

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JOHN A. MORAN

CIVIL ACTION

VERSUS

NO. 11-2240

HARRY CONNICK, SR., ET AL.

SECTION "N" (1)

ORDER AND REASONS

Presently before the Court is the "Motion to Dismiss Second Amended Complaint and, Alternatively, for More Definite Statement Pursuant to Rule 9" (Rec. Doc. 35) filed by Defendants Harry Connick, Sr., in his prior official capacity as the District Attorney for the Parish of Orleans, and individually; Leon Cannizzaro, Jr., in his official capacity as the current District Attorney for the Parish of Orleans; the Orleans Parish District Attorney's Office; Donna R Andrieu, in her official capacity as an Assistant District Attorney for the Parish of Orleans, and individually; Camille Buras, in her prior official capacity as an Assistant District Attorney for the Parish of Orleans, and individually;¹ Stephen Laiche, in his official capacity as an Assistant District Attorney for the Parish of Orleans, and individually; Jack Peebles, in his prior official capacity as an Assistant District Attorney for the Parish of Orleans, and individually; and Valentin Solino, in his prior official capacity as an Assistant District Attorney for the Parish of Orleans, and individually (hereinafter collectively referred to as the "DA Defendants"). The Court rules on the motion as stated herein.

¹ On November 29, 2011, Plaintiff dismissed any claims asserted against Camille Buras in her capacity as a judge. *See* Rec. Docs. 14 and 15.

BACKGROUND

In 1983, following a jury trial in Louisiana state court, Plaintiff, John Moran, was found to be guilty of the murder of Janelle Cuccia, and sentenced to life imprisonment. The Louisiana Fourth Circuit Court of Appeal affirmed his conviction; the Louisiana Supreme Court denied writs. *See State v. Moran*, 451 So. 2d 48 (La. Ct. App. 4th Cir.), *writ denied*, 456 So. 2d 165 (La. 1984). Thereafter, Plaintiff filed a number of unsuccessful applications for post-conviction relief in state court, as well as at least one unsuccessful application for relief, pursuant to 28 U.S.C. §2254, in federal court.² Although an additional application for post-conviction relief, filed in 2011, is pending in state court, Plaintiff's conviction presently is intact and he remains incarcerated.³

In the instant matter, Plaintiff seeks an award of monetary damages under 42 U.S.C. § 1983 and Louisiana tort law. In support of his claim, Plaintiff contends that he did not commit the crime of which he was convicted, and that Defendants, intentionally and by conspiracy, suppressed exculpatory evidence in connection with his trial, appeal, and applications for post-conviction relief, in violation of his constitutional rights.

² *See Moran v. Stalder*, No. 96-707 (E.D. La. 1996).

³ Plaintiff's submission of docket information for the pending state court action ends on November 15, 2011. *See* Second Amended Complaint (Rec. Doc. 33), ¶25 and Exhibit 5 (Rec. Doc. 33-5). The Orleans Parish Criminal District Court's Docket Master, however, reveals a number of events occurring thereafter, including a post-conviction hearing held, and post-hearing briefing ordered, on February 5, 2013. *See* Docket Master for *State v. John A. Moran*, Case No. 293918, Criminal District Court, Parish of Orleans, State of Louisiana, which is attached hereto as Exhibit "A". Plaintiff filed his post-evidentiary hearing memorandum on March 19, 2013; a response apparently is due within 30 days thereafter. *Id.*

LAW AND ANALYSIS

Despite Plaintiff having twice amended his complaint, the Court finds his allegations against the DA Defendants still fail to state a claim for which legal relief can be provided. As presented, Plaintiff's allegations, if true, call into question the legal validity of his conviction. As such, his claims under §1983 remain premature unless and until such time that his conviction is "reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such a determination, or called into question by a federal court's issuance of a writ of habeas corpus." *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994); *Hudson v. Hughes*, 98 F.3d 868, 872-73 (5th Cir. 1996); *Johnson v. Louisiana*, No. 09-55, 2010 WL 996475, *5-6 (W.D. La. 3/16/10); *Wilkerson v. Lanier*, No. 06-3044, 2006 WL 2135224, *8-7 (E.D. La. 7/27/06).

With respect to his state law claims, Plaintiff purportedly brings "causes of action under [Louisiana Civil Code Articles] 2315, 2316, et seq., including but not limited to tort claims, fraud, deceit, fraudulent conspiracy, and consummation of fraudulent conspiracy." *See* Second Amended Complaint (Rec. Doc. 33), ¶13. Such a general allegation, however, does not provide sufficient notice of Plaintiff's state law claims. To the extent that Plaintiff asserts claims premised upon a termination of another legal proceeding in Plaintiff's favor, *e.g.*, malicious prosecution, such claims likewise are premature as long as Plaintiff's conviction remains in place. Additionally, Plaintiff's allegations of ongoing fraud, as presently presented, fail to provide sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

As explained by the Supreme Court:

[Facial plausibility exists] when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Id.* The plausibility standard is not akin to a probability requirement, but it asks for more than a sheer possibility that a defendant has acted unlawfully. Factual allegations that are “merely consistent with a defendant’s liability, stop short of the line between possibility and plausibility of entitlement to relief, and thus are inadequate. Rather, a complaint’s allegations must make relief plausible, not merely conceivable, when taken as true.

Iqbal, 556 U.S. at 678. Although Plaintiff’s allegations are lengthy, often unnecessarily repetitive, and in some respects, very detailed, key information regarding the essential “who, what, when, where, and how” of the alleged fraud, and resulting injury, appears to be missing or, in any event, is stated in such a manner that it is, as a practical matter, unintelligible. *See, e.g., United States ex rel. Steury v. Cardinal Health, Inc.*, 625 F.3d 262, 266 (5th Cir. 2010)(Rule 9(b) of the Federal Rules of Civil Procedure generally require a party alleging fraud to set forth the “who, what, when, where, and how” of the alleged fraud; *see also Sullivan v. Leor Energy, LLC*, 600 F.3d 542, 550-51 (2010) (claimant must "specify the statements contended to be fraudulent, identify the speaker, state when and where the statements were made, and explain why the statements were fraudulent").

For instance, Plaintiff complains about the alleged unlawful and secret release of trial evidence to a third party, which purportedly prevented him from ordering DNA testing in connection with his appeal. *See* First and Second Amended Complaints (Rec. Docs. 7 and 33). Plaintiff’s allegations on this subject, however, do not indicate whether Plaintiff was aware of this evidence during the trial, or whether Plaintiff sought DNA testing prior to his conviction, and if not, why. Pertinent dates regarding Plaintiff’s appeal, including the completion of briefing, likewise are not apparent. Nor is it clear to the Court how an order granting a motion seeking release of evidence

could be both “executed” and “kept [] secret” from the judge and never revealed to Plaintiff or his counsel.” See Second Amended Complaint (Rec. Doc. 33) at ¶¶ 1-13. Finally, the Court is not apprised of the specific contents of the alleged motion or order.

Similarly, Plaintiff avers that on November 18, 2011, certain DA Defendants produced some items of *Brady*⁴ evidence that, if produced in 2005, would have proven Plaintiff’s innocence and allowed his release from prison. See Second Amended Complaint (Rec. Doc. 33) at ¶¶ 15-4, 38-43. Although fraud may be alleged on information and belief if the “facts relating to the fraud are peculiarly within the perpetrator’s knowledge,” the complaint nevertheless “must set forth a factual basis for such belief.” *United States ex rel. Thompson v. Columbia/HCA Healthcare Corp.*, 125 F.3d 899, 903 (5th Cir. 1998). It is not clear to the Court whether Plaintiff previously had any awareness of the existence of this particular information or asked for it. Plaintiff’s pleadings likewise do not indicate whether any explanation was given by pertinent DA Defendants as to why the evidence in question never was previously produced, what that explanation was, and why the evidence purportedly was not previously found in the prosecution’s files. Presumably some, if not all, of this information either has been or will be fleshed out during the course of Plaintiff’s ongoing state court proceeding for post-conviction relief. As mentioned in note 3, *supra*, however, Plaintiff has provided the Court with very little information, particularly as to more recent developments, concerning that action.

Further, in addition to the problems described above, Plaintiff’s §1983 claims against the DA Defendants in their individual capacities, as presently stated, are legally barred by absolute prosecutorial immunity. See, e.g., *Van de Kamp v. Goldstein*, 555 U.S. 335, 340-49 (2009)(quoting

⁴ *Brady v. Maryland*, 373 U.S. 83 (1963).

