

STATE OF LOUISIANA

NO. 22-K-455

VERSUS

FIFTH CIRCUIT

SHAWN BRISCOE AND LANCE MCINTYRE


COURT OF APPEAL

STATE OF LOUISIANA

September 23, 2022

Linda Wiseman
First Deputy Clerk

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


Linda Wiseman
First Deputy, Clerk of Court

IN RE STATE OF LOUISIANA

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE DONALD L. FORET,
DIVISION "H", NUMBER 16-5524

Panel composed of Judges Susan M. Chehardy,
Fredericka Homberg Wicker, and John J. Molaison, Jr.

WRIT GRANTED

The State and the defendant Lance McIntyre seek review of the trial court's denial of their joint motion to continue the trial of this matter, which is set for September 26, 2022. Counsel for McIntyre states that he is not available for trial on September 26, 2022 as he has another criminal trial set in a different jurisdiction for that date. In addition, the writ application and corresponding exhibits indicate that the State also intends to file a writ application from the trial court's September 20, 2022 judgment denying the introduction of certain DNA evidence. The exhibits to this writ application indicate that the trial court had previously set a "backup trial date" of November 14, 2022. Given the fact that defense counsel for McIntyre is unavailable for trial on September 26, 2022, the time required for the State to adequately prepare a writ application to seek review of the exclusion of certain DNA evidence following the two day Daubert hearing, and a backup date having previously been set for this trial, this writ application is granted. It is hereby ordered that the trial currently set for September 26, 2022 is continued until November 14, 2022.

The State further requests that this Court compel the production of the transcripts of the hearings held on September 19 and 20, 2022. In conjunction with the filing of this writ application, the trial judge filed a "Motion for Leave of Court to Supplement and Respond to Fifth Circuit's Order, Dated September 22, 2022," seeking to supplement the record with portions of the transcripts of September 19 and 20, 2022. The referenced order was in response to the motion filed by the State under docket number 22-KM-445 in which this Court denied the State's request to compel the production of the September 19 and 20, 2022 transcripts. The trial judge's motion references the voluminous nature of these transcripts and

explains the court's efforts to timely produce the transcripts. As this Court has now ordered the trial continued and the trial judge has in his motion stated that the complete transcripts are in the process of being prepared and that portions of the transcripts have been already forwarded to the district attorney's office, it is ordered that the complete transcripts of the hearings held on September 19 and 20, 2022 be delivered to the district attorney's office on or before September 29, 2022 at 5 p.m. Further, considering that these transcripts are necessary for preparation and consideration of the writ application seeking review of the trial court's September 20, 2022 judgment, we grant an extension of the September 23, 2022 return date, and set a new return date of October 7, 2022, for the filing of any writ application seeking review of the trial court's September 20, 2022 judgment.

Gretna, Louisiana, this 23rd day of September, 2022.

JJM
SMC
FHW

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
ROBERT A. CHAISSON
STEPHEN J. WINDHORST
HANS J. LILJEBERG
JOHN J. MOLAISSON, JR.

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
INTERIM CHIEF DEPUTY CLERK

LINDA M. WISEMAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

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 **09/23/2022** 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

22-K-455

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Donald L. Foret (DISTRICT JUDGE)
Anna L. Friedberg (Respondent)

Thomas J. Butler (Relator)
Darren A. Allemand (Relator)

MAILED

Anthony J. Angelette, Jr. (Respondent)
Attorney at Law
401 Whitney Avenue
Suite 406
Gretna, LA 70053

Honorable Donald L. Foret (Respondent)
Judge Division "H"
24th Judicial District Court
5th Floor, Suite 5600
Gretna, LA 70053

Honorable Paul D. Connick, Jr. (Relator)
District Attorney
Twenty-Fourth Judicial District
200 Derbigny Street
Gretna, LA 70053

9/23/22

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Anthony J. Angelette, Jr.
 Attorney at Law
 401 Whitney Avenue, Suite 406
 Gretna, LA 70053
 22-K-455 09-23-22



9590 9402 2434 6249 3637 58

2. Article Number (Transfer from service label)

7016 2070 0000 0954 6991

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

[Handwritten Signature]

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

9/30/22

- D. Is delivery address different from item 1? Yes**
If YES, enter delivery address below: No

SECURITY

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Registered Mail
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery