

**STATE OF LOUISIANA**  
**COURT OF APPEAL, FIRST CIRCUIT**

STATE OF LOUISIANA

NO. 2018 KW 1085

VERSUS

DARRELL HAMPTON

**OCT 29 2018**

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In Re: Darrell Hampton, applying for supervisory writs, 21st Judicial District Court, Parish of Livingston, No. 015994.

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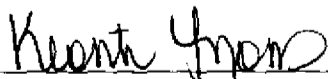
**BEFORE: GUIDRY, THERIOT, AND PENZATO, JJ.**

**WRIT GRANTED.** Taking into account the circumstances of the petitioner, the district court erred by sustaining the state's procedural objections and denying the application for DNA testing. Accordingly, the ruling sustaining the state's procedural objections and denying the application for DNA testing is reversed, and this matter is remanded for a hearing at which the district court will address the diligence factors, and will afford the state the opportunity to show that delay caused by events not under its control have prejudiced its ability to respond to, negate, or rebut the allegations of the application for postconviction relief. See La. Code Crim. P. art. 930.8 (A) & (B). If the State does not make this showing, the district court shall determine on the merits whether the State suppressed material exculpatory information in violation of the rule of **Brady v. Maryland**, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963) and its progeny. Furthermore, the district court is ordered to conduct a hearing on the merits of relator's DNA request in the context of determining whether material susceptible to DNA testing still exists. **State ex rel. Randolph v. State**, 2002-1372 (La. 5/9/03), 847 So.2d 1183.

**JMG**  
**AHP**

**Theriot J.**, agrees with the majority's decision to remand the matter to the district court to address the diligence factors but dissents as it concerns relator's request for DNA testing.

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DEPUTY CLERK OF COURT  
FOR THE COURT