Imbler v. Pachtman, 424 U.S. 409, 430 (1976)(prosecutor absolutely immune from individual liability under §1983 regarding conduct “intimately associated with the judicial phase of the criminal process,” including supervision and training of junior prosecutors regarding disclosure of potential impeachment evidence); *see also, e.g., Cousin v. Small*, 325 F.3d 627, 631-37 (5th Cir.), *cert. denied*, 540 U.S. 825 (2003); *Hudson*, 98 F.3d at 873; *Carter v. Burch*, 34 F.3d 257, 263 (4th Cir. 1994), *cert. denied*, 513 U.S. 1150 (1995); *Johnson v. Louisiana*, No. 09-55, 2010 WL 996475, *9-10 (W.D. La. 3/16/10); *Smith v. City of New Orleans*, No. 95-0821, 1996 WL 39424, *2-3 (E.D. La. 1/30/96). The same is true with respect to Plaintiff’s state law claims against the DA Defendants, in both their official and individual capacities. *See Spikes v. Phelps*, 131 Fed. Appx. 47, 49, 2005 WL 984224, *1 (5th Cir. 2005)(unpub.); *Burrell v. Adkins*, No. 01-2689, 2007 WL 4699169, *14-15 (W.D. La. 10/23/07)(Report and Recommendation), *adopted as modified* by 2008 WL 130800 (W.D. La. Jan 10, 2008); *Knapper v. Connick*, 681 So.2d 944, 946-50 (La. 1996); *Godfrey v. Reggie*, 94 So.3d 82, 91-92 (La. Ct. App. 3rd Cir. 2012); *Sinclair v. Louisiana Dept. of Corrections*, 769 So. 2d 1270, 1271-72 (La. Ct. App. 1st Cir. 2000), *writ denied*, 806 So. 2d 665 (La. 2002); *Connor v. Reeves*, 649 So. 2d 803, 804-06 (La. Ct. App. 2nd Cir. 1995)(district attorney sued in individual and official capacities held immune).

Finally, given the foregoing, and on the showing made, even if Plaintiff’s conviction eventually is set aside by the Louisiana state courts, and his other pleading shortcomings cured, only the current and former District Attorneys for the Parish of Orleans, solely in their official capacities, would be properly named as DA Defendants relative to Plaintiff’s §1983 claim. *See, e.g., Kentucky v. Graham*, 473 U.S.159, 165-66 (1985) (“an official-capacity [§1983] suit is, in all respects other than name, to be treated as a suit against the [government] entity,” which has no personal immunity);

Truvia v. Julien, 187 Fed. Appx. 346, 350, 2006 WL 1675116, *3 (5th Cir. 2005)(unpub.)(citing *Burge v. Parish of St. Tammany*, 187 F.3d 452, 468 (5th Cir. 1999) (Louisiana District Attorneys, not Assistant District Attorneys, are “final policymakers” for purposes of official capacity claims under §1983); *Spikes*, 131 Fed. Appx. at 48, 2005 WL 984224, *1 (liability in §1983 action, “based on official capacity, runs against the local government entity, not the individual defendant”)(citing *Monell v. Dept. of Social Services*, 436 U.S. 658, 691 (1978)); *Johnson*, No. 09-55, 2010 WL 996475, *9-13.

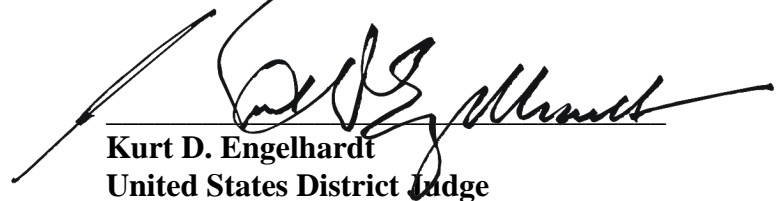
Accordingly, for the reasons stated herein, **IT IS ORDERED** that:

(1) Plaintiff’s claims under §1983 against Defendant Harry Connick, Sr., in his prior official capacity as the District Attorney for the Parish of Orleans, and Defendant Leon Cannizzaro, Jr., in his official capacity as the current District Attorney for the Parish of Orleans, are dismissed without prejudice;

(2) Plaintiff’s §1983 claims against the DA Defendants in their individual capacities are dismissed with prejudice; and

(3) Plaintiff’s state law claims against the DA Defendants, in both their official and individual capacities, are dismissed with prejudice.

New Orleans, Louisiana, this 26th day of March 2013.


Kurt D. Engelhardt
United States District Judge

Case: 293918 D O C K E T M A S T E R Date: 03/25/2013
 Section: H/F/A/G/H/G/H/A Time: 12:07:36
 Class: 2

ORLEANS PARISH CRIMINAL DISTRICT COURT

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DF# DEFENDANT(S):          CNTS CHARGE(S):
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1 MORAN, JOHN A

1 RS 14 30.1(A)(1)          BOND: 250,000.00
2ND DEGREE MURDER SPECIFIC INTENT
  
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DATE      PROCEEDINGS
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01/06/1983          MOTENC
FILED INDICTMENT
A TRUE BILL
CAPIAS ISSUED
BOND SET $ 250,000.00
MAGISTRATE PAPERWORK FILED (M130349 // DOB 10.17.1953

07/26/2011          WELCHP
AS TO DEFENDANT JOHN MORAN: COURT REC'D CORRESPONDENCE DATED
7/26/11 REQUESTING SUBPOENAS BE ISSUED FOR WITNESSES TO APPEAR
8/18/11 IN THIS MATTER; GRANTED.
CLERK OF COURT PLEASE ISSUE SUBPOENAS TO ALL LISTED ON DEFENSE'S
CORRESPONDENCE DATED 7/26/11 TO APPEAR 8/18/11 IN THIS MATTER.

