

pursuant to this Subparagraph shall include a certification obtained from the district attorney which verifies that to his knowledge the applicant has no felony convictions during the five-year period and no pending felony charges under a bill of information or indictment.

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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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 **08/12/2026** 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:

CURTIS B. PURSELL
CLERK OF COURT

26-KH-229

E-NOTIFIED

29th Judicial District Court (Clerk)
Honorable Connie M. Aucoin (DISTRICT JUDGE)
Steven F. Griffith, Sr. (Respondent)

MAILED

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