08/12/2011          WELCHP
AS TO DEFENDANT JOHN MORAN: ATTORNEY, JAMES SHIELDS, FILED:
SUPPLEMENTAL MEMORANDUM IN SUPPORT OF MOTION FOR NEW TRIAL.

08/16/2011          WELCHP
AS TO DEFENDANT JOHN MORAN:
ADA, DONNA ANDRIEU PRESENT ON BEHALF OF THE STATE AND MOVED THE
COURT TO VACATE THIS MATTER SET 8/18/11 FOR EVIDENTIARY HEARING
IN SECTION "G" AS THIS A SECTION "H" MATTER. THIS IS MOOT ON
SECTION G'S DOCKET. THIS MATTER SET 8/18/11 FOR EVIDENTIARY
HEARING IS VACATED AND SET ASIDE.

08/22/2011          WELCHP
COURT REQUESTED COUNSEL FOR THE DEFENDANT, MR JAMES SHIELDS &
COUNSEL FOR THE STATE MS. DONNA ANDRIEU, CHIEF OF APPEALS FOR
THE ORLEANS PARISH DISTRICT ATTORNEY, MAKE AN APPEARANCE IN COURT
IN THE ABOVE CAPTIONED CASE. THE COURT STATED THE COURT RECORD
HAD NO INDICATION OF WHY THE CASE HAD BEEN DOCKETED IN SECTION
"G". NEITHER THE STATE OR DEFENSE HAVE EVER FILED A MOTION TO
RECUSE, NOR HAS THE COURT SUA SPONTE EVER RECUSED ITSELF FROM
THIS CASE. THE STATE INDICATED THAT IN LIGHT OF THE FACT THAT
ONLY SECTION "H" HAS JURISDICTION IN THIS CASE, ALL OTHER MATTERS
SET IN SECTION "G" WOULD BE PETITION TO BE VACATED FOR LACK OF
JURISDICTION.

09/23/2011          WELCHP
ATTY. JAMES SHIELDS APPEARED WITHOUT DEFENDANT. STATE REPRESENTED
BY DONNA ANDRIEU. DEFENSE FILED MOTION FOR VIEWING OF EVIDENCE
& PRODUCTION OF PLEADINGS PURSUANT OT LA.C.CR.P.ART.672. THE
COURT HEREBY RECUSES ITSELF DUE TO THE DEFENDANT NAMING THE
HONORABLE CAMILLE BURAS AS A DEFENDANT IN LITIGATION CURRENTLY
PENDING IN THE EASTERN DISTRICT OF LA.
CLERKS OFFICE ORDERED TO RE-ALLOT CASE UNDER RULES OF COURT.

09/28/2011          MOTENC
FILE REALLOTTED TO SECTION ( F ).

09/29/2011          HEISERD
CASE RECEIVED IN SECTION "F" THIS DATE, STATUS HEARING SET FOR
09/30/11.

09/30/2011          DESALVOE
>DEFENDANT, JOHN A MORAN DID NOT APPEAR FOR STATUS HEARING
>COURT RECUSED ITSELF. THE VICTIM IS THE COUSIN OF THE COURT
REPORTER IN THIS SECTION. >CONTINUED WITHOUT DATE.

10/03/2011          MOTENC
FILE REALLOTTED TO SECTION - A.

10/06/2011          SARDIEY
>DEFENDANT, JOHN A MORAN DID NOT APPEAR. >ARRAIGNMENT SET FOR
10/18/11 STATE TO WRIT DEFENDANT IN FROM HUNT'S CORRECTIONAL
FACILITY.

10/12/2011          SARDIEY
>DEFENSE COUNSEL JAMES SHIELDS APPEARED WITHOUT DEFENDANT, JOHN
A MORAN FOR MOTIONS FILED -DEFENSE FILED MOTION FOR VIEWING OF
EVIDENCE AND PRODUCTION OF PLEADINGS AND ORDER. >HEARING SET
FOR 10/24/11

10/16/2011          WARREN
CASE RECEIVED IN SECTION "A"
  
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Exhibit "A"

10/18/2011 SARDIEY
>DEFENDANT, JOHN A MORAN DID NOT APPEAR. SET IN ERROR. >NO NEW DATE IS SET.

10/24/2011 SARDIEY
>DEFENSE COUNSEL JAMES SHIELDS APPEARED WITHOUT DEFENDANT, JOHN A MORAN FOR HEARING DEFENSE FILED: -MOTION AND ORDER FOR POST-CONVICTION RELIEF. -MOTION FOR VIEWING OF EVIDENCE AND PRODUCTION OF PLEADINGS AND ORDER. COURT ORDERS THE CLERK OF COURT TO PRODUCE MICRO-FISH COPIES OF THE COURT RECORD IN THIS MATTER. COURT ORDERED THE STATE TO PRODUCE THEIR FILES AND TO NOT REMOVE ANYTHING FROM THE FILED. >POST CONVICTION HEARING SET FOR 12/02/11

11/09/2011 SARDIEY
>DEFENSE COUNSEL JAMES SHIELDS APPEARED WITHOUT DEFENDANT, JOHN A MORAN FOR MOTIONS FILED -DEFENSE FILED AMENDED APPLICATION FOR POST-CONVICTION RELIEF UNDER CCRP ART. 930.8, FOR APPEAL OUT OF TIME, AND FOR EVIDENTIARY HEARING. >NO NEW DATE IS SET.

11/10/2011 SARDIEY
>DEFENSE COUNSEL JAMES SHIELDS APPEARED WITHOUT DEFENDANT, JOHN A MORAN FOR MOTIONS FILED >POST CONVICTION HEARING SET FOR 12/02/11 >SEND SUBPOENA NOTICES TO: -HONORABLE JUDGE JAMES F MCKAY, III COURT OF APPEAL 4TH CIRCUIT, DISTRICT 1 400 ROYAL STREET NEW ORLEANS, LA 70130 -HONORABLE JUDGE CAMILLE BURAS ORLEANS CRIMINAL DISTRICT COURT 2700 TULANE AVENUE, SECTION H NEW ORLEANS, LA 70119 -JACK PEEBLES 323 W. WILLIAM DAVID PKWY. METAIRIE, LA 70005 -DONALD J CUROLE 202 BLACKFIN CV. SLIDELL, LA 70458-9114 -RALPH S WHALEN, JR, ESQUIRE ENERGY CENTRE 1100 POYDRAS STREET, SUITE 2950 NEW ORLEANS, LA 70163-1133 -ASSISTANT DISTRICT ATTORNEY DONNA ANDRIEU 619 SOUTH WHITE STREET NEW ORLEANS, LA 70119 -ASSISTANT DISTRICT ATTORNEY VALENTIN M SOLINO 600 GORDON AVENUE HARAHAN, LA 70123 -ASSISTANT DISTRICT ATTORNEY STEPHEN L LAICHE THROUGH THE ORLEANS DISTRICT ATTORNEY'S OFFICE 619 SOUTH WHITE STREET NEW ORLEANS, LA 70119 -JOHN MORAN #102916 THROUGH THE WARDEN, HOWARD PRINCE GIA ELAYN HUNT CORRECTIONAL CENTER POST OFFICE BOX 174 ST. GABRIEL, LA 70776 -TIFFANY DANA THROUGH THE ORLEANS CRIMINAL CLERK'S OFFICE ARTHUR A MORRELL 2700 TULANE AVENUE, ROOM 115 NEW ORLEANS, LA 70119 -RHONDA MYLES THROUGH THE ORLEANS CRIMINAL CLERK'S OFFICE ARTHUR A MORRELL CLOSED RECORDS DEPARTMENT 2700 TULANE AVENUE, ROOM 115 NEW ORLEANS, LA 70119 -WARREN SPEARS THROUGH THE ORLEANS CRIMINAL CLERKS' OFFICE ARTHUR A MORRELL PROPERTY DEPARTMENT 2700 TULANE AVENUE, ROOM 115 NEW ORLEANS, LA 70119

11/15/2011 SARDIEY
>DEFENSE COUNSEL JAMES SHIELDS APPEARED WITHOUT DEFENDANT, JOHN A MORAN FOR MOTIONS FILED >EVIDENTIARY HEARING SET FOR 12/02/11 >SEND SUBPOENA NOTICES TO: -HARRY F CONNICK SR 311 AUDUBON BOULEVARD NEW ORLEANS, LA 70125 -MR. ARTHUR A MORRELL CRIMINAL DISTRICT COURT PARISH OF ORLEANS 2700 TULANE AVENUE NEW ORLEANS, LA 70119 -HONORABLE RONAL W SERPAS SUPERINTENDENT OF POLICE NEW ORLEANS POLICE DEPARTMENT 715 SOUTH BROAD STREET NEW ORLEANS, LA 70119

11/23/2011 TROSCLAIR
CLERK'S OFFICE RECEIVED DEFENSE EXPEDITED MOTION FOR PROTECTIVE ORDER. (AS TO J.MORAN)

11/30/2011 SARDIEY
>DEFENDANT, JOHN A MORAN DID NOT APPEAR FOR MOTIONS FILED -STATE FILED IT'S PROCEDURAL OBJECTIONS TO PETITIONER'S FOURTH APPLICATION FOR POST-CONVICTION RELIEF. >NO NEW DATE IS SET.

12/02/2011 TROSCLAIR
CLERK'S OFFICE RECEIVED DEFENSE MOTION TO COMPEL PRODUCTION OF DOCUMENTS, PURSUANT TO PUBLIC RECORDS ACTS, FREEDOM OF INFORMATION ACT AND INCORPORATED MEMORANDUM IN SUPPORT. (AS TO J.MORAN)
>DEFENSE COUNSEL JAMES SHIELDS APPEARED WITHOUT DEFENDANT, JOHN A MORAN FOR EVIDENTIARY HEARING >NO NEW DATE IS SET.
>DEFENSE COUNSEL JAMES SHIELDS APPEARED WITHOUT DEFENDANT, JOHN A MORAN FOR POST CONVICTION HEARING DEFENSE FILED: -MOTION TO COMPEL PRODUCTION OF DOCUMENTS, PURSUANT TO PUBLIC RECORDS ACT, FREEDOM OF INFORMATION ACT AND INCORPORATED MEMORANDUM IN SUPPORT. THE COURT: -DENIED THE STATE'S PROCEDURAL OBJECTIVE. STATE MAY REFILE. -GRANTED REQUEST FOR EXTENSION OF TIME TO MAKE APPLICATION MORE COMPLETE. -ORDERED THE STATE TO LOOK FOR EVIDENCE TO SEE IF POSSIBLE FOR DNA TESTING. -ORDERED LAWYERS TO REVIEW FEDERAL COURT SUIT TO SEE IF JUDGE WHITE HAS TO RECUSE HERSELF. >POST CONVICTION HEARING SET FOR 01/09/12

01/09/2012 WARREN
>CONTINUED WITHOUT DATE. >NOTIFY DEF.COUNSEL.

01/10/2012 TROSCLAIR
CLERK'S OFFICE RECEIVED DEFENDANT'S OPPOSITION TO STATE'S PROCEDURAL OBJECTIONS TO PETITIONER'S APPLICATION FOR POST

02/01/2012 CONVICTION RELIEF.(AS TO J.MORAN) TROSCLAIR
CLERK'S OFFICE RECEIVED SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
DEFENDANT'S OPPOSITION TO STATE'S PROCEDURAL OBJECTIONS TO
PETITIONER'S APPLICATION FOR POST CONVICTION RELIEF.
(AS TO J.MORAN)

03/28/2012 WARREN
>DEFENDANT, JOHN A MORAN DID NOT APPEAR FOR FILING(S) IN OPEN
COURT ORDER OF THE COURT AFTER REVIEW OF SUCH, THIS COURT FINDS
THAT THE SUPPLEMENTAL CLAIM RAISES AN ISSUE OF FACT WHICH, IF
ESTABLISHED, MAY ENTITLE PETITIONER TO RELIEF. THEREFORE, IT IS
HEREBY ORDERED THAT THE DISTRICT ATTORNEY ANSWER PETITIONER'S
SECOND SUPPLEMENTAL MEMORANDUM IN COMPLIANCE WITH LA.C.CR.P.
ART 927 WITHIN 30 DAYS OF THIS ORDER. >NO NEW DATE IS SET.

05/08/2012 TROSCLAIR
CLERK'S OFFICE RECEIVED STATE'S PROCEDURAL OBJECTIONS LODGED IN
COMPLIANCE WITH THIS COURT'S ORDER DATED MARCH 28,2012; AND
STATE'S ATTEMPT TO PROVIDE A COHERENT STATEMENT OF THE
PROCEDURAL HISTORY OF THIS CASE.(AS TO J.MORAN)

05/16/2012 TROSCLAIR
CLERK'S OFFICE RECEIVED DEFENSE APPLICANT'S RESPONSE TO STATE'S
PROCEDURAL OBJECTIONS LODGED IN COMPLIANCE WITH THIS COURT'S
ORDER DATED MARCH 28,2012.(AS TO J.MORAN)

07/13/2012 WARREN
>DEFENSE COUNSEL JIM SHEILDS APPEARED WITHOUT DEFENDANT, JOHN A
MORAN FOR UNSCHEDULED JUDICIAL ACTIVITY >RULING SET FOR
08/01/12 >NOTIFY DEF.COUNSEL.

07/31/2012 TROSCLAIR
CLERK'S OFFICE RECEIVED PETITION AND ORDER FOR WRIT OF HABEAS
CORPUS AD PROSEQUENDUM.(AS TO J.MORAN)

08/01/2012 WARREN
>DEFENSE COUNSEL JIM SHEILDS APPEARED WITHOUT DEFENDANT, JOHN A
MORAN FOR RULING >RULING SET FOR 08/03/12

08/03/2012 WARREN
>DEFENDANT, JOHN A MORAN APPEARED WITH COUNSEL, JIM SHEILDS FOR
RULING >CONTINUED ON STATE MOTION >RULING SET FOR 08/10/12
>NOTIFY DEF.COUNSEL.

08/10/2012 WARREN
>DEFENSE COUNSEL JIM SHEILDS APPEARED WITHOUT DEFENDANT, JOHN A
MORAN FOR FILING(S) IN OPEN COURT KYLE DALY APPEARED BEFORE
COURT FOR THE STATE. >STATE FILED PROPERTY INTAKE RECEIPT ONE
ENVELOPE INCLUDING PHOTOS AND MEDICAL RECORDS. NOTE: NO
PHYSICAL EVIDENCE JACKET,KNIFE, SHEATH CONTAINED IN ENVELOPE
>THE DEFENDANT, JOHN A MORAN APPEARED FOR RULING WITH COUNSEL,
JIM SHEILDS THE DEFENDANT APPEARED VIA VIDEO LINK KYLE DALY
APPEARED BEFORE COURT FOR THE STATE PINKEY FERDINAND COURT
REPORTER COURT ISSUED RULING UPON REVIEW OF THE ABOVE MENTIONED
PLEADINGS, THIS COURT FINDS THAT THERE SHOULD BE A HEARING ON
THIS MATTER SO THAT THE STATE AND THE PETITIONER MAY PRESENT
ARGUMENTS ON IF AND/OR WHEN THE STATE KNEW ABOUT THE VARIOUS
EVIDENCE TURNED OVER TO THE DEFENSE ON NOVEMBER 18, 2011 AND IF
AND/OR THIS EVIDENCE WAS EVER PREVIOUSLY DISCLOSED TO THE
DEFENSE AND/OR PETITIONER ARRANGEMENTS WILL BE MADE BY THE
COURT FOR THE PETITIONER TO APPEAR FOR THE HEARING THE HEARING
VIA VIDEO LINK. >RULING SET FOR 08/31/12 >NOTIFY DEF.COUNSEL.

08/22/2012 TROSCLAIR
CLERK'S OFFICE RECEIVED MEMORANDUM IN RESPONSE TO DISTRICT
COURT'S ORDER REGARDING ALLEGED NEWLY DISCOVERED EVIDENCE.
(AS TO J.MORAN)

09/04/2012 WARREN
>DEFENDANT JOHN A MORAN DID NOT APPEAR FOR UNSCHEDULED JUDICIAL
ACTIVITY COURT CLOSED DUE TO HURRICAN ISAAC >RULING SET FOR
09/24/12 >SEND NOTICE TO DEFENSE COUNSEL JIM SHEILDS

09/06/2012 WARREN
>DEFENDANT, JOHN A MORAN DID NOT APPEAR FOR FILING(S) IN OPEN
COURT DEFENSE COUNSEL JAMES E. SHIELDS SR. FILED >DEFENSE
FILED: >-MOTION FOR EXTENSION OF TIME TO RESPOND TO COURT'S
ORDER OF AUGUST 10, 2012. >LETTER RE: DUE TO HURRICAN ISAAC

09/07/2012 TROSCLAIR
CLERK'S OFFICE RECEIVED MOTION FOR EXTENSION OF TIME TO RESPOND
TO COURT'S ORDER OF AUGUST 10, 2012.(AS TO J.MORAN)

09/12/2012 TROSCLAIR
CLERK'S OFFICE RECEIVED PETITION'S MEMORANDUM IN RESPONSE TO
DISTRICT COURT'S ORDER REGARDING ALLEGEDNEWLY DISCOVERED
EVIDENCE.(AS TO J.MORAN)

09/21/2012 TROSCLAIR
CLERK'S OFFICE RECEIVED MOTION TO AMEND THE RECORD.

09/24/2012 WARREN
>DEFENSE COUNSEL JAMES E. SHIELDS APPEARED WITHOUT DEFENDANT,
JOHN A MORAN FOR RULING COURT ISSUED RULING. RULING ON
PETITIONER'S APPLICATION FOR POST CONVICTION RELIEF PROCEDURAL

TIME BAR. COURT HEREBY ORDERS THAT THERE BE A HEARING ON THIS MATTER SO THAT THE STATE AND THE PETITIONER MAY PRESENT ON NOVEMBER 18,2011 AND IF AND/OR THIS EVIDENCE WAS EVER PREVIOUSLY DISCLOSED TO THE DEFENSE AND/OR PETITIONER. IN THE INTEREST OF JUSTICE THIS COURT WILL CONSIDER PETITIONER'S APPLICATION FOR POST CONVICTION RELIEF PETITIONER IS ORDERED TO APPEAR VIA VIDEO LINK IN THIS COURT >POST CONVICTION HEARING SET FOR 12/14/12 >NOTIFY DEF.COUNSEL. >PDOJL

10/24/2012 TROSCLAIR
 >DEFENSE COUNSEL JAMES E. SHIELDS APPEARED WITHOUT DEFENDANT, JOHN A MORAN FOR FILING(S) IN OPEN COURT >ORDER OF THE COURT IN A RULING DATE SEPTEMBER 24, 2012 THIS COUR RULING THAT PETITIONER'S POST CONVICTION RELIEF APPLICATION RAISES A CLAIM FOR RELIEF WHICH OVERCOMES THE THREE YEAR PROCEDURAL TIME BAR FOR FILING POST-CONVICTION APPLICATION, AND GRANTED THE DEFENDANT A HEARING IN THIS MATTER. IT IS FURTHER ORDERED THAT A WRIT BE ISSUED FOR PETITIONER TO APPEAR IN OPEN COURT ON DECEMBER 14,2012 @9:00 AM FOR THE ABOVE MENTIONED HEARING ON THIS MATTER.

10/29/2012 TROSCLAIR
 CLERK'S OFFICE RECEIVED STATE'S RESPONSE ON THE MERITS TO PETITIONER'S EIGHT APPLICATION FOR POST-CONVICTION RELIEF AND OBJECTION TO AN EVIDENTIARY HEARING.

11/09/2012 WARRENP
 CLERK'S OFFICE RECEIVED MOTION TO ISSUE SUBPOENA DUCES TECUM TO HONORABLE LEON CANNIZZARO, ORLEANS PARISH DISTRICT ATTORNEY, FOR PRODUCTION OF RECORDS.

11/26/2012 TROSCLAIR
 >DEFENDANT, JOHN A MORAN DID NOT APPEAR FOR FILING(S) IN OPEN COURT >MOTION TO ISSUED SUBPOENA DUCES TECUM TO HONORABLE LEON CANNIZZARO ORLEANS PARISH DISTRICT ATTORNEY FOR PRODUCTION OF RECORDS.

12/14/2012 WARRENP
 CLERK'S OFFICE RECEIVED STATE'S MOTION AND REQUEST FOR RULING UPON STATE'S PREVIOUSLY FILED MOTION TO LIMIT EVIDENTIARY HEARING; STATE'S OBJECTION AND MOTION TO QUASH ALL SUBPOENAS AND SUBPOENAS DUCES TECUM DIRECTED TO CURRENT AND FORMER ASSISTANT DISTRICT ATTORNEY'S.

02/01/2013 WARRENP
 >DEFENDANT, JOHN A MORAN APPEARED WITH COUNSEL, JAMES E. SHIELDS FOR POST CONVICTION HEARING KYLE DALY APPEARED BEFORE COURT FOR THE STATE. >CONTINUED ON JOINT MOTION. >POST CONVICTION HEARING SET FOR 02/05/13 >NOTIFY DEF.COUNSEL. >PDOJL

02/05/2013 WARRENP
 >DEFENDANT, JOHN A MORAN DID NOT APPEAR FOR FILING(S) IN OPEN COURT >THE DEFENSE FILED: >-MOTION AND ORDER FOR WRIT OF HABEAS CORPUS AD PROSEQUENDUM. >FOR 2/5/2013

03/18/2013 WARRENP
 >THE DEFENDANT, JOHN A MORAN APPEARED FOR POST CONVICTION HEARING WITH COUNSEL, JAMES SHIELDS JR. KYLE DALY APPEARED BEFORE COURT FOR THE STATE. EVE S. KAZIK COURT REPORTER. DEFENSE CALLED EIGHT (8) WITNESSES WHO GAVE SWORN TESTIMONY. STATE CALLED ONE (1) WITNESSES WHO GAVE SWORN TESTIMONY. DEFENSE FILED 1 THRU 44 EXHIBITS FOR DEFENDANT JOHN MORGAN STATE FILED THREE (4) EXHIBITS. AFTER HEARING TESTIMONY THE COURT GAVE THE DEFENSE THIRTY(30)DAYS TO FILED BRIEFS TO THE COURT. COURT GAVE STATE (THIRTY)30 DAYS TO FILE IT'S RESPONSE AFTER THE DEFENSE FILES IT'S BRIEFS DEFENSE WILL WRIT DEFENDANT JOHN MORGAN IN FOR THE RULING DATE. >HEARING SET FOR 03/15/13 >HEARING SET FOR 04/15/13 >RULING SET FOR 04/22/13 >NOTIFY DEF.COUNSEL. >PDOJL

03/19/2013 TROSCLAIR
 >DEFENSE COUNSEL JAMES SHIELDS JR. APPEARED WITHOUT DEFENDANT, JOHN A MORAN FOR FILING(S) IN OPEN COURT >DEFENSE FILED: >-MOTION FOR EXTENSION OF TIME TO RESPOND TO COURTS ORDER OF FEBRUARY 5,2013

03/19/2013 TROSCLAIR
 CLERK'S OFFICE RECEIVED POST EVIDENTIARY HEARING MEMORANDUM.

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END OF DOCKET MASTER

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